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# **Secession and Counter-secession**

An International Relations Perspective

**Diego Muro and Eckart Woertz (Eds.)**

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# CONTENTS

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|   |    |
|---|----|
| ABOUT THE AUTHORS   | 5  |
| PROLOGUE  | 9  |
| Jordi Bacaria   |    |
| INTRODUCTION  | 11 |
| Diego Muro & Eckart Woertz  |    |
| THE INTERNATIONAL SYSTEM AND THE EUROPEAN UNION   | 17 |
| <b>Strategies of secession and counter-secession</b>  |    |
| Diego Muro  | 19 |
| <b>How do states respond to secession?<br/>The dynamics of state recognition</b>                      |    |
| Bridget L. Coggins  | 27 |
| <b>What's law got to do with it? Democracy,<br/>realism and the Tina Turner theory of referendums</b> |    |
| Matt Qvortrup   | 31 |
| <b>The EU's policies towards contested states</b>   |    |
| Bruno Coppieters  | 37 |
| SECESSIONIST STRATEGIES: CASE STUDIES   | 45 |
| <b>Insights from the Scottish independence referendum</b>   |    |
| Nicola McEwen   | 47 |
| <b>Secessionist strategies: The case of Flanders</b>  |    |
| Bart Maddens  | 55 |
| <b>The two Quebec independence referendums:<br/>Political strategies and international relations</b>  |    |
| André Lecours   | 63 |
| <b>Autonomy in Denmark: Greenland and the Faroe Islands</b>   |    |
| Gestur Hovgaard & Maria Ackrén  | 69 |
| COUNTER-SECESSIONIST STRATEGIES: CASE STUDIES   | 77 |
| <b>Who counts? Why do governments deny secession<br/>in some cases but not others?</b>                |    |
| Ryan Griffiths  | 79 |
| <b>The four pillars of a counter-secession foreign policy:<br/>Lessons from Cyprus</b>                |    |
| James Ker-Lindsay   | 85 |
| <b>Counter-secessionism and autonomy in the federal<br/>system of Germany: The case of Bavaria</b>    |    |
| Roland Sturm  | 91 |
| <b>Economic aspects of counter-secession strategies</b>   |    |
| Eckart Woertz   | 99 |



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Professor Matt Qvortrup (Coventry University) has written extensively on referendums. Trained as a lawyer and a political scientist, his books include *Referendums and Ethnic Conflict* (2014), *Referendums Around the World* (2nd edition 2017) and *Government by Referendum* (forthcoming 2018). He is a frequent commentator for CNN, the BBC and has written op-eds for *El Pais*, the *Guardian* and *Newsweek*.

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**Jordi Bacaria**

*Director of CIDOB*

The political debate in Catalonia has been dominated by the issue of political independence in the last few years. The debate on whether Catalonia can (or should) seek statehood has largely been focused on domestic politics. Conversations have ranged from identifying the drivers of the pro-independence movement, analysing the attempts of the Catalan government to hold a referendum and declare independence unilaterally, as well as examining the responses from the Rajoy executive and other state institutions. In the absence of a binding referendum and an informative campaign, Catalan citizens have not been able to collectively discuss the advantages and disadvantages of leaving Spain vis-à-vis the status quo.

CIDOB has taken the step of participating in the public debate on “secession and counter-secession” with a contribution from the field of International Relations (IR). Not only because the tools of IR are natural to our think tank but also due to the fact that the external dimension has been the most neglected in Catalan and Spanish debates. It is important to note, however, that the role of CIDOB as an autonomous institution is not to take a political stance on domestic politics or advise elected officials on what to do each step of the way. CIDOB’s mission is to inform the citizenry of ongoing debates and issues in international affairs as well as providing the public institutions that make up our Board of Patrons with the evidence they need to make informed decisions. When requested, we have provided expert advice and will continue to do so in the future. But it is worth noting that CIDOB has not been consulted as much as it might have been by the Board of Patrons on this issue. In spite of this and in honour of intellectual independence, we wanted to make a contribution to the debate.

Secessionist and counter-secessionist actors often clash about the “internal legitimacy” of their demands but sometimes neglect the “external legitimacy” in the form of international recognition. When it comes to constituting sovereign statehood, aspiring states need to pay significant attention to the calculations of interest-driven great powers. Noticeably, the states that matter most for supporting and/or opposing state birth are three permanent members of the UN Security Council: the

US, France and the United Kingdom. In addition, secessionist movements within Europe face a different environment to those movements outside the EU, especially when it comes to international recognition. It is worth highlighting the Prodi doctrine which states that any territory that breaks away from an EU member state would be outside the union and would need to re-apply for membership – a process that normally takes many years, even in the absence of vetoes from member countries. In the case of a Catalan unilateral declaration of independence (UDI), a veto from Spain would be likely as well as opposition from other member states that may want to discourage claims to self-determination in their own territories.

Against this backdrop, the goals of this book are to provide high-quality analysis that is neither normative nor prescriptive as well as providing a comparative overview of both secessionist and counter-secessionist movements from the point of view of International Relations. Last but not least, I want to personally thank the authors for sharing their expertise and to Diego Muro and Eckart Woertz for co-editing this outstanding book on secession and counter-secession. The volume is testimony to the need to pay attention to the international system as a community of states and, more specifically, the opportunities and constraints offered by the European Union in the 21<sup>st</sup> century.

## INTRODUCTION

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### Diego Muro

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In 1945, there were 74 independent countries. Today there are 195.<sup>1</sup> The breakup of colonial empires, the collapse of the Soviet Union, and various secessions all over the world have led to the creation of numerous new sovereign states since World War II. Historically, the expansion and contraction of states has resulted from the competition between two living forces: secessionism and counter-secessionism. Secession is the “detachment of a territory from an existing state with the aim of creating a new state on the detached territory” (Pavkovic & Radan, 2011). By contrast, counter-secession could be defined as an attempt to prevent the break-up of states as well as their recognition by other states at the international level. Movements of secession and counter-secession compete and frequently clash over the formation of new states and one of the goals of this book is to understand the strategies of actors in favour of changing political borders as well as the reactions of those who want to prevent the break-up of states.

Secession has been examined at length in the field of political theory, comparative politics, history and law but it has been little studied by scholars of International Relations (IR). The rise in the number of independent nations has driven social scientists to identify the domestic drivers of ethno-national mobilisation, the cross-national determinants of secession and the political and economic roots of separatist movements. With regard to its consequences, the scholarly literature has also considered the political dynamics that follow an unsuccessful attempt to create a new state entity: regional separatism, ethnic conflict, and various centrifugal forces. To put it differently, most research on separatism has focused on examining how secessionist movements make a moral argument for the creation of new states or how states react to the potential break-up of their sovereignty. With a few notable exceptions, the field of IR has not studied the creation of new polities and their international recognition as sovereign states (Coggins, 2011; Ker-Lindsay, 2012; Cunningham, 2014; Griffiths, 2016).

The origin of this volume was a conference on “Secessionism and Counter-secessionism: An International Relations Perspective” held at the Barcelona Centre for International Affairs (CIDOB) on October 5<sup>th</sup>–6<sup>th</sup>

1. As of September 2017, the United Nations has 193 full members plus two observer states: the Vatican City and Palestine. Taiwan and Kosovo are not UN members, nor are the unrecognised states of North Cyprus, South Ossetia, Abkhazia, Crimea, Somaliland and Bougainville, among others.

2017. The two-day conference was widely attended by public policy experts but also by a variety of local stakeholders interested in secession: from academics and think-tankers to politicians, elected officials and diplomats. The conference attracted considerable media attention and public interest, most probably because there was intense discussion during 2017 about the unilateral attempt by Catalan nationalists to disassociate themselves from Spain, reject the latter's political and legal authority and create a new sovereign state. Although the failed Catalan effort was mentioned recurrently during the debates at CIDOB, the main contribution of the conference was to promote an integrated approach to state birth and state death that combined approaches from comparative politics and International Relations. One of the take-home points of the conference was that the proliferation of states since 1945 can only be understood as a two-level game, where movements in favour of independence (and actors in favour of the status quo) compete for support at the domestic level while opposing each other for foreign sympathies and international recognition at the global level.

## Volume structure

The trend towards state proliferation that has characterised the past few decades has led scholars to conclude that we are living in “an age of secession” (Griffiths, 2016). In order to understand the phenomenon of secession, this book is structured into three main sections devoted to: (1) the international system; (2) the demands of those in favour of independence; and (3) the strategic response from those who want to preserve territorial integrity.

The first section on the international system and the European Union is devoted to examining the opportunities and constraints for frontier-altering provided by the current international order. **Diego Muro** argues that there is no legal right, under international or domestic law, to secession. Those wanting to secede and form an independent country lack clear guidance for sorting out which nations merit statehood and which do not. He examines the theory and the practice of secession and counter-secession and concludes that, ultimately, the success of pro-independence movements depends on *realpolitik*, not ideals. **Bridget Coggins** analyses how states respond to secession and examines the main dynamics of state recognition. In order for any new country to gain membership of the international community the new state must secure the recognition of an overwhelming majority of states, especially the most powerful and influential among them. **Matt Qvortrup** analyses the factors conducive to recognising independence referendums. Ultimately it is not referendums or public opinion that counts, but international recognition, especially by the three Western powers of the UN Security Council: the USA, UK and France. The espousal of lofty legal, democratic and philosophical principles means very little when it comes to recognising new states. Finally, **Bruno Coppieters** examines the EU policies of engagement with “contested states”, which are polities that have *de facto* control of their territory but are not universally recognised as states. He argues that there is no single EU strategy towards states that lack diplomatic recognition, but a variety of individual policies as seen in the cases of Montenegro and Kosovo. The EU does not have the competences to recognise new states because this is the exclusive responsibility of member states.

The second section on case studies focuses on the ways four secessionist movements have pursued their ambitions for independence. **Nicola McEwen** provides an overview of the process that led to and legitimised the 2014 Scottish independence referendum. She also discusses some of the similarities between Scotland and Catalan nationalism, especially in the type of polity the advocates of independence are seeking and the institutional barriers in the way of achieving these goals. **Bart Maddens** assesses the strength of separatism in Flanders and discusses both the discursive and the practical strategies Flemish nationalists have developed against Belgium, with a special focus on the role of the EU in these strategies. He also provides a brief summary of the current political situation and its possible implications. **André Lecours** argues that Quebec is exceptional among all cases of nationalist movements in liberal democracies, because governments formed by the secessionist Parti Québécois (PQ) have organised two independence referendums. Thus, the Quebec case offers particularly fertile ground for examining how a secessionist party seeks to convince voters to support independence in a referendum campaign while a host of other actors (within the province, across the country, and around the world) make a case against secession. **Gestur Hovgaard** explores the case of Greenland and the Faroe Islands within the Danish Realm. The chapter provides an introduction to the historical background and the formal relationship between the two jurisdictions and their metropolitan state. It also extends the two cases with an analysis of how increased internal autonomy has evolved in a dynamic interaction with changes in international affairs.

The third and final section focuses on counter-secessionist strategies and the way states facing movements of secession respond to such challenges. **James Ker-Lindsay** examines in depth the case of Cyprus during the course of the last thirty years, where the Cypriot government has been engaged in a relentless battle to prevent the “Turkish Republic of Northern Cyprus (TNRC)” (or Northern Cyprus, as it is more commonly known), from gaining international recognition. Ker-Lindsay argues that any successful counter-secession strategy is based on four separate but interlocking strands: (1) maintain claim to territory; (2) prevent recognition; (3) stop legitimisation; and (4) pursue legal avenues. **Ryan Griffiths** discusses the reasons why governments deny secession in some cases but not others. He sustains that states and the international community are prepared to permit secession under certain circumstances and the chapter outlines those circumstances by describing three interrelated factors: the international recognition regime; the calculus of state response; and the resulting strategy of secession. **Eckart Woertz** discusses the role of economic arguments over sovereignty disputes. Woertz argues that debates about secession and counter-secession often circle around questions of identity, political history and legal rights. Yet economic grievances and perceived opportunities are as important, if not more so, in secession and counter-secession strategies. His paper provides a comparative overview of economic costs and opportunities for pro-independence movements. **Roland Sturm** focuses on the case of the federal system of Germany and how it has managed to rein in secessionist aspirations in Bavaria. The paper tries to answer the following research question: Why did the strong sense of Bavarian exceptionalism not transmute into secessionism? To explain the paradox of efficient regional identity politics in a non-secessionist environment Sturm discusses both the key roles of the Bavaria Party (BP) and the Christian Social Union (CSU).

## Violent to peaceful means

State formation is inextricably linked to war making and the establishment of an economic base to fund it, as the historical record suggests. Nobody put it more succinctly than Charles Tilly when arguing that “war made the state and the state made war” (Tilly 1990). However, as more and more populations were brought together under the political authority of the post-medieval state and boundaries became solidified, there was a surprising decline of socially sanctioned forms of violence. This might not be common wisdom, given the large number of barbaric acts of violence reported daily in the mass media but, on the whole, modernity brought an unforeseen decline in organised violence. The Harvard psychologist Steven Pinker has claimed that violence has been in decline for long stretches of time and that we are probably living in the most peaceful time in our human existence (Pinker, 2011). Similar arguments were put forward by the German sociologist Norbert Elias, who argued that the overall diminution of violence was a central feature of the 20<sup>th</sup> century compared to the life and times of our forebears (Elias, 1996)

Needless to say, the decline of organised violence in the last few centuries has not been homogeneously distributed and unspeakable human brutality continues to affect some regions more than others. But the key fact about the worldwide decline of violence remains true. Since 1945, there has been a steep drop in the number of interstate wars, deadly ethnic riots and military coups. Various explanations can account for this decline of violence but one of the most persuasive explanations is of a Hobbesian nature, and sustains that the reduction of violence goes hand in hand with the rise of the bureaucratic centralised state, which claims the legitimate use of violence. The argument about the effectiveness of the Westphalian state system in reducing violence can account for variation in a large number of cases and also works in reverse. Whereas strong states prevent internal violence, and polities which are economically interdependent avoid going to war, weak states that lack the capabilities to fully control their territory experience unrest, which explains why much of today’s violent conflict occurs in failed states or zones of anarchy where the dominant actor is weak.

The decline of violence and the rise of alternative means to channel disputes does not necessarily mean that, as John Lennon hoped, “the world will live as one”. As a matter of fact, the prominence of ethnicity and nationalism in war escalated during the second half of the 20<sup>th</sup> century and peaked during the 1990s. Scholarly estimates put the share of civil wars driven by secessionism at roughly 52% (Fearon and Laitin, 2003). Andreas Wimmer has further argued that the share of nationalist wars of secession and ethnic civil wars rose from 25% to 75% over the course of the 20<sup>th</sup> century (Wimmer, 2012: 27). By the year 2000, over three-quarters of violent conflicts were fought either by groups seeking to establish a separate nation-state or to change the ethnic balance of power within an existing state. Nowadays, ethno-national wars for independence are commonly considered to be the main threat to international peace and regional security in the post-Cold War period (Marshall and Gurr, 2003).

Secessionist crises in which parties hold incompatible goals will continue to unfold in the future but these conflicts will increasingly adopt a peaceful form, particularly in the liberal democratic settings this book focuses on.

The strategic abandonment of violence is conceivably explained by the fact that non-violent methods have proven to have a superior effectiveness (Chenoweth & Stephan, 2011). Movements for self-determination and political independence are part of this trend, possibly because of reduced fears of territorial conquest by economically interdependent states. Other conflict management tools available to accommodate territorial disputes include decentralisation, the celebration of binding referenda or, when none of these options has worked, either partition or secession. All in all, ethnic and national conflict is increasingly managed by non-violent means, at least in the West. This is not to say, of course, that the political conflict over sovereignty will be kind and pleasant, for there is no historical precedent for nation-states willingly relinquishing territory.

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# THE INTERNATIONAL SYSTEM AND THE EUROPEAN UNION

- STRATEGIES OF SECESSION AND COUNTER-SECESSION

*Diego Muro*

- HOW DO STATES RESPOND TO SECESSION? THE DYNAMICS OF STATE RECOGNITION

*Bridget L. Coggins*

- WHAT'S LAW GOT TO DO WITH IT? DEMOCRACY, REALISM AND THE TINA TURNER THEORY OF REFERENDUMS

*Matt Qvortrup*

- THE EU'S POLICIES TOWARDS CONTESTED STATES

*Bruno Coppieters*



**Diego Muro**

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Whether seen as state-making or state-breaking, the obvious ingredient of secession is politics. Only those holding positions of governance are able to redraw maps and make choices that affect state boundaries and human communities. Political theorists have attempted to produce coherent models of secession which identify when and where secession is permissible and justifiable (e.g., Allen Buchanan's distinction between "primary right theories" and "just cause theories") but the truth is that the theory and the practice of secession do not go hand in hand. The practical implication of this disconnect between abstract thinking and realpolitik is that constitutionalism, international public law, and political theory provide a piecemeal assessment of the decisions of those with power. Instead, comparative politics and international relations can be more useful in illuminating the multiple arenas where movements of secession and counter-secession compete for power, legitimacy and advantage

A large number of unwritten rules exist, but there is no clear guidance for those wanting to secede and form an independent country. The main problem is, of course, that there is no legal right, under international or domestic law, to secession. The cases of decolonisation or foreign subjugation are often seen as exceptions, and not downsizing models that can be applied in a variety of contexts (either autocratic or democratic). Examples of non-colonial nations that have successfully seceded are scarce and include South Sudan, Eritrea, East Timor, and Montenegro (Seymour, 2017: 823). In the absence of a *Secessionist's Handbook*, *Secession for Dummies* or a *Manual of Secessionists*, those in favour of political independence either learn by doing or emulate the examples of other movements for independence.

This chapter on strategies examines who gets what, when, and how in a secessionist crisis over territory. Unfolding in three parts, it examines the arguments that secessionists and counter-secessionists use to mobilise their support base, distinguishes between negotiated and unilateral cases of secession and, finally, emphasises the need of international recognition for effective statehood.

## The arguments of secession and counter-secession

In the absence of clear rules, secessionist movements put together the best story possible in order to mobilise their supporters, convince the host state and persuade the international community of the *validity* of their goals. Besides having compelling arguments about norms, instruments and principles, secessionists ultimately desire external legitimacy in the form of international recognition. The objective of providing an effective narrative is to defend the reasonableness of secession according to a particular logic or justification whereas the long-term goal is to gain legitimacy, which is the normative belief held by an actor that a claim ought to be accepted. And how do secessionist movements gain legitimacy?

Secessionists often portray their cause as a just one, combatting some form of national injustice. The alleged grievance does not affect individuals or specific strata within society but a whole ethnic or national group. This collective grievance can take the form of a violation of human rights, annexation of territories, systematic violations of charters of autonomy or economic inequality (Sambanis & Milanovic, 2011). The key point here is that the perpetrator and the victim are clearly identified along national lines in an attempt to reinforce a distinct sense of identity and increase the likelihood that the discontented minority will seek independent statehood in the future. Thus, a problem of injustice is encrusted in a problem of representation in order to justify a secessionist response, which is designed to fix a “national problem” with a “national solution”. The force of these cries for justice lies in the fact that it justifies collective mobilisation in accordance with ethno-national distinctiveness and pushes for secession by appealing to both individual reasons and collective identity.

The second key argument of those in favour of political independence is to present the movement for self-determination as a democratic movement, especially amongst the Western cases this book focuses on. In the absence of clear guidelines in international law about how to proceed, separatists invoke general liberal principles and emphasise how the social movements they lead abide by the “correct” or “right” procedures of democratic systems. Secessionists showcase their democratic credentials and invoke legal norms, elections, and referenda to portray their cause as a collective struggle for democracy and human rights first, and not only for national self-determination. Democratic tools can also be used hypocritically, as in the case of the controversial referendum on the status of Crimea in 2014, where 95% of voters decided to join the Russian Federation shortly after a Russian military takeover of the peninsula.

By contrast, counter-secessionists put forward arguments about “legality” and “stability”. States, for example, argue that existing constitutional and international norms allow the legal status quo to provide peace and prosperity. In their eyes, the secessionist challenges only cause unnecessary constitutional stress, domestic destabilisation and intra-group division. The collapse of the legal order, they argue, can only lead to further state fragmentation and a more anarchical society, and that is why the right to self-determination needs to be

restricted to truly exceptional cases. In international terms, the principle of non-interference conditions external conduct among sovereign states, requiring that they not meddle in the domestic affairs of their peers. In the EU context, an additional legal requirement is contained in article 4 of the Treaty of the European Union (TEU), which obliges the EU to respect the territorial integrity of member states and their constitutional systems.

Counter-secessionists also refer to stability and the need to preserve the domestic and international order. The overwhelming majority of the world's states are heterogeneous, multi-ethnic or multi-national and the indiscriminate application of the principle of self-determination could result in an anarchical international system where state break-up becomes the norm. Defenders of the status quo might be right to worry about destabilisation because, as Kathleen Cunningham has demonstrated, there is a spatial diffusion of self-determination. She claims that "the onset of claims over self-determination in a state's neighbourhood in the previous years increases the chance of claims beginning in a country in any given year. Self-determination appears to be contagious" (Cunningham 2017: 17). In ordinary terms, a secession crisis arises when a section of the polity purports to reject the established constitutional order and to establish itself as sole political and legal authority over defined territory. States argue that the principle of "territorial integrity" prevents other nation-states from supporting secessionist movements or promoting border changes in other nation-states. Last but not least, counter-secessionists also tend to highlight the dangers of potential violence, transaction costs, forthcoming poverty, or the inefficiency of being a small state as additional causes of regional destabilisation.

Actors locked in a secessionist standoff use arguments that range from scare tactics to promising a prosperous future in order to gain supporters and mobilise their support base (Hechter, 1992). But regardless of the arguments floated around, a secession crisis is quintessentially a situation of national and international disorder which can only be resolved unilaterally or by negotiation.

## **Secession: Negotiated or unilateral**

Secession can be consensual or contested. Consensual secession requires an agreement with the host state and is a process that is characterised by little or no violence. Often cited examples include the dissolution of Czechoslovakia in 1993, also known as the "velvet divorce" because of its bloodless split, or the case of Canada, which authorised Quebec to hold two referendums on independence but also regulated the means by which secession would be negotiated (Clarity Act of 2000). Consensual secession is largely seen as a matter of law and requires acknowledging the constitutionality of secession. For instance, an agreement between the Scottish government and the United Kingdom government made possible the 2014 referendum on whether Scotland would become independent from the rest of the country. If the host state finally agrees to a negotiated secession, the international community will also recognise the new state, mainly because the aspiring state is more likely to be both sovereign and viable.

A “unilateral declaration of independence” (“UDI”) is the alternative to a negotiated secession. Unilateral secessions are often associated with remedial right theories which invoke the rights of nations for unilateral secession in cases of serious violations of human rights, unjust annexation of territories, and systematic violations of agreements on self-government. Examples of UDIs abound, including the American Declaration of Independence, the Confederate States of America, the 1965 Rhodesian de facto UDI from the United Kingdom, the 1970 secession of East Pakistan (Bangladesh), and the abortive secessionist movements in the Congolese Katanga region and in the Nigerian Biafra UDI (Haljan, 2014: 9–10). On the whole, UDIs such as the Catalan declaration of independence of October 2017 are unsuccessful because they are perceived as dangerous precedents for secessionist movements worldwide which can imperil the international order.

Secession by UDI is a form of revolution and it is often preceded by disorder, characterised by political tension and social conflict. The political act of separating polities, or taking steps to initiate separation, carries with it significant collateral social and economic upset, adding to and spurring the very real risk of substantial violent and nonviolent civil disobedience. It stands to reason that any attempt to divide a state without absolute or substantial consensus among all political interests will surely invite every possible objection and destruction – even military responses – as a means of subduing the threat to the state’s continued existence as whole. See the examples to date of the supposed UDIs in Nigeria, East Pakistan, Ethiopia and Yugoslavia (Haljan, 2014).

Ultimately, a secession crisis originates in an imbalance between the rule of law and popular sovereignty. That is, a minority group asserts the supremacy or priority of their specific common will and interests over the wider interests of society, as embodied in the laws and politics of that state. The latter (or so the group argues) dilute or hinder the realisation of the legitimate aspirations of the ethnic or national group. The imbalance or disjunction between popular sovereignty and the rule of law opposes the legitimacy of the group’s will and interest to the validity of the existing legal order. By virtue of this normative superiority the group may ignore, reject or supplant existing constitutional norms otherwise binding and effective. They simply assume the higher value of their secessionist aspirations and decide that existing laws do not apply to them any longer. Thus, we come to a secession crisis.

Regardless of whether secession is consensual or not, the new polity can only join the international community if other states recognise it as a sovereign state. External recognition constitutes the ticket to membership of the international system, where new entities can enjoy the status and material advantages reserved exclusively for states. Without that external recognition and legitimacy, an actor is not a state (Coggins, 2014: 215).

## **International recognition**

Whether secession is negotiated or unilateral, sovereignty is inevitably constituted through collective recognition. Great powers and regional powers are often central to acknowledging the supreme authority of a state over a political body. Given the need for external legitimacy,

secessionists need to convince both domestic and international audiences of the need for a new state by resorting to normative and practical appeals. The support of very powerful states is crucial when it comes to formal diplomatic recognition and statehood will not happen unless others are willing to support them. For example, East Timor (invaded by Indonesia) received very little international support but, over time, the human right abuses pushed great powers to change their minds. Convincing the outside world that Indonesia was authoritarian and repressive was a key step towards getting that cascade of recognition. The key strategy had been to define a national problem that could only be practically resolved with independent statehood.

And when are aspiring states internationally recognised? The truth is that *realpolitik*, not ideals, determine the success of pro-independence movements. The arguments that allow the secessionist movement to grow its support base (e.g., national grievances and democratic character of secession) do not guarantee international support from other states that inevitably pursue their own national interests (Krasner, 1999). Great powers and regional states put greater emphasis on a re-evaluation of their own parochial interests when assessing claims to self-determination. In sum, the power politics of international recognition essentially boils down to having friends in high places, especially the UN Security Council (see the chapters by Coggins and Qvortrup in this volume).

The role of the European Union (EU) in conditioning strategies of secession and counter-secession deserves special attention (Closa, 2016). At first sight the idea of seceding from an EU member state seems to run contrary to the idea of blurring boundaries in an “ever closer Union”. The founding fathers of the European communities hoped that the creation of a free trade area would inoculate Europeans against warmongering and the ills of nationalism. On the contrary, the political stability and peace in most of Europe has meant that small nations do not fear being invaded by more powerful states. The creation of an integrated European economy with a single market and currency that guarantees the free movement of goods, capital, services, and people has reduced many of the negative economic externalities of being a small sovereign state (Alesina & Spolaore, 2003). Due to these incentives, a substantial majority of western Europe’s secessionist parties have developed arguments that seek to harmonise national sovereignty with transferring powers to Brussels.

As a democratic area of peace and stability, the EU can stimulate support for a secessionist challenge, but its accession rules also act as a substantial stumbling block for the act of secession. The political and economic incentives mentioned above apply only if the newly independent entity is an EU member state, but the legal status suggests the need for new states to reapply for membership of the Union. The so-called “Prodi doctrine”, named after a former Commission president, states that any region that breaks away from an EU member will automatically leave the European club and have to reapply under the usual rules – a lengthy accession process. In sum, being part of the EU system provides economic and political incentives for self-rule, but the issue of international recognition in the form of EU membership acts as a clear disincentive to regions that want to have boundaries of their own without the consent of the host state (Muro & Vlaskamp, 2016).

## Conclusion

National self-determination is generally defined as the right of people to form their own state. Regrettably, this principle is often difficult to apply because there are no clear guidelines for sorting out which discontented nations deserve statehood and which do not. In addition, the most common state response from the community of states is to resist fragmentation in the domestic sphere and withstand a potential cascade of secessions at the international level.

The principle that US President Woodrow Wilson put on the international agenda in 1918 does not clarify “who” are the people and “when” they are entitled to become a sovereign state. Having a peaceful vote helps, but it does not solve all the domestic problems of “who” counts and “when” people should vote. It is unclear what constitutes a majority and whether the rump state should be allowed a say on issues of thresholds or minimum turnout. Unfortunately, there is no single set of international standards that can effectively guide state birth. The Venice Commission of the Council of Europe has issued some basic principles for those seeking self-rule but their application varies considerably from case to case. The picture is further complicated when we add the opinion of the host state’s population, who may not be willing to surrender authority over a portion of its territory.

There is also the issue of international recognition when applying the principle of self-determination. Whereas domestic support for independence is a prerequisite, statehood cannot be gained without international acceptance. In most successful cases of secession, there has been some level of support from great powers sitting in the Security Council, the international community, or organisations such as NATO. For instance, Kosovo exists, but it is recognised only by half of UN members and, more crucially, not by all EU member states, who prioritise state interests and avoid establishing precedents. Spain, for example, has a specific interest in not establishing a model that may be followed by its own internal secessionist movements in the Basque Country or Catalonia.

To conclude, both secessionists and counter-secessionists know that self-determination is an ambiguous moral principle which requires both internal and external legitimacy. The autonomy to decide one’s future helps to make a moral case for self-determination but the dismemberment in whole or in part of an extant state does not necessarily attract worldwide sympathy. Most states have their own secessionist regions and no-one wants to give the impression that getting your own country is easy.

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## HOW DO STATES RESPOND TO SECESSION? THE DYNAMICS OF STATE RECOGNITION

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The leaders of independence movements often imagine a smooth transition to a new regime and political community. Noting irreconcilable differences with the existing government, they argue that they have exhausted the potential remedies to their grievances within the normal political system. Convinced that justice and self-determination are best served by creating a newly independent country whose political boundaries align with those of their nation, they assert that a popular referendum or a more representative regional body's vote will vindicate their claim to authority and convince the rest of the country to concede. In recent years, a so-called "velvet divorce", similar to Czechoslovakia's disintegration, approximates their ideal scenario. Unfortunately, the reality facing these movements is rarely so straightforward, uncontested, non-violent, or contained.

In secession, difficult matters of democracy and political community are at stake.<sup>1</sup> Is a referendum on independence that includes only those within the territory hoping to secede truly democratic? Why shouldn't the rest of the country be invited to decide whether its political community is irreparably broken? How should the choice be put before the population? Is it true that the secessionist minority has been without the opportunity to exercise greater self-governance? Are other, similar groups afforded greater or fewer special rights, more or less autonomy? What is the bar for a remedial right to independence? How extreme must the government's oppression be? Or does democracy's purest form require letting go of any regional sub-group that does not wish to remain? Should there be a waiting period or viability test attendant to an independence demand? What if the region's independence imperils the economy or security of those remaining behind or that of its neighbours? None of these questions have easy answers. This is, in part, why so few countries have established a right of secession or outlined its procedures as a matter of domestic law.

Most governments will not consider secession, or even referendums on independence, unless they are legally bound to do so.<sup>2</sup> Today, only around a dozen countries (out of approximately 194) have a potential legal means to secession – at least for particular groups, peoples, or regions.<sup>3</sup> Most have "constitutionalised" secession this way

1. Just a couple of terrific, comprehensive volumes engaging with these normative and political questions include Stephen Macedo and Allen Buchanan's 2003 edited volume, *Secession and Self-Determination* and Aleksandar Pavkovic and Peter Radan's 2011 edited volume *The Ashgate Research Companion to Secession*.
2. The Canadian government, in response to the provincial referendum on Quebecois independence in October 1995, is believed to be the first democratic country to test the legal terms of its own dissolution in advance. <http://www.nytimes.com/1998/08/21/world/canadian-court-rules-quebec-can-not-secede-on-its-own.html>.
3. Not all have formally legalised secession by making it a part of their countries' constitutions. Some have agreed to it as a matter of law as a result of post-war bargains or made informal arrangements with particular separatist groups. For a list of laws within constitutions see <https://www.constituteproject.org>.

as a response to the country's history of violent subjugation of particular groups, providing them with an exit clause as a security guarantee to assure their continued allegiance to the polity. In those places where a clear, constitutionalised right to independence exists, the standard for popular support is set high. For example, the Ukrainian constitution's Article 73 requires that all alterations to its territory be resolved by an "all-Ukrainian referendum".<sup>4</sup> In another handful of cases where governments have been willing to entertain non-binding votes on independence, the ultimate process by which secession might occur often remains unspecified. Emblematically, the Canadian Supreme Court ruled in 1998 that a "clear majority" on a "clear question" was prerequisite to the rest of Canada's sincere consideration of Quebec's independence. The government has not provided explicit standards or steps by which the province's ultimate independence might be won.<sup>5</sup> In still other countries, rights to independence on paper either cannot be meaningfully realised in practice, as was the case in the former Soviet Union, or they are outlawed entirely, as is the case for Taiwan in the People's Republic of China.<sup>6</sup>

It is normatively sub-optimal if only those countries with legal permission have the potential to win external legitimacy and new statehood. Those countries most willing to allow their citizens to vote on independence and ultimately permit it are those where secession as a remedy to truly abhorrent governance is hardly necessary. The nations that could successfully pursue independence would be restricted to those who, globally speaking, do not need it (at least insofar as their basic national survival and popular health and well-being are concerned). But in any case, even the vast majority of law-bound, democratic countries have no such laws. Encouragingly, in the absence of domestic law, when a solution short of independence or an amicable divorce can be negotiated between secessionists and their government, the international community rarely objects.<sup>7</sup>

When secessionist challenges cannot be handled peacefully within the contested state, they become more complex and the international community becomes more influential. This is the modal secession in the 20<sup>th</sup> century. For many countries, the potential loss of people, territory, resources, status, or other advantages coincident with independence makes it an unfathomable political outcome. Leaders deem their territories to be indivisible, contest independence, and routinely repress secessionists and the wider population from which their support is drawn.

In order for any new country to gain membership of the international community – every secessionist movement's ultimate goal – it must secure the recognition of an overwhelming majority of its peers and, especially, the powerful and influential among them.<sup>8</sup> But international law is largely silent when it comes to secession when new independence does not concern former colonial or non-self-governing territories.<sup>9</sup> As a result, the existing members of the international community are without legal guidance about whether and when to grant formal recognition to a new peer (and revoke it from the embattled government) in contested cases. They must use other logics and norms and somehow coordinate their responses in order to minimise disruption among the members of the wider international community.<sup>10</sup>

4. Constitution of Ukraine (1996) [https://www.constituteproject.org/constitution/Ukraine\\_2014?lang=en](https://www.constituteproject.org/constitution/Ukraine_2014?lang=en).
5. Canadian Supreme Court ruling (August 20, 1998) <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1643/index.do>.
6. According to Hu Jintao's Presidential Decree #34, and adopted by the Third Session of the Tenth National People's Congress in 2005. The Anti-Secession Law also explicitly threatens "non-peaceful means" should an independence demand be made. The full text of the law can be found at the PRC's American Embassy website here: <http://www.china-embassy.org/eng/zt/999999999/t187406.htm>. It is also generally agreed that a state's unilateral secession from the United States is illegal due to legal precedents including the US Supreme Court's decision in *Texas v. White*, 74 U.S. 700 (1869).
7. Though rare, this did occur when South Africa attempted to create "independence" for its Bantu homelands under the apartheid system. No countries other than South Africa recognised them as legitimate states.
8. The strongest states in the international system, currently the United States, United Kingdom, France, China, and Russia, are bellwethers of the community norms and serve as focal points around which other countries can coordinate their recognition. These countries' institutional role as permanent members of the United Nations Security Council makes them particularly influential.
9. For the United Nations list of current and previous non-self-governing territories see: <http://www.un.org/en/decolonization/nonselfgovterritories.shtml>.
10. Territories with overlapping claims to sovereignty including Kashmir and Palestine have been historical flashpoints for international wars. And everything from high finance to physical border crossings is made more difficult when sovereign authority is ambiguous.

Given this conundrum, it might be surprising that new countries emerge following unilateral demands for independence at all. But in fact, between 1931 and 2002, approximately two-thirds of those demanding independence ultimately achieved it.<sup>11</sup> It was not simple, of course. Those successes were often hard won, evolving tactically, advancing in fits and starts, inspiring large social movements, usually violence, and often enduring for years before winning independence. Yet the standard for external recognition was also not usually so high that it required full de facto control and authority first. Some secessionist movements did “win” their independence by fighting a war and decisively defeating their governments on the battlefield. More often, though, new statehood was won through some combination of domestic violence and international politics and persuasion short of full-scale war.<sup>12</sup>

So what *does* influence external recognition? First, the intrinsic characteristics of the secessionist region often matter to the international community. For example, independence is less likely to be recognised when the proposed territory crosses the boundaries of several countries or when the territory does not already exist as an organised territorial unit. It would be more likely that Texas be recognised as independent than a disorganised region such as “the west coast” in the US case. This is probably because externalising internal borders seems to offer the promise of a less disruptive break. Unfortunately, this principle, known as *uti possidetis*, has most recently been used when an entire country dissolves into its constituent parts, as in the former Soviet Union and former Yugoslavia. Additionally, some historical unit characteristics that once influenced external support are unlikely to do so in the future. Claims to independence along the boundaries of a former colonial unit once made recognition more likely, but because formal colonialism is unlikely to return, this will not be the case going forward.

International politics are usually a more important determinant of external recognition, and better explain recognition’s timing, than do unit characteristics. Specifically, when other countries are convinced that a new state will improve their lot, then its admission into the exclusive international fraternity of states is much more likely. When states believe that a new state will weaken their enemies, strengthen themselves and their friends, or otherwise generate positive security consequences, they will more likely prefer its independence. When influential states have their own challengers or potential challengers at home, even if they are quite strong, they are unlikely to offer their overt support for fear of signalling support for secession to their own domestic audience. These considerations have been particularly important to Russia and China in recent years. And when the strongest states in the system are concerned that their peers will ostracise them or otherwise oppose their support for any new member, they often defer to the status quo to assure international stability. For every potential factor influencing a given country’s preference for or against a secessionist movement, the critical factor influencing whether membership and legitimacy are ultimately granted is coordination among strong states. When they align in favour or against a given secessionist movement, their position is decisive. Only when the powerful cannot agree do the politics on the ground within the contested country decide.

11. Coggins, Bridget. 2011. “Friends in High Places: International Politics and the Emergence of States from Secessionism” *International Organization*. 65:3, 438.

12. Coggins, Bridget. 2014. *Power Politics and State Formation in the Twentieth Century: The Dynamics of Recognition*. Cambridge: Cambridge University Press.

Normative arguments about justice, human rights, or self-determination are not entirely unimportant, but they matter because the leaders of powerful countries think that they ought to. Further, it is practically difficult to disentangle whether the United States favours a given secessionist movement because it is firmly committed to democratic principles of government (norm) or because it is demanding independence from a security challenger that happens to be authoritarian (interest). On balance, though, outside states' responses to crises of secession have more to do with their own politics than they do laws, norms, or the good of the people within the contested country.

In sum, the outcome of any unilateral bid for secession is difficult to know with any certainty in advance. But looking to influential states' parochial preferences and their preference alignment vis-à-vis the others will usually be instructive. Furthermore, external politics are dynamic. Outside states' interests can change, and with those changes so does the potential for recognition. Regimes with different preferences may rise or fall. Home governments can and do fall too, changing their relationships with the outside world. Secessionist leaders gain and lose support or are sometimes replaced, killed, or die during the struggle. This too may change a movement's fortunes as their tactics or strategy change or as new relationships across international boundaries are forged. Finally, both secessionists and their governments can actively lobby outsiders and sometimes do convince them to come around to their way of thinking regarding independence.

## WHAT'S LAW GOT TO DO WITH IT? DEMOCRACY, REALISM AND THE TINA TURNER THEORY OF REFERENDUMS

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**A**lmost twenty years ago the American political scientist Stephen Krasner wrote a book entitled *Sovereignty*. But what was most telling about it was the sub-title, “organised hypocrisy” (Krasner, 1999). Analysing international relations from a largely *realist* perspective, the scholar broadly concluded that, all things considered, arguments dressed up in idealistic rhetoric were manifestations of power politics. References to laudable principles tended to fall down when tested against the “national interest”.

The argument to be tested in the following is if the recognition of independence referendums follows legal principles, democratic norms or merely the political interests of the strongest powers.

Before making this argument it is worth looking at the “official” theory of state recognition and the supposed “right” to hold a referendum.

### **The legal argument**

The black letter law of the “right” to self-determination referendums is, in a sense, very simple. In the words of James Crawford, “there is no unilateral right to secede based merely on a majority vote of the population of a given sub-division or territory” (Crawford, 2006: 417). Those who espouse a similar legal positivist approach will further stress that this is consistent with the jurisprudence of international courts. Thus in an *obiter dicta* in the Kosovo case Judge Yusuf held that,

A radically or ethnically distinct group within a state, even if it qualifies as a people for the purposes of self-determination, does not have the right to unilateral self-determination simply because it wishes to create its own separate state (Yusuf, 2010: 1410).

Thus, the general rule is that referendums have to be held in accordance with existing constitutions (such a provision exists in Art 39(3) of the Ethiopian constitution but in few other states) or following an agreement between the area that seeks secession and the larger state of which it is

part (this is what happened in the very different cases of East Timor in 1999, South Sudan in 2011, Scotland in 2014, and *a fortiori* Bougainville 2020 [Radan, 2012]). Following this logic, it would seem that the referendums in both Catalonia and Kurdistan were both illegal and unconstitutional.

Based on this reasoning the Soviet leader Mikhail Gorbachev was well within his right to claim that the Latvian, Estonian and Lithuanian referendums on independence in the spring of 1991 were illegal and that he was the guarantor of *Pravovoe gosudarstvo* – the equivalent of the rule of law in Soviet jurisprudence.<sup>1</sup> As, respectively, the Iraqi and the Spanish constitutions do not allow for independence referendums, the two referendums held in these two entities were, *ipso facto*, unconstitutional.

Yet matters are not that simple. Yes, all other things being equal a country only has a right if it follows the rules. However, when a region is part of an undemocratic constitutional order matters are a bit more complex. Antonio Cassese has argued,

When the central authorities of a sovereign State persistently refuse to grant participatory rights to a religious or racial group, grossly and systematically trample upon their fundamental rights, and deny them the possibility of reaching a peaceful settlement within the framework of the State structure ... a group may secede – thus exercising the most radical form of external self-determination – once it is clear that all attempts to achieve internal self-determination have failed or are destined to fail (Cassese, 1995: 119–120).

As Iraq is not a well-functioning democratic state, it could be argued that Kurdistan meets these criteria. Again the comparison with the Soviet Union is illustrative. Notwithstanding Gorbachev's reforms, the USSR was not a democratic regime, which consequently provided the Baltic states with a justification for holding referendums.

But, given that Spain is a democratic state, this rule hardly covers Catalonia. While the Spanish government arguably acted in a way that appeared grossly disproportionate, the legal argument remains the same. Catalonia is not currently part of a non-democratic state. Based on the situation as it stands now, the referendum was, from a purely legal perspective, extra-constitutional. In a legal system under the rule of law, the powers of state institutions have to be enumerated in law. The basic principle of *L'état de Droit* is that citizens can do anything unless it is expressly prohibited. Public bodies or "emanations of the state" can only do things that are expressly allowed. Thus, the latter cannot *legally* speaking take actions that are not prescribed in enabling legislation. To pass legislation outside the boundaries of the constitution or enabling legislation is the very definition of being *ultra vires*.

But does the law have to be that inflexible? Not necessarily. In Canada, the two referendums held in Quebec in, respectively, 1980 and 1995, were not strictly speaking within the powers granted to the provinces by the Canadian Constitution (Sen, 2015).

Technically speaking, the referendums were *ultra vires*. Yet, the Canadian judges, realising that legality ultimately rests on a modicum of legitimacy, followed a more pragmatic logic. In the celebrated case, *Re Quebec*, the court was asked the question, "Under the *Constitution* of Canada, can

1. Of course, some would say that, previously, under the so-called Stalin Constitution of 1936, individual Soviet states did indeed have the right to self-determination referendums under Art 48. But this provision was dropped from the Khrushchev Constitution of 1956. Consequently, the Baltic republics were in breach.

the National Assembly, legislature or Government of Quebec effect the secession of Quebec from Canada unilaterally?”

The court held that while the “secession of Quebec from Canada cannot be accomplished...unilaterally”, a referendum itself was not unconstitutional but a mechanism of gauging the will of the francophone province. Consequently, a referendum, provided it resulted in a “clear majority”, “would confer legitimacy on the efforts of the Quebec government” (*Re Secession of Quebec*, 1998: 385).

In other words, a result in favour of secession would require the rest of Canada to negotiate with Quebec. Needless to say, this ruling does not apply in Spain. But the Canadian example suggests that other countries’ courts have shown a flexibility and appreciation of nuances that is conducive to compromises.

These examples would seem to suggest that the international law pertaining to independence referendums is clear and simple. Alas, this is very far from being the case (for a more general discussion see Sen, 2015: 77ff).

While governments may confidently cite principles, the practice of independence referendums seemingly owes more to national interest than to adherence to principles of jurisprudence. For example, the states of western Europe readily recognised the secessions of several former Yugoslav republics in the early 1990s – although these new states did not adhere to the aforementioned legal principles. And yet, in other cases international recognition has been less forthcoming even if the countries have seemingly followed the established norms.

No state has to date recognised the outcome of Nagorno-Karabakh’s referendum in 1991, in spite of Azerbaijan being very far from a democratic state (the country has a Freedom House score of 7 – the same as North Korea!) and the greater freedoms enjoyed by the citizens/inhabitants of the break-away republic. Similarly, no state recognised the referendum in Somaliland even though this enclave is considerably more democratic, peaceful and respecting of the rule of law than Somalia, which at the time of the referendum was an archetypal failed state. For all the legal arguments, acceptance of referendum results is ultimately a political rather than a legal decision. In other words, are all these arguments just examples of the aforementioned “organised hypocrisy”? Are states actually recognised if they follow the rules of the game? Or it is simply a matter of power politics?

### **When are referendums on independence recognised?**

Lawyers are interested in what is – or is not – legal and in accordance with more or less rigid rules. Political scientists, by contrast, are interested in what actually happens.

Are there from a political science – or International Relations – point of view causes and tendencies associated with the recognition of referendum results? Or are independence referendums simply recognised when the rules are followed?

Alternatively, do we now live in a democratic age in which the gold standard of legitimacy is popular support? And, if the answer is in the affirmative, do independence referendums tend to be recognised when secession is supported by a large majority of the new *demos* on a large turnout? Or is it all down to power politics?

My hypothesis is that the latter is the most important factor. Can we find statistical evidence for this?

## Statistical analysis

Since the 1990s there have been 34 successful referendums on independence.<sup>2</sup> Of these 15 have resulted in the establishment of a new state (see: Qvortrup, 2014, for a further discussion). What are the factors associated with the establishment of these new states?

Factors associated with recognition are the legal one “the seceding entity was part of a non-democratic state”. But there are also more political ones, e.g. a high turnout and a massive yes vote. And then there is the factor – which I think is the most important – of whether the new state has the support of the international community, or, more specifically, the three “democratic” permanent members of the UN Security Council.

In the analysis below we have measured some of the factors that statistically could be conducive for when states are recognised using what is known as a multiple logistic regression analysis. Without going into technical detail, this analysis measures the strength of the different given factors behind a phenomenon.

The dependent variable is whether the state was recognised and took up a seat in the UN. The independent variables are the official yes vote, the turnout, the Freedom House score of the country from which the entity sought to secede and lastly a dummy variable for whether there was support for secession among the five permanent members of the Security Council (in practice the USA, Britain and France).

**Table 1: Logistic regression: Determinants of recognition of successful independence referendums**

| Variables                            | Model 1  |
|--------------------------------------|----------|
| Security Council Dummy               | 4.258*** |
|                                      | -1.778   |
| Freedom House Score                  | -.298    |
|                                      | (.742)   |
| Turnout                              | .100     |
|                                      | (.90)    |
| Yes-Vote                             | .055     |
|                                      | (.065)   |
| Negotiation/Constitutional Provision | 1.054    |
|                                      | (2.35)   |
| Constant                             | -15.134  |
|                                      | -9.709   |

R<sup>2</sup>: .72 (Nagelkerke) .52 N: 38 \*: p < .1, \*\*: p < .05, \*\*\* p < .01

2. This analysis is based on the referendums held since the breakdown of the Soviet Union. Before that date there had been relatively few independence referendums (only a handful in each decade). The first independence referendums were held in the US Confederate States of Texas, Virginia, Tennessee and Arkansas, where narrow majorities voted for independence in 1861. Other independence referendums include Norway (1905), Iceland (1944) and Malta (1964). For a discussion of these referendums see Qvortrup (2014) and Sen (2015).

As the table shows, Security Council support from the three permanent Western powers is the key determining factor (statistically significant at  $p < 0.01$ ). All the other variables were not statistically significant.

Whether the country is part of a democracy or not (i.e., if the vote was held under the rules prescribed by the legal norms) was completely irrelevant.

Likewise, whether the turnout was high or low did not matter one jot when it came to recognising states. Some countries with low turnout became independent (e.g., Bosnia), others did not, (e.g. Tartarstan). Whether the support (the yes vote) was high or low was equally academic. Indeed, the yes votes in Somaliland (1999) and Krajina (1992) were both very high and both countries remain unrecognised.

The factors that determine the success or otherwise of an independence referendum are not whether the entity is part of a non-democratic regime, or the turnout, but above all if secession is supported by (and in the interest of) Britain, France or the USA.

It was not in the interest of these democratic countries to recognise Kurdistan, Tartarstan, South Ossetia – or Catalonia. The great democratic powers' arguments for not doing so might be legalistic or even philosophical but the statistical evidence suggests that these factors are rarely adhered to in practice; ultimately, what matters is the elusive and yet very real "national interest".

One is tempted to paraphrase Tina Turner and say, "what's law got to do with it?"

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| Appendix: Successful Independence Referendums 1990-2017 |  |               |      |         |          |
|---|--|---------------|------|---------|----------|
|   | Parent Country                           | Seceding      | Year | Turnout | Yes Vote |
|   |  | Entity        |      | %       | %        |
| 1   | United Socialist Soviet Republics (USSR) | Lithuania     | 1991 | 91      | 84       |
| 2   | USSR                                     | Estonia       | 1991 | 77      | 83       |
| 3   | USSR                                     | Latvia        | 1991 | 74      | 88       |
| 4   | USSR                                     | Georgia       | 1991 | 98      | 90       |
| 5   | USSR                                     | Ukraine       | 1991 | 70      | 85       |
| 6   | Georgia                                  | South Ossetia | 1991 | 98      | 90       |
| 7   | Georgia                                  | Abkhazia      | 1991 | 99      | 58       |
| 8   | Yugoslavia                               | Croatia       | 1991 | 98      | 83       |
| 9   | Croatia                                  | Serbs         | 1991 | 98      | 83       |
| 10  | Yugoslavia                               | Macedonia     | 1991 | 70      | 75       |
| 11  | USSR                                     | Armenia       | 1991 | 95      | 90       |
| 12  | Bosnia                                   | Serbs         | 1991 | 90      | -        |
| 13  | Serbia                                   | Sanjak        | 1991 | 96      | 67       |
| 14  | Serbia                                   | Kosovo        | 1991 | 99      | 87       |
| 15  | USSR                                     | Turkmenistan  | 1991 | 94      | 97       |
| 16  | USSR                                     | Karabakh      | 1991 | 99      | 82       |
| 17  | USSR                                     | Uzbekistan    | 1991 | 98      | 94       |
| 18  | Macedonia                                | Albanians     | 1991 | 99      | 93       |
| 19  | Moldova                                  | Transnistria  | 1991 | 97      | 78       |
| 20  | Russia                                   | Tatarstan     | 1992 | 82      | 67       |
| 21  | Yugoslavia                               | Bosnia        | 1992 | 99      | 64       |
| 22  | Georgia                                  | South Ossetia | 1992 | NA      | NA       |
| 23  | Bosnia                                   | Krajina       | 1992 | 99      | 64       |
| 24  | Ethiopia                                 | Eritrea       | 1993 | 99      | 98       |
| 25  | Bosnia                                   | Serbs         | 1993 | 96      | 92       |
| 27  | USA                                      | Palau         | 1993 | 64      | 68       |
| 28  | Georgia                                  | Abkhazia      | 1995 | 96      | 52       |
| 29  | Indonesia                                | East Timor    | 1999 | 78      | 94       |
| 30  | Somalia                                  | Somaliland    | 2001 | 99      | 97       |
| 31  | Yugoslavia                               | Montenegro    | 2006 | 55      | 86       |
| 32  | Sudan                                    | South Sudan   | 2011 | 97      | 98       |
| 33  | Iraq                                     | Kurdistan     | 2017 | 99      | 72       |
| 34  | Spain                                    | Catalonia     | 2017 | 90      | 42       |

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Contested states are the product of partially successful strategies. National independence movements may prove capable of establishing effective control over a certain territory and its population, but a lack of full international recognition indicates that the counter-secession policies of the government confronted with the breakaway have likewise been successful to some extent. This results in a fragile equilibrium that the European Union's security policies need to address. In the case of Europe, there is no question of a military solution to any of these conflicts, but nor are negotiations making sufficient progress to end the stalemate. Among the various cases of unrecognised entities the EU is dealing with, one – Northern Cyprus – is located on EU territory. The EU is also mediating between a candidate country – Serbia – and a potential candidate country – Kosovo, whose statehood is contested, including by some EU member states. In addition, the EU has to develop a policy towards a number of disputes involving contested states in its eastern neighbourhood: these are the conflicts over the status of Transnistria in Moldova, South Ossetia and Abkhazia in Georgia, Nagorno-Karabakh in Azerbaijan, and Donbass and Lugansk in Ukraine. Russia is deeply involved in this last group through its support for these contested states. Moreover the EU also has to deal with entities that are located farther away, but that are nonetheless also crucial for its global security policies, such as Palestine and Taiwan. The following paper will describe some crucial characteristics of the EU's policies on conflicts involving contested states and will analyse some of the main problems it is grappling with.

The EU does not initiate policies to address secessionist or irredentist movements on the territory of its member states: it becomes active only when it can count on the support of the member states in facing such conflicts. Then the European Commission can, for instance, develop regional policies aimed at conflict transformation, with the goal of making the positions of the conflicting parties more compatible. In the long term this will allow for more cooperation between them, or even joint decision-making. The Commission implemented such a conflict transformation policy for Northern Ireland, with the full support of the British and Irish governments (Mabry et al., 2013).

The EU has, however, adopted a proactive policy in this regard where national minorities in candidate countries such as Macedonia and Turkey are concerned. And its initiatives are even more prominent in the case of contested states, whose formation entails a unilateral declaration of independence and generally results from the use of force. The outcome of conflicts involving contested states is ultimately decided at the international level. For these reasons, all conflicts involving contested states directly affect fundamental EU security interests.

One may wonder if it makes sense to compare the EU's policies towards the different conflicts involving contested states. The fact is, the EU has no overall strategy on contested states, merely a series of individual policies. States, or international organisations such as the EU, that are involved in attempts to solve conflicts on sovereignty do not want to present a particular approach or settlement as a general model for other cases: this would run counter to the need for flexibility that is required for successful mediation. In 2002, as High Representative of the European Union for Foreign Affairs and Security, Javier Solana played a leading role in brokering an agreement between Serbia and Montenegro which allowed for a referendum on independence for Montenegro. Such a referendum was held in 2006. Solana defended this clause in the agreement, and he also declared that it would not constitute a precedent for any other European countries. In his view, those who were comparing Montenegro with territorial disputes in Spain were suffering from *delirium tremens* (*El Mundo*, 2016). Two years later, in 2008, the EU member states who had recognised Kosovo likewise stressed that their decision did not constitute a precedent – that this was a *sui generis* case, which could not be compared to any other case. The conflicting parties have their own reasons to be fearful of comparisons: the risk is that the outcome of the dispute they are involved in would be made dependent on the outcome of the conflict it is compared with, in which case the comparison might work against them. For all these reasons, therefore, a systematic comparison between the various cases could be considered problematic from the perspective of a political practitioner. Scholars, on the other hand, have no reason to reject comparisons. That would be contrary to their trade. A comparison of the EU's policies towards contested states is particularly useful for showing common traits, despite the wide diversity of circumstances – and this allows for a better understanding of the EU's capacity to act in such difficult circumstances.

The EU does not have the power to recognise new states: that is the exclusive prerogative of its member states. And the member states' policies on recognition are not based on particular national doctrines. Recognition is a political act, which is to some degree guided by general principles and which also takes into account the interests of the recognising states, such as the need for a stable international order. In addition, recognition policies take into consideration the particular context in which a conflict on secession takes place. In order to preserve their diplomatic flexibility, individual EU member states do not formulate a clear doctrine on recognition policies, and this is *a fortiori* true for these states taken collectively.

The practice regarding recognition and non-recognition is thus very diverse, but there are still general observations to be made regarding

the EU experience. When confronted with the dissolution of the Yugoslav federation, the members of the European Communities (EC) were united in defending the position that, in principle, all Yugoslav republics (the entities with the highest formal status under the Yugoslav constitution) had a right to independence (Rich, 1993). This excluded a right to independence for provinces, such as Kosovo, that were formally subordinated to one of the republics. In the case of the Soviet Union, such a right to independence was reserved for Union republics – which were sovereign and, according to the constitution, had a right to secession. The members of the EC were in full agreement with each other when they denied the right to independent statehood to all other entities in the Soviet federal framework, such as Autonomous republics (Chechnya and Abkhazia) or Autonomous regions (South Ossetia and Nagorno-Karabakh). And EC members were likewise unanimous in their recognition of the mutually agreed dissolution of the Czechoslovak federation into its constituent parts. This means that the EC was able to reach full unanimity in the case of the dissolution of these three federations into newly independent states.

More problematic, in terms of the unity of EU member states, was the application of the so-called “remedial position” on the right to secession (Buchanan, 2004). This position considers the redressing of historical injustices, such as liberation from oppression or occupation, as a legitimate basis for the right to independent statehood. According to this position, nations have such a right to independence if this is the only reasonable way to correct or prevent such injustices. The members of the European Community jointly defended this position in 1991 in relation to the restoration of the independence of the Baltic states, which had been occupied and annexed by the Soviet Union in 1940. When it came to recognising the statehood of Chechnya, Nagorno-Karabakh, Transnistria, Abkhazia and South Ossetia, however, they jointly refused to apply the same normative position. But the vast majority of them did recognise Kosovo in line with this remedial position – a decision that was then vehemently opposed by other member states, particularly Spain and Cyprus.

According to the “choice position” (Wellman, 2010), the population of any territory has a right to secede unilaterally if such a choice is based on the democratically expressed will of the majority and if it is likely to lead to the creation of a state that is based on the rule of law. This view of national self-determination finds support among political theorists, but far less among international lawyers. It may also count on some sympathy in the media and a part of European public opinion at large. But it is a position not shared by any EU member state, none of which identifies the principle of the self-determination of peoples with democratic freedom of choice. According to all EU members, the support of the majority of a people for independence is one of the necessary conditions for the recognition of a state, but this democratic will is far from being a sufficient condition for such recognition. They vehemently reject the view that the majority of a population of any given territory that is part of a recognised state may decide its future international status on its own. The EU therefore refused to recognise the legitimacy of a referendum on the independence of Transnistria in 2006, and it strongly opposes the holding of a referendum on the independence of the Republika Srpska in Bosnia and Herzegovina.

The division between EU member states regarding particular cases of recognition reflects the division in the international community as a whole. EC members were united on the issue of recognition in cases where the other members of the international community were also united, as they were in 1991 with the dissolution of the Soviet Union. At present, the EU member states are likewise divided when the other states in the international community are divided, as for instance on the recognition of Palestine or Kosovo. Such divisions lessen the efficiency of EU policies on conflicts involving contested states, but they do not make such policies impossible, as long as the EU is capable of overcoming the division between its members by developing a common policy of engagement without recognition. The EU is currently coordinating engagement policies towards Palestine and Kosovo, for example, and is thus able to act in line with its own interests in the disputes on the status of these entities.

And indeed the EU has a vital interest in being engaged in attempts at resolving conflicts involving contested states in Europe. It plays the leading role in mediating between Kosovo and Serbia. Together with the UN and the OSCE, it chairs the Geneva International Discussions regarding the conflicts in Georgia over South Ossetia and Abkhazia. It is likewise deeply involved in attempts at resolving the conflicts in Ukraine, in several ways. It has an observer role in the OSCE-led talks between Moldova and Transnistria, and a supportive role regarding both the UN-led negotiations on Cyprus and the negotiations on Nagorno-Karabakh, which are led by the Minsk Group of the OSCE (Russia, the US and France). The EU also has an interest in being present in breakaway territories with projects aiming at conflict transformation. This may be called a policy of “engagement without recognition” when the EU is divided on the question of recognition, and a policy of “engagement and non-recognition” when it is united in a refusal to recognise the statehood of the breakaway entities.

We have already mentioned the differences between practitioners and political scientists when it comes to comparing cases of secessionist conflicts in which the EU is involved. This is not the only distinction to be made between practical and theoretical perspectives on EU policies towards contested states. The term “contested state” itself is used in political science to describe the partial or total lack of international recognition of political entities in control of a particular territory and its population. It further raises the question of whether it is possible to consider these entities states on the basis of current definitions of statehood, regardless of the lack of recognition. This concept and the related political science concept of a “*de facto* state” are not used by the EU. Its diplomats avoid, whenever possible, the term “state” in cases where its member states are divided on the question of recognition. They also avoid it where they are unanimously in support of counter-secession policies aiming at the reintegration of these entities.

In some cases, EU member states and EU institutions will use terms from international law, such as “occupation”, for instance. But, due to its legal implications, the use of such a term severely restricts the policy of engagement with unrecognised entities. In most cases the Commission and the Council (which are directly involved in the implementation of conflict transformation programmes in the breakaway territories)

will therefore hesitate to use the term – in contrast to the European Parliament, which is not confronted to the same extent with the problem of legal restrictions in the implementation of its policies. In the case of Abkhazia and South Ossetia, for instance, the term “occupied territories” is used by the European Parliament and some EU member states, such as Poland and Estonia, but not by the European Commission or the Council. Similarly, the European Parliament refers to the territories around Nagorno-Karabakh as being occupied, in line with several UN Security Council resolutions, but not Nagorno-Karabakh itself.

The EU policy of engagement without recognition, as adopted towards Kosovo, is designed in such a way that it should not have any consequences for the recognition of statehood. But those EU member states who refuse to recognise the statehood of Kosovo still accept the idea that that entity’s political structures should be built up in line with democratic standards, with a view to a final settlement in the future. In such a case, the EU may thus support a process of state- and nation-building, as long as this kind of engagement is status-neutral. By contrast, a policy of engagement and non-recognition opposes all forms of direct support for state- and nation-building, and promoting democracy is then restricted to giving assistance to certain programmes run by civil society organisations. In these cases the EU adheres to the principle of territorial integrity, and in principle backs the counter-secession policy of governments confronting a breakaway. This is its approach to all the contested states on the territory of the former Soviet Union, and also to Cyprus. In the case of Nagorno-Karabakh it adopts, formally, a more balanced position – taking into account its diplomatic relations with Armenia – by referring to the principle of national self-determination of peoples as well as to the principle of territorial integrity, but in its practical policy here it does not cross the red lines set by Azerbaijan by venturing into an active form of engagement.

When it comes to contested states, the EU policies of engagement and non-recognition or engagement without recognition are never identical to the policies of a central government confronting a breakaway. Its non-recognition policy towards Taiwan is based on the One China principle, but it does not share Beijing’s view on future reunification or its cross-Strait policies. In the case of Kosovo, the EU has developed its own rules for its policy of engagement without recognition, which differ both from the practice of EU member states who recognise Kosovo and from the practice of member states who oppose such recognition. Similarly, in the case of Cyprus, the non-recognition policy of the EU institutions is not fully in line with the policy of the Cypriot government. The institutions will generally respect the government’s policy, but will also take their own initiatives on conflict transformation and may even, in exceptional cases, cross the red lines set by Cyprus.

This thesis can be illustrated by an example. After the failure of the UN’s so-called “Annan plan” for the reunification of Cyprus in 2004, the EU wanted to facilitate future negotiations by ending the isolation of Northern Cyprus. On 29 April 2004, the Council of the European Union approved the so-called Green Line Regulation on the movement of persons and goods between northern and southern Cyprus. The Turkish Cypriot Chamber of Commerce – an institution that had already

existed before the division of the island – received authorisation to issue the accompanying documents necessary for intra-island trade. This happened in agreement with the Greek Cypriot government. But the value of this trade remained extremely limited over the ensuing years: in 2016 it amounted to around €4–5 million, which is far below the minimum it would need in order to have a significant impact on conflict transformation. The low level of trade from south to north is largely a consequence of the status question: customs duties have to be paid on goods that are exported to the north (because the Turkish Cypriots regard the border as an international one), and moreover, unlike goods exported outside the EU, they are not exempt from VAT (because the Greek Cypriots and the EU regard the north as part of EU territory) (Mirimanova, 2015). In 2004 there was widespread support within the European Union for a trade regulation that would allow goods to be exported directly from Northern Cyprus to the EU, but it was vetoed by the Greek Cypriot government. The question of direct trade with Northern Cyprus returned to the agenda when the Lisbon Treaty entered into force in December 2009, as this brought the European Parliament into a co-decision procedure in such matters. But the Commission's proposal to allow direct trade failed to receive majority support within the European Parliament, as it was felt that such trade liberalisation would imply that Northern Cyprus could be considered a separate legal entity (Vogel, 2010; *Cyprus Mail*, 2010).

This example illustrates the formal and institutional complexities of an EU policy of engagement and non-recognition and, furthermore, the divisive effects such a policy may have among EU institutions, as here between the Commission and the Parliament. Here, the Cypriot government managed to mobilise majority support in the European Parliament against a direct trade agreement between the EU and Northern Cyprus, but the dispute shows that in principle it is very possible for a member state to be overruled on matters regarding its counter-secession policy.

At the beginning of this article, the conflicts between contested states and the states they have broken away from were described in terms of partial success: the contested states managed to establish effective power, and the central states to prevent their full or even partial recognition. These achievements can also be described in terms of partial failure: on the one hand, the failure to achieve full recognition, and on the other, the failure to recover control over the lost territory. The EU's policy of engagement with contested states can likewise be described in terms of both failure and success. The EU member states are divided on the issue of recognition and the EU institutions on the best kind of engagement with contested states. This means that their policies in this regard are less efficient than they could be. Nevertheless, the EU and its member states have succeeded in overcoming major divisions in even the most difficult cases.

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## SECESSIONIST STRATEGIES: CASE STUDIES

- INSIGHTS FROM THE SCOTTISH INDEPENDENCE REFERENDUM  
*Nicola McEwen*
- SECESSIONIST STRATEGIES: THE CASE OF FLANDERS  
*Bart Maddens*
- THE TWO QUEBEC INDEPENDENCE REFERENDUMS:  
POLITICAL STRATEGIES AND INTERNATIONAL  
RELATIONS  
*André Lecours*
- AUTONOMY IN DENMARK:  
GREENLAND AND THE FAROE ISLANDS  
*Gestur Hovgaard & Maria Ackrén*



## INSIGHTS FROM THE SCOTTISH INDEPENDENCE REFERENDUM

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There are important and much discussed differences between the independence debate in Scotland and the UK and the crisis currently gripping Catalonia and Spain. The United Kingdom is sometimes reified in Catalan discussions on these matters, as if the recognition of democratic self-government were somehow part of its DNA. Certainly, the response of the UK government to the independence challenge from Scotland is a million miles from the response of the Spanish government in recent years. But one does not need to look too far into the history of the UK to find examples of when responses to nationalist challenges – whether within the context of a declining empire or on the island of Ireland – were less accommodating. This contribution offers a more nuanced view of the process that led to and legitimised the 2014 independence referendum. It also discusses some of the similarities between Scotland and Catalan nationalism, especially in the substance of type of polity the advocates of independence are seeking and the institutional barriers in the way of achieving these goals. Three themes are discussed in turn: (i) the process underpinning the independence referendum in Scotland; (ii) the meaning of independence and the territorial objectives largely shared by mainstream Scottish and Catalan nationalist leaders; and (iii) the role and response of the European Union.

### Process

The most notable contrast between the Scottish and Catalan independence movements is in relation to the process, and the recognition of the right to decide. In 2011, the SNP surprised many by winning an overall majority of seats in the Scottish parliament. The SNP had a manifesto commitment to hold an independence referendum, but the election result should not be regarded as an expression of that desire. Support for independence had consistently been around 30% since devolution, and the SNP's popularity and electoral success rested much more on positive evaluations of leadership, competence in government and effectiveness in representing Scottish interests in the UK relative to its opponents

(Johns, et al., 2013). There was also debate about the legal authority of the Scottish parliament to legislate for an independence referendum. The Scotland Act 1998 – Scotland’s founding statute of autonomy – does not recognise the right to decide. The constitution, including the Union between Scotland and England, is a matter reserved in law to the UK parliament. The Scottish government never conceded that it could not hold a consultative referendum, but sought to negotiate an agreement with the UK government to put the issue of authority beyond legal doubt and legal challenge.

For its part, following the 2011 election, the UK government immediately recognised that the SNP government had a mandate to hold an independence referendum, in line with the party’s manifesto commitment. While insisting he would “campaign to keep our United Kingdom together with every single fibre I have”, the prime minister promised that he would not put any legal or political obstacles in the way of an independence referendum (The *Guardian*, May 6 2011). Over the course of the next 17 months, the UK and Scottish governments negotiated an intergovernmental agreement (‘the Edinburgh Agreement’), which paved the way for a temporary transfer of power. The resultant section 30 order exempted “a referendum on Scottish independence” from the list of reserved power in the Scotland Act, but only until the end of 2014. There were some conditions, but these were minimal: insistence on a single question with only two options; some rules on campaign finance; and oversight by the UK Electoral Commission (with the lead role taken by its Scottish office), according to the principles of the Political Parties, Elections and Referendums Act (2000). Once the power was transferred, the Scottish government and the Scottish parliament were in charge of the referendum process.

The Scottish independence referendum in 2014 was not legally binding. No referendum in the UK is legally binding. But the consent and the participation of the UK government gave the referendum legitimacy and it is likely that the result would have been politically binding. The Edinburgh Agreement committed both governments to respect the outcome of the referendum whatever that may be. There was no insistence on a qualified majority; the size of majority would doubtless have repercussions for the negotiations that followed, but under the terms of the agreement, a simple majority was all that was required to kick-start independence negotiations. This was underlined in a joint statement – the wording of which was the result of intergovernmental negotiations – sent to every household in advance of the referendum. It stated:

“If more people vote ‘Yes’ than vote ‘No’ in the referendum, Scotland would become an independent country. This would not happen straight away. There would need to be negotiations between people representing Scotland and people representing the UK.”

What, then, explains this degree of accommodation, which seems remarkable when contrasted with the vehement resistance of the Spanish government to the Catalan referendum? One can point to both strategic and philosophical explanations.

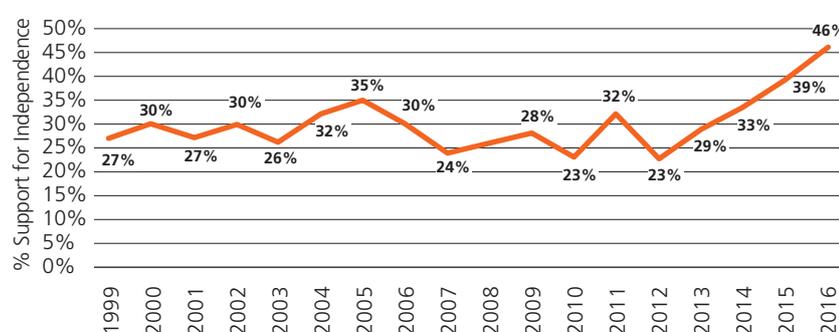
From the vantage point of May 2011, with surveys suggesting that support for independence rarely scored above a third of the Scottish electorate (see Figure 1), the costs of conceding a referendum seemed lower than the risks of fuelling a backlash were a referendum to be rejected. In most cases, demands for independence emerge as a result of dissatisfaction or grievance with the constitutional status quo, and a collective feeling that national identity isn't recognised and/or national interests aren't protected within the existing state structure. This was not the case in Scotland in 2011. On the contrary, support for Scottish devolution within the UK was high, and Scots appeared more content with the deal that Scotland secured from the Union, especially after the SNP was first elected to government in 2007 (Curtice and Ormston, 2012). The SNP strategy of building confidence in Scottish independence by making a success of a more limited form of self-government (while attempting to expose its constraints) contributed to increasing the level of satisfaction Scottish voters held for devolution. There was no grievance, no constitutional court had rejected powers for the Scottish parliament. In fact, the parliament's powers were just about to increase. Rejecting the right to decide might have created a grievance around which support for independence could be mobilised, and seemed too great a risk when the future of the Union seemed secure.

A referendum that seemed certain to result in a heavy defeat for independence also offered an attractive prospect for committed unionists. The threat of independence has long acted as political leverage for successive Scottish governments, and even at times for the Scottish Office before devolution, to enable Scottish representatives to lobby for policy, financial or constitutional concessions from the UK government. A resounding endorsement of the Union in a referendum would serve to weaken the effect of such territorial demands. Conceding a referendum therefore presented an opportunity to demonstrate what appeared to be a clear majority against independence which could fatally undermine the threat of independence for a generation. This was, of course, a miscalculation. At 55-45 against independence, the referendum vote produced a clear endorsement of the Union. However, it was also too close for comfort and helped to generate further constitutional change. What is more, it served to boost the SNP's electoral dominance of Scottish politics, and as Figure 1 reveals, support for independence – even when voters are confronted with a plurality of constitutional options – has remained historically much higher since the referendum than it was before it.

Philosophical explanations also help to account for the degree of territorial accommodation evident in the run-up to the 2014 vote. Although the UK was a relative latecomer to multi-level government – the system of devolved government in Scotland, Wales and its restoration in Northern Ireland dates only to 1999 – its plurinational character has long been recognised. Political union between Scotland and England never eroded the distinctive national identity of the component parts. Scotland's institutional distinctiveness was preserved in its churches, legal system, education system and local government. These institutions became carriers of national identity even as politics became increasingly centralised during the era of mass politics. Thus, in the UK, national boundaries overlap: the nation of Britain is made up of the nations of England, Scotland and Wales, and together

with Northern Ireland they form the UK, which is both nation and state. Famously, there is no adjective to describe the citizens of the United Kingdom as co-nationals; though “British” is often used, especially by one community in the divided territory of Northern Ireland, Britain technically excludes the territory of Northern Ireland. For much of the period of Union, these national identities have been broadly compatible. This was aided by the unwillingness on the part of successive UK governments, perhaps borne of a lack of interest or lack of perceived need, to suppress the plurinational character of the state. Recognition of nations within the state has never posed the kind of problem within the UK as it has posed periodically in Spain or Canada. This makes it easier philosophically to recognise the right to decide because, however unattractive independence may be politically, it doesn’t pose the same existential crisis in the UK as it often does for other states for whom the boundaries of nation and state are more aligned.

**Figure 1: Support for Independence (%), 1999–2016**



Source: Scottish Social Attitudes, 2017.

One must also acknowledge the personal contribution of the then prime minister, David Cameron. In this particular referendum (the same cannot be said of his role in relation to the Brexit referendum and its aftermath), Cameron demonstrated considerable leadership and a pragmatic attitude which facilitated intergovernmental negotiation and agreement. He was able to combine the recognition of the right to decide with a passionate defence of the Union. For an illustrative example, in a speech seven months before the referendum, in which he was appealing to British citizens across the UK to make their voices heard in the campaign, he said: “this is a decision that is squarely and solely for those in Scotland to make... I believe passionately that it is in their interests to stay in the United Kingdom... but it is their choice, their vote” (Cameron, 2014). Notwithstanding the degree of continuity within Conservative thinking – even Mrs Thatcher, while being deeply opposed to independence, acknowledged in her memoirs Scotland’s “undoubted right to national self-determination” – it can’t be assumed that other UK leaders would act in the same way.

Independence was defeated in 2014, but the result was much closer than the UK government had anticipated, and it’s not at all certain that another UK government and another leader would be quite so accommodating if another independence referendum was in sight.

Indeed, when the Scottish first minister formally requested a new section 30 order to transfer the power to hold another independence referendum in light of the material change in circumstances brought about by the UK's decision to leave the European Union (also a manifesto commitment), the current prime minister formally rejected the offer, with the carefully crafted response that "now is not the time". This translated into more forceful opposition to a new referendum by the SNP's political opponents in the UK general election in June 2017 with some success.

## Independence, interdependence and secession

The subject of CIDOB's workshop was secession and counter-secession. But when discussing European cases, is secession the right terminology? It is not a term commonly used by independence movements and it arguably doesn't capture what they aspire to. The term "separatism", so liberally used by commentators in relation to the current crisis in Catalonia, is also inadequate. In Scotland, as in Catalonia, the independence movement is a broad coalition. Not everyone shares the same vision of what independence should entail. But within the SNP, which remains the dominant force within the Scottish independence movement, the stated goal of independence was framed in terms of a new relationship with the rest of the UK. As Nicola Sturgeon, then deputy first minister, noted, "far from marking a separation from our friends and relations across these islands, independence opens the door to a renewed partnership between us" (Sturgeon, 2013).

For example, the SNP government's White Paper on independence (Scottish Government, 2013) published in advance of the referendum included proposals to:

- set up a formal currency union with the rest of the UK, which would see Scotland's government effectively becoming a shareholder in the ownership and governance of the Bank of England;
- maintain the British Isles Common Travel Area (currently operational between the UK and the Republic of Ireland and formally recognised in the EU Amsterdam Treaty) to facilitate cross-border travel and avoid the need for internal border posts;
- develop a strategic energy partnership and an integrated energy market, as well as an integrated labour market;
- cooperate in a wide range of public bodies, including keeping the UK Research Councils and the Green Investment Bank;
- maintain common regulatory agencies, for example, in rail regulation and the Civil Aviation Authority.
- In defence and security, the emphasis was on new institutions in an independent Scotland working in partnership with the rest of the UK.

Independence, then, was presented by its protagonists not as separation or even secession but as a new form of partnership (Keating and McEwen, 2015). This new partnership was to be overseen by a new intergovernmental forum, modelled on the British Irish Council or the Nordic Council of Ministers, and – crucially – all within the context of the partners' continued EU membership.

This idea of independence as partnership is not unique to the Scottish experience. The 2014 White Paper of the Catalan Advisory Council on the National Transition likewise envisaged continued political, economic and institutional ties with the rest of Spain and the other Iberian states, including a treaty underpinning cooperation in: monetary and financial policy; industry and trade; agriculture and fisheries; customs and tax; health and education; environment, infrastructure, defence, law enforcement and migration. Even the Quebec offer in 1995 – while arguably the most radical of the three – included an offer of an economic and political partnership with the rest of Canada.

These objectives are motivated by a desire to avoid independence being viewed as a clean break, a rupture, a leap into the unknown. A vision of independence with some continuity is less frightening, less risky, and perhaps as a result, more palatable to voters. Such objectives are also motivated by pragmatism. Dismantling a 300-year old political union is a daunting task. Where services currently operating on a cross-border or centralised basis are non-contentious politically, the SNP judged that it made more sense to have continuity, freeing up space to focus on disentangling the more politically potent areas such as natural resources, the national debt or the armed forces. National *interdependence* alongside the goal of independence is not only recognised as a 21<sup>st</sup> century norm, but has also been regarded as desirable. In the global order, no state, big or small, exists in splendid isolation. For the mainstream of Europe's independence movements, the era of 20<sup>th</sup> century sovereign statehood is over.

Of course, not everyone sees independence this way, and especially not its opponents. Partnerships only make sense when there is a willing partner. And therein lies the problem. It is far from certain that the new offer of partnership made by the Scottish government would have been accepted by the UK government in the event of a yes vote. Less likely still that it would have led to the “partnership of equals” that the SNP had in mind, given the resource disparities – economic, bureaucratic, political, and reputational – between an independent Scotland and the rest of the UK. Moreover, a partnership of the kind envisaged in 2014 would be much more difficult within the context of Brexit, since it depended upon both Scotland and the rest of the UK being within the European Union.

## **Response of the international community and the EU**

From the perspective of the international community, independence debates are domestic affairs. In a formal sense, this suggests that international institutions and the leaders of other sovereign states often refrain from taking a formal stance, but are passive observers of someone else's debate (or, where they choose to, they may ignore the issue entirely). In practice, this often means explicitly or implicitly siding with the national government's bid to maintain the territorial integrity of the existing state. This is at least in part motivated by rational self-interest. Maintaining the constitutional status quo is likely to be less disruptive to commercial and political interests, avoids the prospect of demonstration effects or spillover for their own territories, and may reflect the hope that they in turn would receive support from allies in the international community in pursuit of their own territorial objectives and the defence of their territorial integrity should it be threatened.

The position of the European Union merits closer scrutiny. With respect to the independence movements of Scotland and Catalonia, the EU is not an international observer. When territorial challenges take place within the EU's borders, they do not take place in its own backyard or on its doorstep. They take place inside the EU's house. And yet the EU has tried to act as if it were a dispassionate international observer, regarding these challenges as internal matters of member states to address in line with their own constitution and their own rules of law.

Certainly, the EU treaties do not provide much clarity or opportunity for intervention. Article 4 of the Lisbon Treaty underlines the Union's commitment to respecting the essential state functions of its members, "including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security". There are, however, other provisions within the treaty which could arguably be used to intervene to protect the European rule of law and the rights of EU citizens where these are jeopardised by a member state. In particular, article 2 of the treaty underlines the fundamental values of "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities". While these were not undermined in the Scottish independence referendum, there is surely a case to make that they are being undermined in the political, governmental and judicial responses to the Catalan referendum process and its aftermath.

As was abundantly clear in the context of the Scottish independence referendum, while the treaty has provision for accession and exit from the EU, it is silent on the issue of internal enlargement. Intense debate and scrutiny among lawyers led to the broad conclusion that, had Scotland voted for independence, its membership of the EU would probably cease while the UK's membership would continue, but that accession as a member state could likely be negotiated in parallel with independence negotiations, especially if the latter were consensual. But the silence in the treaties left open the possibility that EU representatives, most notably the then Commission president, Jose Manuel Barroso, could make frankly ridiculous assertions that it would be "extremely difficult, if not impossible" for an independent Scotland to join the EU - despite having enjoyed incorporated membership as part of the UK for 40 years, having already adopted the *acquis* within domestic law, and already satisfying the terms of membership as a mature democracy with respect for fundamental rights.

Of course, strategic and philosophical explanations play their part here too. The self-interest that generally lends itself to a desire for constitutional stability and support for an ally among the international community more broadly is perhaps even more evident among EU member states. Their self-interest makes it unlikely that there will be a change in the European treaties to provide clarity on the appropriate response to secessionist challenges within the EU's borders, despite the fact that such a procedure could offer stability in the face of an escalating crisis. Among the EU institutions, meanwhile, there is an evident philosophical opposition to independence as somehow anathema to the project of European integration. This reflects a misunderstanding of the territorial goals of mainstream European independence movements, which have largely sought to realise their

self-government ambitions within the context of European integration. Indeed, they have – at least until now – been amongst the most committed supporters of the project of pooled and shared sovereignty that EU integration has represented. It is ironic that those speaking on behalf of the EU have been among the staunchest defenders of a vision of national sovereignty that many thought belonged to a bygone era largely as a result of EU integration. This disconnect between the EU's institutions and its most European-minded citizens risks undermining the legitimacy of the project of European integration itself.

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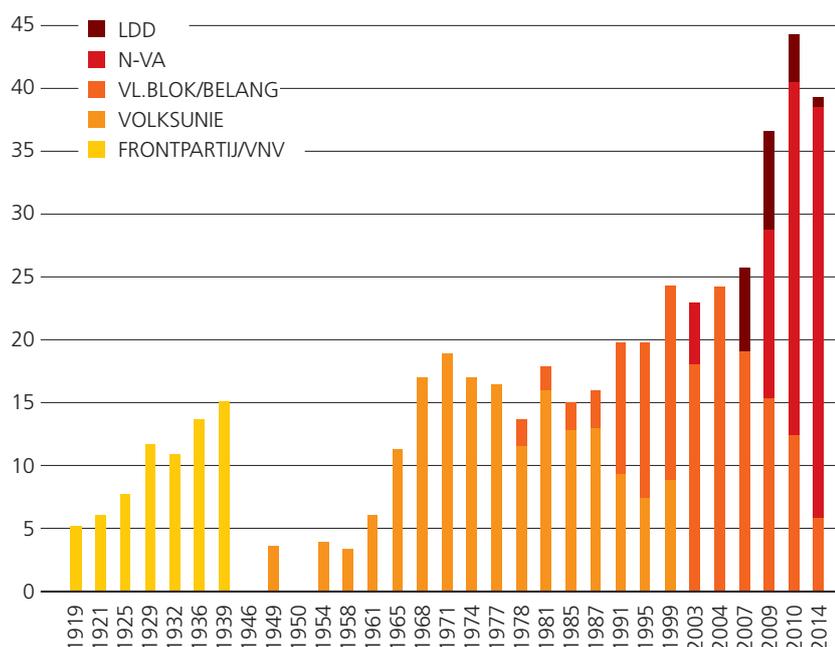
Flanders is often cited as one of the European regions which is closest to secession, together with Catalonia and Scotland. It is particularly the spectacular success of the separatist Nieuw-Vlaamse Alliantie (N-VA) which has fueled speculation about an imminent break-up of Belgium. In this paper, I will first of all assess how strong separatism really is in Flanders. Next, I will discuss both the discursive and the practical strategies the Flemish nationalists have developed against Belgium, with a special focus on the role of the EU in these strategies. Finally I will briefly deal with the current political situation and its possible implications.

### **The Flemish paradox**

If we look at the election results, the Flemish secessionist movement appears to be a growing and important political force in Belgium. As shown in Graph 1, the Flemish nationalist or autonomist parties increased their vote from 5.2% to 15% during the interbellum. After the Second World War there was a relapse due to the collaboration of a part of the Flemish movement with the German occupier. From the sixties onwards, the Flemish nationalist Volksunie party grew stronger and peaked in 1971 with 18.8% of the Flemish vote. During the nineties this centre party gradually waned due to internal ideological conflicts, and was replaced by the far-right and anti-immigrant Vlaams Blok, later renamed Vlaams Belang. This party peaked at 24% support in 2004.

The other Belgian parties refused to govern with this far-right party. This eventually caused the right-wing Flemish voters to turn to a new radical Flemish nationalist party, the N-VA, founded in 2001. This centre-right conservative party formed a cartel with the Christian democrats from 2004 to 2008. After its breakthrough as a separate party in 2009, the N-VA grew spectacularly and became the dominant party in Flanders and Belgium, with 32.1% of the Flemish vote in 2014. Finally, the LDD was a libertarian party which split off from the liberal party in 2006 and also took a radical stance in favor of a confederal reform. It obtained 7.7% in 2009 but faded away afterwards.

**Graph 1 : Percentage of Flemish-nationalist or autonomist parties in Flemish region (national and non-concurrent regional elections 1919-2014)**



Source: Maddens, 1998; Election results Belgian Interior Ministry.

Together, these radical autonomist parties peaked at 43.7% of the Flemish vote in 2010. For the concurrent senate election, this percentage was even higher, namely 47.2%. In 2014, the total autonomist vote decreased somewhat as the N-VA improved its score mainly at the expense of Vlaams Belang, and the LDD almost disappeared. Nevertheless, in 2014 38.2% of Flemings voted for an overtly separatist party and Flemish secessionism was the largest political force in Belgium.

These election results stand in sharp contrast to survey data about the support for separatism in Flemish public opinion. According to election studies by ISPO, in 2014 only a marginal 6.4% of the Flemish favored outright separatism. This percentage increases somewhat in times of institutional crises, such as in 2007 and 2010, but is never higher than 12%. A relative majority of about half of the Flemish is in favor of more competences for the regions, while rejecting separatism (Swyngedouw et al., 2015).

Thus, separatist parties obtained 38.2% of the vote, while only 6.4% of the electorate is separatist. How can this paradox be explained? At first sight, a straightforward explanation is that voters vote for separatist parties for other reasons. This is obvious from the above cited ISPO election study. Only 11% of the N-VA voters in 2014 mentioned the institutional issue as one of their motives for voting for the party. The main concerns of the N-VA voters were employment and labour (42.5%), healthcare (34.1%) and taxes and budget (30%). Similarly, only 7.9% of the Vlaams Belang voters were motivated by the institutional issue. Their reasons for a Vlaams Belang vote were mainly the issues of justice and criminality (54.5%) and migration and integration (49.5%).

At the same time, these findings do not really solve the problem of the Flemish paradox, but merely restate it. Why would a non-separatist voter choose a separatist party because he or she wants lower taxes when there is another non-separatist party, more specifically the liberal party, which offers the same? If you feel very strongly about Belgian unity N-VA would not be a logical choice, to put it mildly. How come the threshold to vote for a separatist party has become so low, even for voters who, when asked, do not favor secession? It can be hypothesised that this is the result of the strategy of Flemish separatists over the last decades, to which I will now turn.

## **“Belgium does not work”**

Flemish nationalists have always known that overt separatism is not so popular in Flanders. It is only the far-right Vlaams Belang which has defended an independent Flanders as a short-term goal, but the party has always put more emphasis on its anti-immigrant stance. The other Flemish nationalist parties have fostered a certain ambiguity about independence. The Volksunie was initially in favor of federalism (at a time when this was still a radical proposition), but shifted towards a more sovereigntist stance from the eighties onwards. The N-VA envisages a Flemish republic in the long run, but now focuses on confederalism as an intermediate step.

During the last decades, Flemish nationalists have put less emphasis on maintaining and cultivating Flemish culture and the Dutch language. The linguistic issue is still important in Flemish nationalist discourse, more specifically the language legislation in Brussels and its periphery. But the main focus is now on economic issues. A hallmark of this new approach was the 2005 “Warande Manifest”, published by a Flemish think tank and endorsed by a number of prominent Flemish businessmen (Denkgroep ‘In de Warande’, 2005).

This manifesto was the main source of inspiration for the discourse which the N-VA developed after its cartel with the Christian democrats collapsed in 2008. It is no coincidence that the first breakthrough for the party, at the regional election of 2009, coincided with the financial crisis and concomitant economic recession. The key message of the N-VA was that the Belgian state was unable to implement an efficient economic policy in the wake of the 2008 financial crisis. “Belgium does not work” was one of its slogans.

This is so, according to the party, because Belgium consists of two different democracies. Due to the split of the national parties across linguistic lines (at the end of the sixties and during the seventies), the Belgian political system consists of two largely separate party systems. Election results differ considerably between the regions. While the centre of gravity of the Francophone party system is left of centre, the Flemish voters predominantly choose parties on the right or centre-right of the political spectrum. Also, this divergence between election results has grown over the last decade. As a result, it has become impossible – according to the N-VA – to form a federal government that can implement a coherent policy, attuned to both the leftist preferences in the south and the rightist preferences in the north.

Another explanation for the inefficiency of Belgium, the N-VA argues, is that the institutional structure has become extremely complex as a result of the previous reforms of the state. Competences have been devolved in a piecemeal way, as a result of which it is not always clear who is responsible for what. The proliferation of competences at different levels has made it increasingly difficult to coordinate policy measures. The N-VA adds that this complexity has also created superfluous bureaucracies, particularly at the federal level. Because the competences were never entirely devolved, the federal administration was not substantially reduced. According to the party, this is one of the reasons why taxes are relatively high in Belgium and the citizens do not get enough “value for their money”. It is remarkable, by the way, that this discourse to a certain extent runs parallel to the arguments of the proponents of a strong Belgium. But while the latter draw the conclusion that a number of competences should be refederalised and that a hierarchy of norms should be established, the Flemish nationalists want to simplify the institutions by abolishing the federal level of government.

Another central issue in the N-VA’s economic discourse concerns the transfers from the Flemish to the Walloon and Brussels region. A recent scientific study estimates these transfers to be about € billion per year (Decoster and Sas, 2017). The N-VA wants to maintain a certain solidarity, but argues that this should be limited in time in order to function as an incentive for Brussels and Wallonia to perform better. The present unlimited and automatic transfer, on the other hand, is considered to be “drug” to which the Walloon economy has become “addicted”.

The results of the 2009 and following elections have shown that this rhetorical strategy was effective. While the economic problems were the main concern of the voters, the N-VA has managed to convince them that these could only be dealt with effectively by giving more autonomy to the regions.

## The EU in secessionist discourse

Initially, the N-VA was an outspoken pro-European party. The European flag was prominent at party rallies and victory celebrations. This was also in line with the stance of its predecessor, the Volksunie, which was in favor of a “Europe of the regions”. The Volksunie was cofounder of the European Free Alliance, which brought together regionalist parties at the EU level. The N-VA abandoned this idealistic approach, but used the existence of an ever stronger EU as an argument against Belgium. As competences have been massively devolved to both a higher and a lower level, Belgium itself has become a superfluous layer of government, it was argued.

The party has also instrumentalised the “Size of Nations” approach proposed by the economists Alesina and Spolaore (2003). Thanks to the common market in the EU there need not be a trade-off between economies of scale and bringing policy in line with small-scale preferences. The economies of scale are realised at a European supranational level, which facilitates the breaking up of states into smaller segments without economic drawbacks. In June 2005, Enrico

Spolaore was keynote speaker at an N-VA congress on “Flanders, state in Europe” (Tegenbos, 2005).

Since its initial breakthrough in 2009, the N-VA has gradually shifted from a pro-European to a “Eurorealistic” stance. This development is analysed in detail by Brack et al. (2017). These authors show that the N-VA has become less enthusiastic about further European integration. The party now argues that the EU should focus on its core business of economic cooperation and explicitly rejects a federal Europe. It also plays with the idea of returning competences to the national level. The EU should remain a confederal entity – as Belgium should be in the future. This shift towards “Eurorealism” was also reflected in the choice of the party to join the parliamentary group of the European Conservatives and Reformists (ECR) in the European Parliament after the 2014 European election, even though the party remains a member of the European Free Alliance.

Brack et al. (2017) also show that the party has remained ambiguous with regard to the EU and has not entirely embraced this “Eurorealist” stance. The discourse of the party spokesmen regarding the EU is generally more critical than the official party manifesto. The party appears to sense an electoral opportunity in overtly adopting Eurosceptical discourse, but is at the same time inhibited from fully grasping this opportunity. According to the authors, this can to a certain extent be explained by a change of generations in the party: the older politicians are still attached to the European ideals of the former Volksunie, while the younger ones are more Eurosceptical. But the reservations about full-fledged Euroscepticism might also be due to the fact that just a few years ago a stronger EU was a key argument against Belgium. In addition, the participation of the N-VA in the Belgian government, which has traditionally been strongly pro-European, may also put a brake on the Eurosceptic tendencies in the party.

## The pile village strategy

When Jan Jambon, the present federal minister of the interior, entered politics in the spring of 2007 his party formed a cartel with the Christian democrats. This cartel aimed at a new reform of the state, devolving new competences to the regions and communities particularly regarding taxes, healthcare and labor policy. Up to that time, Jan Jambon had been a leading member of the radical Flemish movement. At the beginning of the nineties, he had even pushed this movement towards an outright separatist stance. When asked about his remarkable metamorphosis from a radical separatist to a moderate realpolitiker in the CD&V/N-VA cartel, he compared the Belgian state to a pile village. If you take away one pile, he said, you will not notice the difference. If you take away a few other piles, the village will probably remain standing. But if you continue doing so, eventually the village will collapse. He added that he felt they were now close to that aim (Winckelmans, 2007).

In this way, Jambon deftly described the strategy the Flemish nationalists have followed since the seventies. During the past half century, at each of the six consecutive reforms of the state (in 1970, 1980, 1988, 1992, 2001 and 2011) new competences were devolved from the centre to the

regions and the communities. In 1988, 1992 and 2001 this was done with the support of Flemish nationalist votes. In themselves, a lot of these transfers were insignificant and partial. But, according to a reverse neo-functional logic, these seemingly insignificant reforms always sowed the seeds for new reforms and further transfers of powers. In this way, the Flemish nationalists have managed to hollow out the Belgian state in an incremental way.

As a result, the central state has lost crucial competences needed for nation building and identity politics. For instance, the competences regarding culture and media were devolved towards the communities in 1970, and competences regarding education were transferred in 1988. The recent Dutch government agreement envisages the obligation for schools to teach the national anthem as a means to strengthen a sense of national identity. The Belgian government, in contrast, could not take such a measure if it wanted to. The communities have exclusive competence in the field of education. If the Flemish government took a similar measure, it would probably oblige the schools to teach “De Vlaamse Leeuw”, i.e. the Flemish anthem. During the past decades, the regions, and particularly Flanders, have made use of their competences to create or strengthen a sense of regional identity and to obtain legitimacy as separate political entities.

It could be argued that this strategy of hollowing out the state has led to a gradual erosion of Belgian patriotism – to a certain indifference towards Belgium as a nation. Put differently, Belgian nationalism has been reduced to its most banal level. The Belgian nationality is still accepted as a fact of everyday reality. The Flemish still view themselves as Belgians, and will describe themselves as “Belgians” abroad. But they are not particularly proud of their nationality. It could be hypothesised that there is a growing indifference towards the idea of “Belgium”. This might explain why the threshold for voting for a separatist party is so low, even among voters who oppose separatism, when asked in a survey.

### **The “Scottish” strategy**

After the 2014 elections, it was in theory possible to form a government without the N-VA at both the regional and the federal levels. As the N-VA did not have any political leverage to impose a new reform of the state, it had to abandon all institutional claims during the government formation negotiations. The party had to agree to a government standstill of five years in return for taking part in a federal centre-right government. This government has a broad majority in Flanders, but no majority in Wallonia. The only Francophone party in the coalition represents just 25.5% of the electorate in the Walloon region.

In this way, the predominantly left-wing Wallonia is governed by a “Flemish” right-wing majority. The N-VA hopes that the left-wing majority in Wallonia will become so fed up with being ruled by a right-wing Flemish majority that it will eventually demand a confederal reform of the state (De Wever, 2017). Still, such a scenario is unlikely in the short run. It would take a spectacular U-turn by the Francophone socialists to accept the confederal model of the N-VA and the splitting-

up of social security. Arguably, the Francophone socialists will try to avoid what they consider a trap set by the Flemish nationalists. Nevertheless, such a development cannot be ruled out in the long run. In the same way as the Thatcher governments radicalised the left-wing Scottish voters and fuelled the drive for Scottish independence, a continuous dominance of right-wing Flemish parties at the federal level may sharpen the Walloon appetite for more autonomy.

It also remains to be seen how the N-VA will evolve. It is highly unusual for a regionalist anti-system party to participate in a national government. It is even more unusual for such a party to obtain the ministerial portfolios that are most associated with the central state (treasury, defence, interior affairs). This might draw the N-VA into the political system and gradually transform it into a centre-right mainstream party with, at most, moderate institutional demands.

### **Concluding remark: Does the N-VA make Belgium work?**

It can be argued that during the past decades Flemish-nationalists have succeeded in gradually delegitimising the Belgian state. While this has not involved increasing the number of separatists in Flanders, it may have lowered the threshold for voting for an anti-Belgian party. The N-VA has managed to convince voters that it can meet its concerns and provide an exit from the economic crisis by giving more autonomy to Flanders. As a result of this strategy, the N-VA has become the largest party in Flanders and Belgium. However, in order to take part in the current federal government it had to agree to an institutional standstill of five years.

As a governing party, the N-VA is obliged to abandon its former slogan that “Belgium does not work”. The party now alleges that the centre-right coalition is waging an efficient economic policy and is carrying through reforms that were never possible under the previous centrist governments. The obvious implication is that, apparently, Belgium does work. There is thus a tension between the defence of the current economic policy on the hand and the former institutional rhetoric on the other. For that reason, the N-VA has recently announced that it will not emphasise this institutional issue during the 2019 election. Instead, it will focus its campaign on the issues of security, identity and the economy. In this way, the party appears to pave the way for a continuation of the present government and the concomitant institutional standstill.

As the Flemish nationalists had to keep silent about the Flemish-Walloon conflict in order not to destabilise the government, the institutional issue dropped considerably on the public agenda. Since 2014, the federal state is now perceived to function quite normally, at least in Flanders. There are some indications that this has led to a re-legitimisation of Belgium. The trust in the Belgian government and the Belgian institutions appears to have increased (Dujardin, 2017). This development may be strengthened if the N-VA would agree to a new institutional standstill after the 2019 elections. But it is far from certain that this will be accepted by the Flemish-nationalist rank and file of the party.

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## THE TWO QUEBEC INDEPENDENCE REFERENDUMS: POLITICAL STRATEGIES AND INTERNATIONAL RELATIONS

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Quebec is exceptional among all cases of nationalist movements in liberal democracies, as governments formed by the secessionist Parti Québécois (PQ) have organised two independence referendums (see Table 1). Thus, the Quebec case offers particularly fertile ground for examining how a secessionist party seeks to convince a majority of voters to support independence in a referendum campaign while a host of other actors (within the province, across the country, and around the world) make a case against secession.

The unique Quebec experience with two independence referendums reveals something important: each of the referendums had its own political dynamic, featuring its own set of secessionist strategies and counter-strategies as well as specific international contexts. Indeed, the political dynamics of the referendums of 1980 and 1995 were shaped by the preceding 15–20 year period. These “slices of history” informed how secessionist actors sought to prevail in each of the referendums.

### **The 1980 referendum: Emancipation and social democracy**

The 1980 Quebec referendum came on the heels of a process of modernisation in the province known as the Quiet Revolution. Engineered by Quebec governments beginning in the 1960s, the Quiet Revolution featured, among other things, measures to improve the socioeconomic status of Francophones, rendered difficult by decades of mostly conservative politics and strong Church influence, and legislation to promote French language and culture at a time when English was the dominant language at the highest echelons of the province’s economy (McRoberts, 1993). The (Liberal) Quebec governments of the Quiet Revolution also argued that they shouldered the special burden of looking after the only mainly French-speaking society in North America and that, as a result, Quebec should enjoy extensive autonomy within the Canadian federation and be recognised as different within its constitutional framework. The PQ, formed in 1968, went a step further and argued that the full emancipation of Francophones required

Quebec to be a sovereign state. Its majority government in 1976 gave the secessionist party the opportunity to organise a referendum on independence.

The PQ deployed two main arguments during the 1980 referendum campaign, both very broad in nature and anchored into the developing Québécois nationalism that was pushing aside notions of French-Canadian solidarity (Balthazar, 2013).

The first argument was that a sovereign Quebec could fully emancipate Francophones. For the PQ, independence was a project for the province's Francophone majority, as it was argued that an independent state could best protect and promote its socioeconomic, cultural, and linguistic interests. At that time, there was virtually no effort made to convince Anglophones and new immigrants, who were overwhelmingly in favour of Quebec remaining part of Canada, to support independence. Not only did the PQ judge that there was basically no chance to change the views of even a handful of members of these communities, but running a campaign centred on the notion of giving Francophone Quebecers "a country" was not widely viewed as a problematic idea. Hence, the cultural content of the campaign was very substantial. French, in all its dimensions, was central to the argument for independence, and singers, artists and poets were at the forefront of the "Yes" campaign.

The second broad argument made by the PQ was that independence could be used to create a fairer, more egalitarian society where the state would be used extensively to bridge the gap between rich and poor. The PQ was created as a social democratic party and, during its government years preceding the referendum (1976–1980), implemented many progressive measures, particularly in the labour market. Trade unions were close to the PQ and supportive of independence, which they saw as a way to improve the socioeconomic status of Francophones and to create a more labour-friendly environment. The PQ argued that Quebec independence would be used to create a different type of society, one inspired by the social democracies of Scandinavia (Béland and Lecours, 2008).

The PQ recognised the radical nature of its project, and sought to reassure Quebecers that they would have a chance to confirm their decision to become independent at a later stage. Indeed, the party adopted a so-called gradualist approach (*l'étapisme*) whereby it first sought Quebecers' support to discuss a "sovereignty-association" arrangement with Canada and would subsequently organise another referendum to ratify whatever "association" had been negotiated. The PQ opted to use the concept of "sovereignty" (rather than independence, which arguably sounded more like a rupture), and to couple it with the notion of a (primarily economic) association with Canada. These elements (*l'étapisme*, sovereignty-association) made for a "softer" question.<sup>1</sup>

To counter these arguments, the federal government used a two-pronged strategy. First, then Prime Minister Pierre Trudeau articulated a strong defence of Canada, emphasising that the country belonged to Quebecers as much as it did to other Canadians. For many Quebecers, especially older ones whose formative years pre-dated the Quiet Revolution and strongly identified as "French-Canadians", this was a powerful argument. Second, the federal government

1. The question was: "The Government of Quebec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations; this agreement would enable Quebec to acquire the exclusive power to make its laws, levy its taxes and establish relations abroad – in other words, sovereignty – and at the same time to maintain with Canada an economic association including a common currency; any change in political status resulting from these negotiations will only be implemented with popular approval through another referendum; on these terms, do you give the Government of Quebec the mandate to negotiate the proposed agreement between Quebec and Canada?"

predicted that independence would come with dire economic and financial consequences, and that Quebec would be a small, isolated, and poor sovereign state. The international context of the time gave these economic arguments some credibility. Indeed, at a time where economies were still (state) national, Quebec's trading was very much oriented towards the rest of Canada.

In the international politics of Quebec independence, there are two significant actors: France, historically and culturally the most meaningful external state for the province, and the superpower neighbour, the United States. In the 1960s, France expressed support for Quebec independence, as demonstrated by General de Gaulle's "*Vive le Québec libre!*" pronouncement on the balcony of Montreal's city hall in 1967. Although such enthusiasm had tempered under Valéry Giscard d'Estaing, there remained enough sympathy for the PQ's project in the French government to have France develop a specific formula to designate the country's position towards secessionist politics in Quebec: *non-ingérence, non-indifférence* (non-meddling, non-indifference) (Bastien, 1999). This stood in sharp contrast to the United States, which took an unambiguous position in favour of a united Canada. In fact, the idea of independence was really badly received in the United States where the socio-democratic ideology of the secessionist movement led some to suggest independence would transform the province into a "Cuba North," an unwelcome proposition in a United States still in the middle of the Cold War. Moreover, despite PQ premier René Lévesque's attempt to compare its project to the American War of Independence when speaking to an American audience, secessionist politics brought up references to the Civil War instead. Although the impact of international factors on the 1980 referendum is impossible to assess with any precision, it was most likely marginal. Not only did the French and American positions conform to the expectations of the actors involved in the referendum but, as the gradualist approach of the PQ meant that the first vote did not immediately entail a declaration of independence, there was no urgent need to actively seek support for recognition.

### **The 1995 referendum: A backlash against failed constitutional negotiations**

The second referendum on Quebec independence was the product of a very different political dynamic to the first. By the mid-1990s, Francophone Quebecers by and large no longer felt like they required "emancipation" or "liberation". Language legislation had helped to both strengthen the position of French and further the socioeconomic status of Francophones. Although the PQ still presented itself as social democratic, the party appeared much more business-friendly than before. The nature of nationalist mobilisation in Quebec had changed but arguably reached new heights in the early 1990s when constitutional negotiations aiming at meeting the demands of Quebec governments (after a new constitution act was adopted in 1982 without its consent) ultimately failed (Laforest, 1995).

These failed negotiations constituted the essence of the argument of the "yes" camp in 1995. Independence was best, according to "yes" side leaders, because Quebec's minimal conditions for a constitutional accord

(including, most importantly, recognition of its distinctiveness) had been too much for the rest of Canada to accept. These leaders deployed a narrative of exhaustion, similar to that of present-day Catalonia (Basta, forthcoming), which stated that Quebec governments had tried everything to make it work within Canada but to no avail, and that in these circumstances independence was the only option. The constitutional odyssey of the 1980s and early 1990s was presented as a rejection of Quebec by Canada. Its main actors were vilified and/or presented as traitors (for example, then Prime Minister Jean Chrétien, himself a Quebecker). The leaders of the “yes” side remained vague about what independence would mean, only arguing that with a “yes” anything would be possible.

Like in 1980, the “yes” side spoke of sovereignty rather than independence, and stated there would be an offer of economic and political partnership (never specifically defined) made to Canada once Quebecers had voted for secession. By the early 1990s, there was also a secessionist party operating at the federal level (the Bloc Québécois, BQ), and a small nationalist party in the Quebec party system (Action démocratique du Québec, ADQ) that chose to support independence. The PQ referenced this multi-party support in the question, which was, just like in 1980, of the “soft” variety.<sup>2</sup>

For its part, the federal government seemed content to keep a low profile for the longest time, believing that a “yes” vote was impossible. There was virtually no appeal to the Canadian identity of Quebeckers, something which prominent federalists in the province later said had been a major mistake (Hébert and Lapierre, 2014). Arguments about the economic and financial risks of secession were less effective than they had been in 1980. The free-trade agreement with the United States, of which the PQ had been supportive in part for strategic reasons, had made the Quebec economy less dependent on the rest of Canada (Martin, 1995). When the “yes” side picked up steam late in the campaign (after charismatic BQ leader Lucien Bouchard was given a bigger role in the campaign – evidence of the importance of agency in these events), the federal government responded with last minute promises that were met with derision. The “no” camp barely hung on, winning 50.6% of the vote.

The position of international actors seemed to have had little effect on the campaign, although the new international context might have helped the “yes” side. Unsurprisingly, the United States took a position against Quebec independence. However, in the post-Cold War era, characterised by the liberalisation of trade, there was no reference to “Cuba North” coming from the American government, and independence did not seem to imply isolation and poverty. The French government stuck to its non-meddling, non-indifference formula, stating that it would accompany Quebec on whichever path it chose. This seemed to be neutral enough for the Canadian government, but “yes” side leaders took it to mean that France would recognise Quebec as an independent state following a declaration of independence. In fact, then PQ premier Jacques Parizeau was extremely active in seeking support for a unilateral declaration of independence that would follow a “yes” win (an exercise dubbed “*le grand jeu*”). After his visit to Paris in January 1995, Parizeau was convinced that France would immediately recognise Quebec after the PQ government proclaimed its independence following a “yes” win; that other French-speaking countries would then

2. The question was: “Do you agree that Quebec should become sovereign after having made a formal offer to Canada for a new economic and political partnership within the scope of the bill respecting the future of Quebec and of the agreement signed on June 12, 1995?”

do the same; and that the United States, faced with what the premier foresaw at that point as being a *fait accompli* and not wanting to be too far behind France in recognising a new country in North America, would follow suit (Ici Radio-Canada, no date). This being said, there was no sense during the campaign that the prospects of recognition were affecting Quebecers' choice, most supporters of independence taking it for granted that it would materialise after a referendum win.

## Conclusion

The story of the Quebec referendums shows that secessionist and counter-secessionist strategies are contextual: they are inseparable from the political dynamics of the previous decade or so. Still, there is some agency involved in these strategies, and the Quebec case may present some lessons for both secessionists and their political adversaries elsewhere. For secessionists, the greater support for independence in the second Quebec referendum suggests that focusing the argument on the state's refusal to acknowledge, symbolically and institutionally, the existence of an internal nation maybe a more fruitful strategy (certainly one around which more people can rally) than attaching to independence some grand social project (with which many can find various faults). For counter-secessionists, the Quebec referendums recall the importance of actively speaking to the merits of the country and the history of the internal nation within it as a way to counter the narratives of rejection, dysfunction, and exhaustion mobilised by supporters of independence.

The Quebec experience does not contain real insight on gaining international recognition for independence against the wishes of the state since both of the referendums failed to produce a majority for the "yes" side. The PQ always felt it had a secret weapon because of Quebec's so-called privileged relationship with France, but the exact response of the French government following a "yes" win remains unknown. In all likelihood, international recognition of Quebec independence would have greatly hinged on the reaction of the federal government. Although the federal government campaigned against independence in both referendums, thereby informally accepting its legitimacy, a short "yes" vote would have posed quite the dilemma.

A third referendum on independence is extremely unlikely in the short to medium term as support for secession is at its lowest point in decades. Indeed, contrary to the expectations long held by secessionists, young Quebecers (18–34 years old) cannot be counted on to support independence today, and even within the generation that carried the project beginning in the 1970s support for secession is below 40% (see Table 2). Moreover, both the domestic and international contexts are presently less conducive to Quebec independence than they were in 1995. Domestically, the enactment of the so-called clarity legislation in 1999 (following a reference of the Supreme Court of Canada on secession) gives the federal government oversight on the referendum question and the majority required for a "yes" win (although this is challenged by Quebec). Internationally, French governments have been less supportive of Quebec self-determination in recent years, while the increased complexity of issues such as border control means the United States government might be even more pro-Canadian unity than before.

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| Table 1. Results of the Quebec independence referendums |                 |                 |
|---|-----------------|-----------------|
|   | 1980 Referendum | 1995 Referendum |
| Yes   | 40.44%          | 49.42%          |
| No  | 59.56%          | 40.58%          |
| Turnout   | 85.61%          | 93.52%          |

Source: CROP 2015

| Table 2. Contemporary support for Quebec independence   |       |       |       |     |                 |       |
|---|-------|-------|-------|-----|-----------------|-------|
| Answer to the question: "If today there was a referendum on the following question: 'Do you want Quebec to be an independent country?' would you vote yes or no?" |       |       |       |     |                 |       |
|   | Age   |       |       |     | Maternal Tongue |       |
|   | Total | 18-34 | 35-44 | 55+ | French          | Other |
| Yes   | 36%   | 30%   | 38%   | 39% | 43%             | 12%   |
| No  | 64%   | 70%   | 62%   | 61% | 57%             | 88%   |

Source: CROP 2015

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## **Introduction**

Greenland and the Faroes are autonomous jurisdictions within the Danish Realm, having undertaken a continuous process of extended self-determination in the post-WWII era. In both jurisdictions there are strong movements of secession and counter-secession, whose respective strengths are largely achieved through external relations.

This paper will first provide an introduction to the historical background and the formal relationship between the two jurisdictions and their metropolitan state. We will then extend the two cases with a description of how increased internal autonomy has evolved in a dynamic interaction with changes in international affairs. Whether the two jurisdictions may move towards full secession or new forms of unity is difficult to predict, but external relations keep on pushing at the formal structures and limits of the realm, which we will briefly reflect upon in the final section.

## **The Danish Realm**

The Faroe Islands, Iceland and Greenland were originally Norwegian protectorates. They became parts of the Danish-Norwegian Kingdom from 1380 and Danish absolutism since 1661. After the Napoleonic War Norway was ceded to Sweden, while the three West Nordic countries remained Danish. They constitute a relatively strong region of culture as they also share the adoption of Christianity around the year 1000, the Reformation in the 16<sup>th</sup> century and many decades of a common Trade Monopoly. Iceland became a sovereign state in 1918 and a republic in 1944, while the Faroes and Greenland have taken a quite different route of autonomy.

While the Faroes were an integrated part of Danish absolutism, Greenland became a colony after 1721. The Faroes were therefore integrated into the particular Nordic county (*amt*) system that developed under absolutism, and became their own county in 1816. In 1852 the county became its own electorate, following the Danish track towards democracy. In 1948 the Faroe Islands received their home rule system, which is still in force but

with pragmatic changes in its principle and practice. In 1992, for instance, the Faroes gained full sovereignty over their own subsoil, and a declaration from 2005 describes the principles of how the Faroes are included in the foreign and security affairs of the Danish Realm.

Following the path of post-war decolonisation, Greenland received *amt* status (county status) in 1953 and its home rule system in 1979. In 2009 home rule law was replaced by a new Self-Government Act, which can be seen as a system between home rule and full independence. The Self-Government Act for the first time defines the Greenlandic people as a separate people according to international law. The act also defines Greenlandic rights to its own subsoil, principles for Greenlandic involvement in international affairs, and even some principles which will be constitutive if Greenland wants full independence.

The two autonomous systems provide Greenland and the Faroes with a high degree of “internal self-determination” (Seymour, 2011). This means that the two countries can make their own laws in areas that have been taken over from the state: they can levy taxes and are independent custom areas. In practice both countries today have taken over most areas which may be termed “internal”. Vital policy areas of the state such as currency, foreign policy, high courts and defence are solely under Danish jurisdiction.

## Secessionism in the Faroe Islands

The establishment of its own *amt* institution in 1816, the permanent position of an Amtmand (county governor) and the establishment of a county council, the Løgting, in 1852 are important steps towards Faroese modernisation. Around the same time a cultural movement centred on the situation of the Faroese language began to grow among young Faroese students in Copenhagen. While the official language in the Faroes was Danish, the old Faroese language had survived in oral tradition. There was no written language, but the priest V. U. Hammershaimb (1819–1909) made a specific Faroese grammar in 1846, which still is the foundation of modern Faroese. The cultural movement arose among youngsters from the Faroese elite living in Copenhagen, which turned into a powerful national movement within the Faroes in the late 1880s. A national association (Føringafelag) was established in 1889 with the mission of getting the Faroese language back to its glory and can be seen as successful, since Faroese was officially accepted for use in churches and schools in the late 1930s and is today the official language, while Danish is thoroughly taught. Part of the story is also that the Faroe Islands during the latter part of 19<sup>th</sup> century transformed from a peasant community to a fishing community based on classical liberalism.

After the turn of the 20<sup>th</sup> century the Føringafelag was settled, and a party system started in 1906 with MPs starting the Unionist Party (Sambandsflokkurin) and the Home Rule Party (Sjálvstýrisflokkurin). In 1925 a Social Democratic Party (Javnaðarflokkurin) was established and in 1935 a corporate friendly conservative party was founded (Vinnuflokkurin, later Fólkaflokkurin [the People’s Party]). While the first two parties were divided along the unionism-secessionism line, the

two latter parties made the socioeconomic division visible in Faroese politics. The Social Democrats are unionists, while the People's Party is secessionist.

While Denmark in 1940 was occupied by German troops, English troops soon after arrived in the Faroes, making the two countries totally separate for years. The British accepted for the Løgting to receive some legislative power, the Faroese language was recognised for use in judicial affairs and even Faroese money was printed. The British also recognised the Faroese flag, which was a necessity for identifying Faroese ships transporting fish to the British mainland.

After the war it was clear that a return to the old county system was not an option, but no agreement was on the table. A chaotic negotiating process in the Løgting, and between the Løgting and the Danish government arose. Finally the Danish government enforced two options to be decided upon in a referendum. The first option only gave the Faroese parliament the power to make "*administrative regulations of legislative character*" regarding specific Faroese matters; a Danish state representative should lead the Faroese government. The other alternative was *full separation* (Sølvará, 2016: 65ff.).

Only a few in the political elite actually believed that a vote for full separation was possible. But the home rule and independence groups had already grown stronger before the war, and during the war years a great deal changed around self-reliance. First, the Løgting received legislative power after the British occupation. Next, the war was the second in a few decades in which Denmark was not able to defend the interests of the kingdom in the north Atlantic. Third, from an economic point of view the war years had been beneficial. Fourth, during the census campaign a group of secessionist intellectuals, mainly outside the party system, produced informative material and wandered around the islands claiming full sovereignty. The surprising result for the political elite was that the referendum resulted in a small majority for full independence (50.7% against 49.3%).

The first reaction from Denmark was that the result should be respected, but then the result was questioned by unionists and the Danish government as well. It was claimed that the referendum was consultative only, and that the 4.1% of invalid votes should be taken into consideration. After a majority of the Løgting had actually passed a declaration of Faroese sovereignty, the legality of the Løgting doing so was questioned, followed by the King's dissolution of the Løgting. A new election was called for with a more unionist-friendly assembly, resulting in the establishing of the Home Rule system in 1948. Disappointed secessionists founded the Republican Party (Tjóðveldisflokkurin), which has since then been the focal point for the most convinced secessionists.

The Home Rule Act divides the future relations between the Faroes and Denmark into two areas: special areas and common areas. Special areas are those matters the Faroese government can claim control over when it wants to do so. Common affairs can only be taken over after negotiations and subsequent approval by the Danish government. Outside the Home Rule Act are key areas like the court system, currency, defence and foreign affairs. These areas are considered to be matters of

the kingdom, and hence they may not be taken over. In general we can say that the home rule system opens up an independent internal system of government. When the Faroese parliament takes over an area, the area is subject to Faroese law and government. The first law the Faroese parliament passed was a Government Act, followed by the takeover of key political and economic areas (e.g., tax levying and the fisheries) (Hovgaard and Johansen, 1993: 65f.).

After years of “home rule”-oriented governments, the first secessionist government was established in the years 1962–1966. This was a government between the People’s Party, the Republican Party and the Home Rule Party, but it actually never made any decisive step towards secessionism. The main reason for this was disagreement about financing transfers of power; probably also the fact that the Danish state made heavy investments in the Faroese welfare system. As a consequence of the Home Rule Act, the Faroese could themselves decide not to follow Denmark into the EC in 1973. Generally, the 1970s and 1980s were years of progress in the economy and Faroese Home Rule took over substantial social welfare areas.

A deep economic and social recession appeared around 1990 and the Danish government interfered in internal Faroese matters, which was one of the main reasons deep conflicts in the Faroese-Danish relationship appeared. Secessionism turned out to be the key political agenda in a second secession coalition government from 1998 to 2002. Three parties out of four on the secessionist side of the parliament – the Republicans, the People’s Party and the Home Rule Party – formed the coalition. Negotiations about sovereignty were taken up with the Danish government, and a referendum was put on the government agenda. The referendum was never completed for one main reason: the parties could not come to terms with the economic conditions posed by the Danish government during the transition phase. The Danish government offered a four-year block grant, while the Faroese delegation had hoped for a much longer period. The most radical action the second secessionist government managed was to decrease the yearly block grant from Denmark by one-third.

Today nearly all policy areas of the Home Rule Act have been taken over by the Faroese parliament. In the early 1990s the government even took over ownership of the subsoil, a policy area earlier expected to be non-negotiable. Family and inheritance law will soon be taken over, which will be the last field of the larger areas mentioned in the Home Rule Act.

Aquaculture and tourism have made the Faroese economy more diversified, but it is still largely tied up with the catching, production and sale of fish. While also hit by the 2007–2008 financial crises the economy has been extensively growing since around 2010 with per capita GDP levels expected to be as high as or higher than in Denmark. After being out in the political opposition most of the years since 2002, the Republicans managed to join a new government led by the Social Democrats and a recently established secessionist party, Framsókn (Liberals). Although the government has taken some steps to decrease dependence upon Danish transfers (which today only count for a few percentage points of GDP), and has declared a referendum on a Faroese constitution, it does not have secessionism as an objective.

## Secessionism in Greenland

In 1721, the Lutheran missionary Hans Egede arrived in Greenland to re-Christianise what he thought would be survivors from the Old Norse settlements. However, these settlements were no longer in existence. Egede then turned to Christianising the local population, the indigenous Inuit people. Greenland had since 1721 been considered a trading colony, where the Royal Greenlandic Trading Company (KGH) regulated all commerce to and from Greenland, a system which functioned until 1950 (Ackrén, 2014). Even the country's administration was in the hands of KGH until 1912. By the mid-1900s, the Royal Greenlandic Trading Company had also gained social and administrative functions in Greenland.

During the Second World War, Greenland was under US protection. In 1953 Greenland became a county (*amt*) in the Danish Kingdom (Dahl, 1986), which meant that the colonial era had come to an end, but a post-colonial period started as new investments and new developments were made by the Danish state. This led to some important changes in Greenlandic society. Heavy social and economic changes appeared during the 1950s and 1960s, while the living standards in Greenland were enhanced and new housing and infrastructure were built, and the health sector was improved as well.

There were some political movements back in the 1940s – a Nazi-group in Sisimiut, a communist party in Qullissat, and a Greenlandic Social Democratic Party existed in 1955. These parties were not long-lived. The first real political party, the Inuit Party, was formed in 1964 as a protest party against the Danish treatment of Greenlanders in Greenland. The movement started in Copenhagen amongst well-educated Greenlanders, who saw their country from abroad and opposed how the Danish administration was functioning in Greenland (Ackrén, 2015). The Inuit Party considered that Greenlanders should be seen as a separate people according to the principle of self-determination, since they had their own culture, language and traditions. Another aim was to liberalise the business industry. The party was, however, not very successful and a few years later it ceased to exist.

When Denmark became a member of the EC in 1973, Greenland was forced to join, since it did not have the same rights as the Faroe Islands. Greenland had its own referendum, in which the majority (about 70%) voted against membership (Gad, 2014). This triggered the debate about Home Rule, which was implemented in 1979. Thereafter Greenland had a new EC referendum, which resulted in withdrawal from the EC in 1985. Instead, Greenland became an OCT (Overseas Country and Territory) within the EC (Gad, 2014). Other issues triggering a “new political movement” in the early 1970s were Denmark giving licenses to international oil companies to explore Greenlandic waters and the fact that many European fishing vessels were entering Greenlandic waters.

Particularly, the left of centre party Siumut (Forward), established in 1975–76, played a crucial role in mobilising against Danish rule. Siumut, with the centre-right Atassut (Solidarity), established in 1978, and the leftist Inuit Ataqatigiit (Inuit Community) established in 1976, all pressed for Home Rule negotiations. A home rule commission with Greenlandic

and Danish politicians was finally established, and the Home Rule Act was agreed upon and accepted in Greenland in a referendum in 1978. Faroese home rule was the key model.

From 2000 a new commission for self-government was established to evaluate the first 20 years of home rule. The political parties were also eager to develop the country in the direction of more autonomy. The commission realised that Greenland needed extended autonomy in various areas, and a new agreement with Denmark was entered into in November 2008. At the referendum a clear majority of the Greenlandic people voted in favour of the new Self-Government Act (75%). The Act was implemented on June 21<sup>st</sup> 2009 (Ackrén, 2015). In the preamble the Greenlandic people are defined as a people according to international law with the right to self-determination. This means that Greenland can secede from the Danish Realm in the future if the population has the will to do so. The preamble also states that equality and mutual respect should be held between Denmark and Greenland and that the agreement is between equal partners (*Lov om Grønlands Selvstyre*).

The largest change between the Home Rule Act of 1979 and the Self-Government Act of 2009 relates to economics and natural resources. The block grant is now fixed at DKK 3.4 billion (about €42 million) according to 2009 prices. A yearly adjustment is made in relation to inflation. Natural resources are now in the hands of Greenland, and Greenland has also received a bit more room for manoeuvre in international relations.

Since the latest election (2014) five parties are represented in parliament, Siumut (social democrats), Inuit Ataqatigiit (Inuit community; left) and Partii Naleraq (Compass needle; left-conservatives) which constitute the coalition, while the other two parties; Demokraatit (Democrats; social liberals) and Atassut (Solidarity; right-conservatives) are in opposition. Siumut, Inuit Ataqatigiit, Demokraatit and Partii Naleraq all lean towards independence, while Atassut leans towards unionism with Denmark. The government is working to develop a Greenlandic constitution, while the political discussion is between those who opt for a kind of associate statehood with Denmark and those who favour complete independence.

## Secessionism and its external dynamics

Although starting at different periods of time, secessionism in the Faroe Islands and Greenland is largely influenced by external relations. In both cases protests started in Denmark amongst native intellectuals influenced by international cultural and political movements, and in both cases WWII had a great influence. The developments in Iceland have always provided a "role-model", especially for Faroese secessionists.

In the Greenlandic case the establishment of political parties came later, primarily as a result of the decolonisation process during the 1960s and 1970s. On another note indigenous movements became a new political force in several parts of the world, which also may be seen as a result of Greenlandic political awakening.

Both regions have developed their home rule during times of self-governance, and how far it is possible to actually stretch the home rule/self-government is an ever-present question. The pro-independence government in the Faroe Islands back in 1998 did for instance come up with a White Book and worked on a proposal for a constitution. Today both countries are at work on constitutions of their own, and a referendum on a Faroese constitution has been declared for 2018. A possible date for a Greenlandic referendum is still left unknown. The main difference between the island regions is that the Faroe Islands are more economically prepared for independence, but the political will is hesitant; on the other hand, in Greenland there is a clear political will, but the economy is not in order.

In small island jurisdictions as Greenland and the Faroes, politics usually swing between secession and counter-secession movements, but processes of globalisation, including the intensified geopolitical and economic interests in Arctic development will keep pushing forward new limits and strategies for the two jurisdictions in international affairs and challenge their position within the Danish Realm (Eythórsson and Hovgaard 2013; Eythórsson and Hovgaard, forthcoming).

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## COUNTER-SECESSIONIST STRATEGIES: CASE STUDIES

- WHO COUNTS? WHY DO GOVERNMENTS DENY SECESSION IN SOME CASES BUT NOT OTHERS?

*Ryan Griffiths*

- THE FOUR PILLARS OF A COUNTER-SECESSION FOREIGN POLICY: LESSONS FROM CYPRUS

*James Ker-Lindsay*

- COUNTER-SECESSIONISM AND AUTONOMY IN THE FEDERAL SYSTEM OF GERMANY: THE CASE OF BAVARIA

*Roland Sturm*

- ECONOMIC ASPECTS OF COUNTER-SECESSION STRATEGIES

*Eckart Woertz*



## WHO COUNTS? WHY DO GOVERNMENTS DENY SECESSION IN SOME CASES BUT NOT OTHERS?

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**Ryan D. Griffiths**

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*If there is one constant in history apart from the universality  
of death and taxes, it is the reluctance of states to part with territory  
Michael Hechter (1992: 277).*

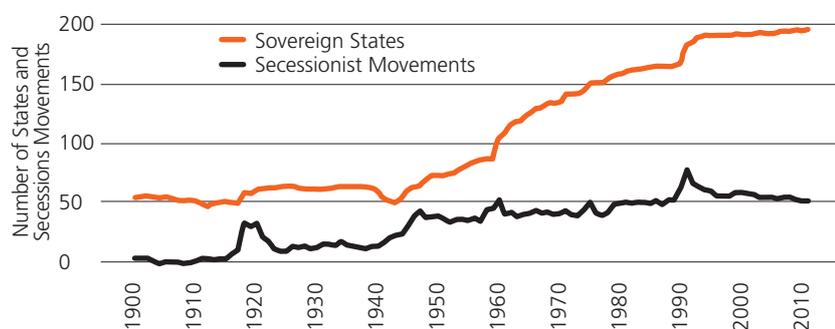
There is a received wisdom that states will always deny secessionist demands. Land is too valuable and/or too important to the national image. The very idea of the sovereign state is predicated on territorial control. Permitting one region to secede will only embolden others; therefore, the links in the chain must be defended. These are all commonly given explanations for why states will deny secessionists and fight them if they have to. There is no question that blood has been spilled over the issue, from the US Civil War to the conflict in Biafra to the fighting in Chechnya. It is estimated that half of the civil wars since 1945 have involved secessionism (Griffiths, 2015: 733), and one prominent scholar claims that secessionism is the chief source of violence in the world today (Walter, 2009: 3).

However, these explanations belie a much more nuanced set of dynamics where secession is concerned. In fact, states have permitted secessionists to vote on the issue in a number of cases (Scotland in 2014) and permitted the secession when the “Yes” vote prevailed (Montenegro in 2006). The processes of decolonisation and dissolution transformed the international system and are two of the biggest reasons for the threefold increase in the number of states since 1945 (Griffiths, 2016: 2). But these events were merely secession by another name. Collectively, they illustrate that states and the international community are prepared – indeed motivated – to permit secession under certain circumstances. This essay will outline those circumstances by describing three interrelated factors: (1) The international recognition regime; (2) The calculus of state response; and (3) The resulting strategy of secession.

## The international recognition regime

Secession is “the creation of a new [internationally recognised] state upon existing territory previously forming part of, or being a colonial entity of, an existing sovereign state” (Radan, 2008: 18). There are 195 states in the international system, depending on how you count, and any new state represents a subtraction in territory from at least one existing state. Yet there were 55 secessionist movements as of 2011 (Griffiths, 2016: 52), and many more waiting in the wings. Figure 1 illustrates the number of sovereign states and secessionist movements per year since 1900. The existing states act in many ways like a club; secessionist movements are all applicants to the club (Griffiths, 2017). What are the criteria for joining the club and how are the resulting pressures managed?

Figure 1: Sovereign states and secessionist movements, 1900–2011

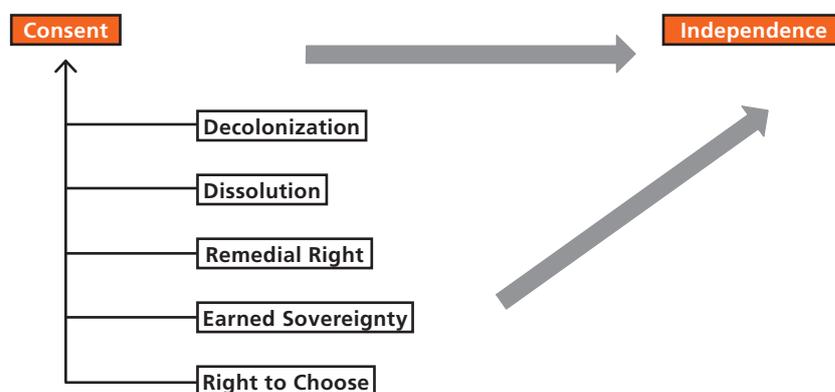


All of this is managed in large part by the international recognition regime, a body of evolving norms, rules, and practices that determines which claimants can become independent states (Grant, 1999; Fabry, 2010; Coggins, 2014). Although the act of recognition remains the prerogative of individual states, and strong states often do what they want, such acts are guided by the international recognition regime. At the heart of that regime is a basic tension between two prominent norms in international life. On one hand, there is the norm of territorial integrity, a sovereignty norm born out of the tumult of the world wars which treats borders as inviolable. On the other hand, there is the norm of self-determination, a liberal norm that now obliges the international community to assist nations in controlling their political destiny. One norm implies that borders should not be changed; the other implies that stateless nations should be able to change them. The resulting efforts to balance these competing demands can be summed up by the question: who counts? Who counts for the fullest expression of self-determination, and who does not? Answering that question is complicated by the fact that nations are fuzzy, overlapping, and protean categories.

Since 1945 the question of “who counts” has been answered in several ways (Grant, 1999; Crawford, 2006). The first way (or path to independence) is via state consent, depicted in Figure 2, where the central government permits the secession and recognises the aspiring nation (e.g., Montenegro). This is an uncontroversial path insofar as it requires little from third parties – the decision has been worked out

domestically – and it is an almost guaranteed ticket to independence. The second path to independence is decolonisation, a process that took hold in the 1960s and gave independence to 1<sup>st</sup> order administrative units of saltwater empires, a specific formulation designed to answer the question of “who counts?” in the context of colonialism. The third path was that of dissolution, a solution that was created during the Yugoslav and Soviet breakups. Like decolonisation, this was in part a legal solution meant to create a conceptual distinction between cases of dissolution and other forms of secession. Once again, the question of “who counts?” was paramount. Potential answers to that same question have been hinted at in recent developments in places like Kosovo; is the recognition regime moving toward a position where nations suffering human rights abuses at the hand of the state now have a remedial right to independence? Do proper standards of governance allow desiring nations to earn their sovereignty? Finally, does the Scottish referendum mean that states might begin to give nations the choice of independence?

**Figure 2: Paths to independence**



The international recognition regime should be seen as a work in progress. The sovereign tradition promotes stability just as the liberal tradition accepts transformation. The resulting set of norms, rules, and practices evolve as the international system evolves. It is set against this background that individual states decide how to respond to internal demands for independence.

### The calculus of states

When responding to secessionist demands, states engage in a kind of cost-benefit analysis. There are many reasons for denying such demands. The territory and its inhabitants may be an economic asset because of the resources on it and/or because of its economic base. The territory may be valuable for security reasons, especially in conflict-prone regions. Moreover, the territory may carry a symbolic value that resonates with the national myth of the core population. These are all regularly given explanations for why states fight to deny secession and retain territory. However, it is only true part of the time, for states often fight long and costly wars to retain low-

value territories, as the Russian government has with Chechnya, or permitted the independence of valuable regions, as the Czech government did with Slovakia, and as the British government was prepared to do with Scotland. There is a larger strategic calculation that guides the response of states.

The issue of precedent setting is a key factor in the calculus of states. It explains why states will fight to retain a low-value territory and then turn around and permit the independence of a high-value territory. States permit secession if the loss of the territory does not threaten the core (Walter, 2009; Griffiths, 2015, 2016). In the context of secession, the precedent setting problem is salient when all of the potential secessionist regions see themselves as like types – leading a given group to perceive that the permission for another group to secede can be extended to them. Apart from a blanket denial, there is only one way out of this problem for fissiparous states with many potential internal movements: to reify the perception of difference. To say that this nation is classified in a different way, that they have a special administrative status, that they alone can secede because of a conceptual distinction. The more salient that distinction in the eyes of the relevant parties, the more likely secession becomes. Although such distinctions nearly always coincide with administrative lines and categories, they can be bolstered through long conflicts that gradually create the impression that this region is different.

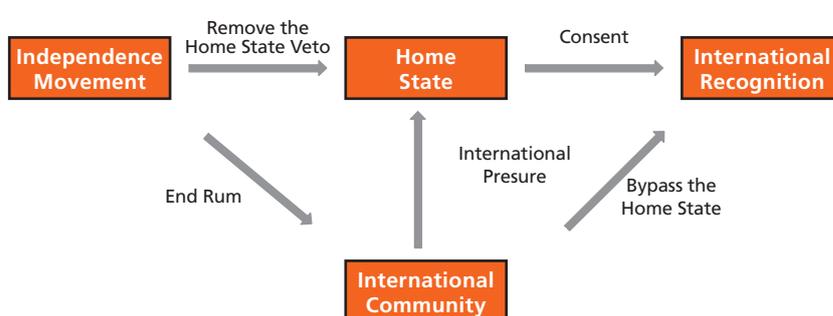
There is thus a close relationship between the calculus of states and the international recognition regime. States will permit secession if they can put a bulwark between one region and the rest. The normative conflict at the heart of the international recognition regime requires a similar bulwark to separate the deserving from the rest. The motivations are not quite the same: self-preservation is the greater imperative for states; the international system is freer to encourage liberal notions like self-determination. But the solution is the same – emphasising difference to answer the question of “who counts?”

### **The strategy of secession**

All of this has implications for the strategy of secession. The objective of a secessionist movement is to become an internationally recognised sovereign state (see Figure 3). To gain recognition, a movement must either: (1) Convince their home state to permit independence; or, (2) Convince the international community to either apply pressure on the central government or circumvent its wishes entirely by recognising the aspiring nation. The first approach is where the movement removes the home state veto, the single biggest obstacle to obtaining independence (Osterud, 1997). The second approach takes the form of the end run, going around the home state to bring the international community into the game. Although most movements use both approaches in tandem, the attractiveness and utility of the end run depends on the position of the home state; where the home state is willing to negotiate and, indeed, even permit an independence referendum, the end run becomes unnecessary; where the home state is uncompromising and potentially willing to suppress the secessionists, the end run rises in importance. Taken in full, this is the strategy of secession.

Both approaches are shaped by the international recognition regime and the calculations of states. The first approach is the pathway of consent: getting the home state to remove its veto. The possibility of obtaining consent increases in relation to the perception of difference. The British government was prepared to permit Scottish independence because it did not anticipate that a contagion effect would ripple through the English countryside. Scotland was different. In contrast, the Spanish government does not have the same latitude over Catalonia given the absence of a clear bulkhead between it and, say, the Basque Country. Of course, such differences can over time be obtained through asymmetric devolution and/or protracted conflict that gradually create the perception that this region is unique.

**Figure 3: The strategy of secession**



The second approach leverages the coercive and transformative power of the international system. It works by grafting the narrative of a given secessionist movement onto one of the pathways to independence by arguing that it should count given the rules surrounding decolonisation, by arguing that its state has dissolved or committed human rights abuses, by showing that it has earned its sovereignty, or by appealing to the democratic right to choose. At their core, these are all rhetorical arguments for why a specific nation, contrary to the rest, should count.

Why do governments deny secession in some cases but not others? The answer is because they can: the costs are low and the danger of contagion is controlled. The referenced region has somehow answered the question of “who counts?” by showing that they are unique. This is a fundamental issue in the dynamics of secession. It sits at the heart of the international recognition regime, it is a critical issue for states, and it is a guiding principle in the strategy of secession.

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## THE FOUR PILLARS OF A COUNTER-SECESSION FOREIGN POLICY: LESSONS FROM CYPRUS

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### **Introduction**

We live at a time when the question of secession is at the forefront of international attention. As well as the current focus on Catalonia, the subject of Kurdish independence is also in the news. Meanwhile, the question of Scottish independence remains firmly on the agenda, despite the referendum that took place in 2014. Elsewhere around the world, there are anywhere up to a hundred other groups and territories seeking statehood.

Although significant attention is paid to the ways in which secessionist territories pursue their ambitions for independence, there has been rather less attention given to the way states facing an act of unilateral secession respond to such challenges. In many ways, the small eastern Mediterranean island of Cyprus has set the standard for states facing a secessionist threat. Over the course of the last thirty years, the Cypriot government has been engaged in a relentless – and, it must be said, often ruthless – battle to prevent the “Turkish Republic of Northern Cyprus (TRNC)” (or Northern Cyprus, as it is more commonly known), from gaining international recognition. By most benchmarks, these efforts have been extremely successful. While some international measures have been taken to ease the isolation of the Turkish Cypriots, especially after the failed reunification attempt in 2004, Northern Cyprus still has relatively little interaction with the wider world. In analysing the ways the Cypriot government has responded to the TRNC, it becomes clear that any successful counter-secession strategy is based on four separate but interlocking strands.

### **The Cyprus problem**

In 1960, the small Mediterranean island of Cyprus became independent after 82 years of British colonial rule. A complex constitution was put in place that balanced power between the majority Greek Cypriots, representing 78% of the population, and the small Turkish Cypriot community representing 18% of the island's inhabitants. (The final 4% was made up of three small religious communities: the Maronites, Armenians

and Latins.) Meanwhile, the sovereignty, independence and territorial integrity of the new state were guaranteed by the United Kingdom, Greece and Turkey. Despite hopes that the new state could work, the power-sharing agreement soon broke down. In December 1963, fighting erupted. This led to the creation of a United Nations peacekeeping force (UNFICYP). However, the Turkish Cypriots had ceased to be a part of the government structures and the Republic of Cyprus had effectively become a Greek Cypriot entity.

During the ten years that followed, Cyprus was relatively calm. Tensions between the two communities subsided as the Turkish Cypriots withdrew into enclaves. This was broken when, in July 1974, the Greek government ordered a coup to overthrow the country's leader with the hope of uniting Greece and Cyprus. In response, Turkey ordered a military invasion of the island. After a month of heavy fighting Cyprus was left divided. At first, the stated plan of the Turkish Cypriots was to pursue a federal settlement. In 1977, the United Nations brokered an agreement between the leaders of the two communities that any future settlement would be based on a bizonal, bicomunal federation. This was reconfirmed in 1979. However, on 15 November 1983, the Turkish Cypriot authorities, seizing on political turmoil in Turkey, unilaterally declared independence, announcing the creation of the "Turkish Republic of Northern Cyprus". Turkey immediately recognised the new state. However, the move was just as quickly condemned by the UN Security Council, which declared the UDI illegal and called on states not to recognise the Turkish Cypriot entity. And no country has done so. Meanwhile, the UN has continued with its efforts to reunite the island. In 2004, a major initiative led to a referendum on reunification, which was rejected by the Greek Cypriots. The latest two-year effort collapsed in July 2017 following almost two weeks of intensive talks in the Swiss mountain resort of Crans-Montana.

## **The four pillars of the counter-secession strategy**

Ever since the Turkish Cypriots declared independence, the government of Cyprus has gone to extraordinary lengths to ensure that the TRNC is neither officially recognised nor unofficially accepted on the world stage. In doing so, it is utterly uncompromising in its approach. No move, no matter how small, that could in any way be understood to amount to an "upgrading" of the Turkish Cypriot state can pass unchallenged. As one diplomat once noted, it is as if they have an army of officials watching for any move that suggests that the Turkish Cypriot state is gaining recognition. He was not far wrong. The entire diplomatic machinery of the republic is geared up to watch out for anything that could be understood to amount to legitimisation of the Turkish Cypriot entity. In broader terms, the Greek Cypriot approach is built around four elements. In many ways, these have become a blueprint for any other territory seeking to counter an attempt by part of its territory to secede.

### **1) Maintain the claim to territory**

The first element of any counter-secession strategy is to ensure that the world knows that the attempted secession is unacceptable. As Sir Hersch Lauterpacht, the esteemed international lawyer, once observed, while

a state facing an act of secession may tacitly accept that a territory has been lost, it will often wait decades to acknowledge this reality in formal terms. This means that other countries will often watch how the parent state (as the state from which the territory is seceding is most usually known) reacts to an act of secession when deciding how they should respond to the situation. If it appears as if the parent state has accepted the secession, and is merely waiting to recognise the new state of affairs, it is more likely that other states will choose to recognise it, or at least interact with it freely. For this reason, the most important first step is to challenge the purported secession and indicate clearly and in no uncertain terms that it has an ongoing claim to the territory.

There are numerous ways in which a parent state can indicate its opposition to a declaration of independence. Perhaps the most obvious is to issue a decree or a parliamentary resolution annulling the purported secession. For extra measure, the ringleaders may be charged with treason. Both actions send out a clear message. Beyond this, the emphasis must be on maintaining that the territory is still considered to be an integral part of the state. In the case of Cyprus, this is done in many ways. For instance, there are still MPs in the parliament representing the areas “under occupation”. However, it also goes far further than this. Cyprus even maintains local councils for these districts. Of course, these are only skeletal bodies with no actual territorial responsibilities. However, the fact that they even exist sends out the message that the state still regards the areas they represent or “govern” as essential and inalienable parts of their sovereign territory.

## **2) Prevent recognition**

The second element of the strategy is the most obvious: to prevent other states from formally recognising the breakaway territory, and stop the territory from joining international organisations. In this task, parent states are aided by the deep aversion of the international community to accepting unilateral acts of secession. In fact, since 1945, only one country has seceded without permission and gained full international recognition: Bangladesh. However, even in this case, it only joined the UN after it had been recognised by Pakistan. Every other secessionist territory has fared far worse. Even Kosovo, which seceded from Serbia in 2008, and is widely regarded as the most successful contemporary act of unilateral secession, has only been recognised by a little over half of the members of the United Nations a decade later. While it has been able to join some international organisations, full UN membership is highly unlikely for the foreseeable future due to objections from Russia and China.

However, while states are extremely reluctant to recognise unilateral acts of secession, it is still important for parent states to make their case. This requires an active diplomatic campaign. However, this can be expensive and beyond the means of many countries. In such cases, states need to concentrate their firepower where it will achieve the most results. In this context, the UN General Assembly can often be a vital chance to engage with as many other states as possible. Meetings of other international and regional bodies can also be ideal opportunities to lobby. For Cyprus, its membership of the Non-Aligned Movement (NAM) gave it access to

many developing countries. Although it had to relinquish membership of the NAM when it joined the European Union, EU membership has proven to be an incredibly powerful tool in the Cypriot counter-secession efforts. It seems highly unlikely that any country would recognise the TRNC knowing that it would face inevitable and strong consequences in terms of its relations with the EU.

### **3) Stop legitimisation**

While stopping formal recognition is a key plank of any counter-recognition strategy, states also need to guard against the gradual acceptance of a breakaway territory on the international stage. In some ways, this is really a far bigger problem than recognition. Speaking to Cypriot officials, they do not believe that the TRNC will ever gain widespread formal recognition. One or two states may recognise it, but it will never join the UN. What worries them far more is that it will slowly become a *de facto* reality and that it will gain recognition in all but name.

Such creeping legitimisation can happen in all sorts of ways. And nothing is seemingly too small to oppose. For example, there have been many occasions when word has leaked that a major international singer is booked to perform in Northern Cyprus, at which point a concerted effort is made to persuade them to abandon their performance. In this effort, the government is often supported by the vast army of the Cypriot diaspora, which is often happy to use its influence to persuade the hapless pop star to back down. However, acceptance can come in all sorts of other ways, such as allowing Turkish Cypriot sportsmen and women to compete in competitions, or even through cultural visits. It is telling just how utterly determined the Cypriot government is when it comes to such matters.

### **4) Pursue legal avenues**

The fourth main strand of any counter-secession strategy is the use of legal avenues to prevent the recognition of breakaway territories. Perhaps the most obvious such example was the decision of the Serbian government to refer Kosovo's unilateral declaration of independence to the International Court of Justice. While the Cypriot government participated in this process, and made a strong case against Kosovo, it has so far refrained from taking such a high-profile course of action itself. This is largely because it has no need to do so. UN Security Council Resolution 541 (1983), passed at the time of the Turkish Cypriot declaration of independence, provides all the necessary cover. As one Cypriot official noted to the author, international courts can be very unpredictable bodies. The risk of taking a case before such bodies unless necessary is just too high.

However, Cyprus has shown how international courts can be extremely important in counter-secession efforts in other ways. Perhaps the best example was a case brought before the European Court of Human Rights (ECHR) by a Greek Cypriot refugee. The court ruled that the refugee had not only been illegally deprived of the rightful use of her

land, it also noted that Northern Cyprus is under Turkish occupation. This was a huge victory for the Greek Cypriots. In one fell swoop, the ECHR not only further undermined any claim to legitimacy by the TRNC, it also reinforced the Greek Cypriot message that Northern Cyprus is not a product of Turkish Cypriot self-determination, but is the result of external military aggression. It is a message that other states facing secessionist challenges, such as Georgia, have also sought to emulate.

## **Present and future counter-secession efforts**

While the Cypriot government has had remarkable success in its efforts to prevent the recognition or legitimation of Northern Cyprus – especially considering the size and diplomatic clout of Turkey, the TRNC’s main patron – there has undoubtedly been a change in international attitudes towards the Turkish Cypriots over the years. Perhaps the most significant development was the Greek Cypriot rejection of the 2004 UN proposal for reunification. Although this did not lead to any formal recognitions, as some Greek Cypriots claimed could happen, it did change wider international attitudes towards the Turkish Cypriots. The EU moved to open trade with them, although plans for direct trade were thwarted by Greek Cypriots. At the same time, the Organization of Islamic Cooperation (OIC) upgraded the standing of the “Turkish Cypriot state”, and has called on its members to increase their economic and cultural contacts with the Turkish Cypriots. Meanwhile, the election of a more moderate leadership in the north has also seen more diplomats accredited to the Republic of Cyprus crossing the line that divides the two communities and engaging with Turkish Cypriot officials and political figures – much to the evident annoyance of the Cypriot government. Certainly, Northern Cyprus is far less isolated today than it was fifteen or twenty years ago.

But in so many other ways, the Turkish Cypriots remain cut off from the wider international community. As noted, the prospects of any further recognitions remain dim, even after the collapse of the latest UN talks. Of course, it is always possible that some state might be persuaded to take the plunge. However, it seems unlikely that many would really do so. The costs would be too high. Also, repeated efforts to try to ease the position of the Turkish Cypriots in other ways fall on deaf ears. There is little prospect that Turkish Cypriot football clubs will be allowed to compete in international competitions. This in fact highlights the greatest danger now facing the Greek Cypriots. Given that there is little prospect that the TRNC will ever be able to ease its isolation, and that many Turkish Cypriots now believe that the Greek Cypriots have no real desire for reunification, perhaps the only realistic prospect is for the north to unite with Turkey. If so, Cyprus will be faced with a rather different problem. It will no longer be engaged in counter-secession. It will have to formulate a counter-annexation strategy.



## COUNTER-SECESSIONISM AND AUTONOMY IN THE FEDERAL SYSTEM OF GERMANY: THE CASE OF BAVARIA

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**B**avaria is a special case in German politics. The state has developed a strong regional identity. And this regional identity finds its political expression not only on the state level, but also on the federal level. It would not be surprising if one found a strong political movement for Bavarian autonomy or statehood. But the opposite is the case. Bavaria sees itself as a paragon of cultural, educational and economic success in a federal state. Why is this the case? Why did the strong sense of Bavarian exceptionalism not transmute into secessionism? One obvious answer is that there are incentives for political actors to play the counter-secessionist card or at least to give preference to strategies of political access that provide greater gains than outright secessionism. To explain the paradox of efficient regional identity politics in a non-secessionist environment this contribution first discusses the fate of the Bavarian separatist party, the Bavaria Party (BP). It then moves on to an analysis of the politics of the Christian Social Union (CSU), the regional party that dominates Bavarian political life and has successfully accommodated the conflict between regional autonomy and a federal role for Bavaria. Here we find an explanation for the CSU's internal mechanisms of counter-secessionism.

### **The separatism that never was**

In the post-war years, two Bavarian regional parties competed, the BP and the CSU. The BP was and to the present day still is a party that advocates a separate statehood for Bavaria (Mintzel, 1983). The CSU is an autonomist party fully integrated into the federal framework of German politics. The CSU always had a very small separatist fringe that did not dare to openly challenge the integrationist mainstream. For example, in 2012, the former editor of the party's newspaper *Bayernkurier*, Winfried Scharnagl, published a book entitled *Bavaria can stand alone*, in which he argued in favour of Bavarian independence. To secure internal peace in the party he and a few other former leading CSU figures were recruited by the party leadership for a federalism reform committee that came to nothing. It is unknown whether it ever met. Early supporters of Bavarian secessionism in the

CSU were turncoats from the BP with no influence on party politics. Some of the CSU separatists combined their secessionism with the idea of bringing back the Bavarian monarchy – a thought that only found some resonance in the Bavarian south, the old Bavaria, consisting of the Bavarian districts Upper Bavaria, Lower Bavaria and Upper Palatinate.

The BP's narrative is that Bavaria was tricked into the German Reich of 1871 and ever since Bavaria has been dominated by Prussians. Prussian militarism caused two World Wars and made the Bavarians suffer. For example, they lost their province of Palatinate. The problem for the BP was, however, that their image of Bavaria was not shared by all Bavarian districts. The electorate in the districts outside old Bavaria – Swabia and Franconia – had only to a limited extent the Catholic and agricultural background of the BP's electorate. These districts were also latecomers to the state of Bavaria with their own dialects and history. For them the BP's animosity towards large companies and Germany as the big centraliser was less attractive.

In the post-war years autonomists had a real choice between two parties that were both exclusive to Bavaria: one was the CSU, which also played a role in the national government, and the other was the BP, which fought an uphill struggle against Bavarian integration into Germany. The BP was disadvantaged in this struggle because it got its license as a political party from the Allied forces only after the CSU had received its own. In early 1946, while the CSU was allowed to function as a political party, the BP did not receive permission until March 1948. All post-war Bavarian parties had stressed the need for a federal order in Germany that gave maximum autonomy to Bavaria. The idea of a separate Bavarian presidency was only narrowly defeated (Baer, 1971: 57). In the Bavarian constitution of 1946 a two-chamber parliament with a senate organised along the lines of Catholic social thought was guaranteed. No other German state had a second chamber.

The BP's separatism remained, however, outside the political mainstream, and it came too late. As the BP did not exist in 1946, it could not influence the debates on the Bavarian constitution. The same is true for the German constitution, the Basic Law, because the BP was not part of the Bavarian government. Bavaria abstained in the vote on the German constitution because it was argued that this constitution did not give sufficient autonomy to the states. But at the same time Bavaria accepted that in future it would work under the new constitution and would not challenge its legitimacy. As Hans Ehard said in 1945 "Bavaria was always a part of Germany. It was inconceivable to think of a Germany without Bavaria. Bavaria will always remain a part of Germany" (Gallwas, 1999: 89).<sup>1</sup> In the negotiations on the future German constitution Bavaria was represented by the first elected Bavarian government of 1946. The CSU had formed a coalition with the Social Democrats (SPD) and the Economic Reconstruction Association (WAV). Hans Ehard became the CSU's first Bavarian head of government.

The history of the BP and the CSU is one of fierce competition, of politicians moving from one party to the other, of attacks on the reputation of political representatives, of abuse of administrative powers to exclude the political competitors and of a perjury trial in 1959 that

1. Author's own translation.

efficiently “decapitated” the BP leadership (Mintzel, 1983: 406). The BP’s charismatic leaders Joseph Baumgartner and August Geislhöringer were sent to jail. The CSU had surreptitiously orchestrated the “casino scandal” that was behind the court’s decision. The party then successfully monopolised the interpretation of Bavarian identity, and merged its presence in government with an exclusive grip on Bavarian politics (Hepburn, 2008). Table 1 illustrates the electoral consequences of the struggle for the crown of the true Bavarian party. The BP started as a serious rival to the CSU. In the 1950 election the BP reduced the CSU’s share of the vote by almost 50%. This was, however, the best ever result for the party. What followed was a steady decline in electoral fortunes. Since 1966 the BP has no longer been represented in the Bavarian Parliament (Landtag). It is now less than a minor party, although it “represents” Bavarian secessionism. This demonstrates in other words that secessionism was never a real political force in Bavaria. It was, for a short time, a contested topic. Today there is not even a discourse of any relevance on Bavarian separatism.

**Table 1: Election results: BP and CSU votes in %. Elections to the Bavarian parliament**

| Year | CSU                               | BP               |
|------|-----------------------------------|------------------|
| 1946 | 52.3 (absolute majority of seats) | Not yet licensed |
| 1950 | 27.4                              | 17.9             |
| 1954 | 38.0                              | 13.2             |
| 1958 | 45.6                              | 8.1              |
| 1962 | 47.5 (absolute majority of seats) | 4.8              |
| 1966 | 48.1 (absolute majority of seats) | 3.4              |
| 1970 | 56.4 (absolute majority of seats) | 1.3              |
| 1974 | 62.1 (absolute majority of seats) | 0.8              |
| 1978 | 59.1 (absolute majority of seats) | 0.4              |
| 1982 | 58.3 (absolute majority of seats) | 0.5              |
| 1986 | 55.8 (absolute majority of seats) | 0.6              |
| 1990 | 54.9 (absolute majority of seats) | 0.8              |
| 1994 | 52.8 (absolute majority of seats) | 1.0              |
| 1998 | 52.9 (absolute majority of seats) | 0.7              |
| 2003 | 60.7 (absolute majority of seats) | 0.8              |
| 2008 | 43.4                              | 1.1              |
| 2013 | 47.7 (absolute majority of seats) | 2.1              |

Source: Bayerisches Landesamt für Statistik and Hirscher, 2012.

## The CSU: Counter-secessionism via the political integration strategies of autonomists

There is a widespread misunderstanding that what the CSU wants is more autonomy for Bavaria or a greater decentralisation of state powers in Germany (Hepburn and Hough, 2011: 79). This misunderstanding is nurtured by the party itself and its self-styled role as champion of federalism. The CSU is, indeed, a separate political entity, but its purpose is a role in national politics. To secure such a role it uses its regional base. Here it needs to be successful. No matter what the CSU’s allies in the CDU – its conservative sister party outside Bavaria – want, the CSU will always have only one priority: an absolute majority of seats in the Bavarian parliament. This makes

the CSU an awkward partner for the conservatives in the rest of Germany at least as long as the Bavarian electorate has preferences different from the ones of Germany as a whole. Symbolic gestures of anti-Berlin politics may help to close the regional ranks but should not be misunderstood as an expression of autonomist politics. The overarching aim of the CSU is not to strengthen the separate political existence of a Bavarian polity. On the contrary, over the years German federalism has become more centralised and unitary in character with the help and support of the Bavarian government (Sturm, 2013a; Sturm, 2015).

The key question for the CSU is how to organise maximum political success in Bavaria. One precondition is that it has no conservative rival in Bavaria. From start, the CDU and the CSU agreed not to compete at elections. This means in practical terms that the CDU only exists outside Bavaria and the CSU restricts itself to the territory of Bavaria. Though in the years of Franz Josef Strauss – a CSU party leader with national popularity – there were initiatives from outside Bavaria for an all-German CSU, the party leadership hesitated to support this idea. After German unification, the CSU seemed to be in a more difficult situation because, on paper, with an increase of the electorate it could become more difficult for the CSU to pass the 5% hurdle for membership in the German parliament at federal elections. The party leadership toyed with the idea of an East German partner, the DSU. The fear that the CDU would retaliate with a Bavarian branch stopped further efforts. Another threat to the dominant role of the CSU were the parties to the right of the CDU – the Republicans in the 1980s and today the Alternative für Deutschland (AfD). Today, as in the past, the CSU reacts to the challenge from the right by offering the voters a manifesto that includes the major demands of such right-wing challenger parties. This may estrange the party from the CDU, as for example with regard to the question of a maximum number of migrants Germany should welcome, but more importantly for the party such a strategy helps solidify the approval rates for the CSU.

The second problem for the party is to find an optimal solution for the management of the party in the capital and in Bavaria. The key here is the best possible allocation of power centres on the federal and the Land level (Kießling, 2004; Sturm, 2013b). The party has to make two strategic decisions. One is whether the party chairman (so far no woman has held the post) should accept a ministerial post in Berlin (before Berlin it was Bonn) or should sit in Munich. A second decision to be made is whether the chairman of the party and the head of government (Ministerpräsident) should be the same person or there should be different people for the two jobs. If the Ministerpräsident is at the same time party chairman the CSU's man or woman in the capital heads the influential CSU Landesgruppe (land faction in the conservatives' joint parliamentary party). The Landesgruppe has a right to veto the decisions of the CDU/CSU parliamentary party in the national parliament. The fact that strategic decisions, which include the federal level of German politics, are so central to the party's strategic options demonstrates again that the CSU is not a party with an exclusive regional and autonomist focus. Its fabric always combines the national and the regional outlook. Given the choices mentioned for the CSU this leaves us with the options listed in table 2.

**Table 2: The strategic choices for the CSU to combine Bavarian and national politics**

| Options | Power centres   | Examples   |
|---------|---|--|
| 1       | Party chairman in federal capital (cabinet)/ Bavarian head of government    | 1962–1978 Franz Josef Strauss/Alfons Goppel; 1988–1993 Theo Waigel/Max Streibl; 1994–1998 Theo Waigel/Edmund Stoiber             |
| 2       | Party chairman in Munich/ Bavarian head of government                       | 1946–1949 Josef Müller/Hans Ehard; 2008 Erwin Huber/Günter Beckstein   |
| 3       | One person in Munich is both party chairman and Bavarian head of government | 1949–1954 Hans Ehard; 1957–1960 Hanns Seidel; 1978–1988 Franz Josef Strauss; 1999–2007 Edmund Stoiber; since 2008 Horst Seehofer |

Source: Hanns-Seidel-Stiftung (1995) and author's own data.

What is the best strategy for a regional party with national ambitions? History does not tell us. The CSU has tried all three options. Many of the effects of the option chosen depended on personalities, and all three options have advantages and disadvantages. It is, however, obvious that none of these options led to demands for greater autonomy for Bavaria. The challenge for the CSU remained how to remain an influential force in national politics and at the same time to be authentically Bavarian and able to win absolute majorities in Bavarian elections. Option 1 seems to offer the most far-reaching degree of nationalisation for a regional party. With the party heavyweights Franz-Josef Strauss (defence minister in the cabinet of Konrad Adenauer and finance minister in the cabinet of Kurt-Georg Kiesinger) and Theo Waigel (finance minister in the cabinet of Helmut Kohl) the CSU got a lot of attention as a national party. This model could only work, however, with a father figure as head of the regional government in Bavaria. Only the combination of both guaranteed electoral success at Land elections. During Alfons Goppel's time in office as Bavarian Ministerpräsident his regional popularity worked well to secure support for the CSU even if the party chairman was restricted by cabinet discipline when he sought confrontation with the Bonn government. This successful model did not work well when Theo Waigel was chairman of the party. His first partner as Ministerpräsident in Bavaria, Max Streibl, did not succeed in developing a fatherly image as office holder. He lost office because of a corruption scandal. His successor Edmund Stoiber also tried to consolidate the CSU in Bavaria by provoking conflicts with the party chairman. Theo Waigel, as minister of finance, was responsible for the introduction of the euro (he even invented its name). As the euro was unpopular in Bavaria, Edmund Stoiber attacked its introduction and wanted Theo Waigel to resign from the party chair. This conflict illuminates the blame game that is possible if the jobs of party chairman and Ministerpräsident remain separated. The CSU can at the same time be involved in national government decisions and oppose these decisions. This blame game can, of course, also be played when options two or three are chosen.

Option 2 is the least attractive for the CSU because it has no institutionalised role in national politics and is weakened by competing power centres. The party chairman can take part in coalition meetings in the capital if the conservatives are part of the national government, but he lacks any kind of national electoral appeal which could be added to the influence on voters that comes from the Ministerpräsident. Option 3, however, empowers the party leader, who is at the same time head of government in Munich. In this role, he can play the game of outsider to the national government and government critic in the name of Bavaria, and at the same time if the CSU is in the national coalition he can intervene in national politics. Strong Ministerpräsidenten present their Bavaria as an example of good government for the whole of Germany. Two of them, Franz Josef Strauss in 1980 and Edmund Stoiber in 2002, even became the conservative parties' candidates for the office of the Federal Chancellor. This, by the way, is further evidence of the counter-secessionist orientation of the CSU.

## The international dimension

Contrary to the misunderstanding in the English language literature (Hepburn 2010: 540; Padgett and Burkett 1986: 114; etc.) the CSU cannot be identified as "separatist" or "autonomist". The CSU is a party with a regional base but national ambitions. This forces the party to give priority to the preferences of the Bavarian voter. Otherwise, the party would have no chance of winning the landslide election victories that are necessary to pass the 5% hurdle nationally for elections to the German parliament. The absolute priority of winning regional elections can lead to conflicts between the political preferences of Bavaria and the Conservatives on the national level. From outside this may look like a struggle for autonomy. It is, however, only part of the strategic necessity to put Bavaria first in order to stay involved in national politics. The CSU has to balance interests on the regional and the national levels, and it has tried several models to organise interest intermediation. It is beyond doubt, however, that among the strategies chosen we do not find a priority for Bavarian autonomy over national integration.

The party political Bavaria First logic finds its expression in foreign policies too. Germany's cooperative federalism tolerates a parallel foreign policy of the German states. In the past, Land governments mainly concentrated on efforts to help regional industries abroad. They see themselves as door openers for regional investors and offer help for foreign direct investment in their states. In recent years, the Bavarian government has given its parallel foreign policy an explicitly political dimension. In its effort to increase party political support in Bavaria the CSU has taken foreign policy initiatives that are in conflict with German foreign policy or at least tend to contradict the official position of the German government. For example, there are strong voices in the CSU's leadership that advocate a better relationship with Russia, not least for economic reasons. The Bavarian prime minister, Horst Seehofer, accompanied by the former Bavarian prime minister, Edmund Stoiber, has visited Vladimir Putin several times. He supported the end of sanctions against Russia.<sup>2</sup> With Victor Orbán of Hungary the Bavarian government shares a critical attitude towards

2. <http://www.faz.net/aktuell/politik/bundestagswahl/parteien-und-kandidaten/die-csu-und-die-aussenpolitik-wie-horst-seehofer-die-provinzialitaet-abstreifen-will-14918807.html> (21.10. 2017).

Angela Merkel's refugee policies. The Bavarian government has established a close relationship with the Visegrád countries and tends to play down democratic deficits in Poland and Hungary. In Bavaria, the foreign policy dissent with Berlin is not seen as a problem – it may not be a decisive vote-winning device. But it has the double advantage of securing regional interests (economic ones, and the interest in keeping refugees out) and of demonstrating to the Bavarian voter that the CSU defends Bavarian interests even if this means (low-level) conflict with the national government.

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### **Introduction**

Debates about secession and counter-secession often focus on questions of identity, political history, and legal rights. Yet economic grievances and perceived opportunities are as important if not more so in secession and counter-secession strategies. They were powerful drivers of the decolonisation processes of the 20<sup>th</sup> century that were responsible for most of the new state formations in history. More recently, secessionist movements have claimed that their territories are being shortchanged in current political formations and that independence would carry financial rewards. The Lega Nord, the Flemish nationalists, and the Catalan secessionists are all cases in point.

Economic issues also play a crucial role in counter-secession strategies. To prevent the secession of a territory, states have provided economic enticements in the form of prestige projects, market access, and transfer payments. They have also used negative sanctions, be they boycotting, blockading by military means, or isolating a territory internationally, thereby threatening to exclude it from trade deals and investment opportunities.

This chapter first discusses economic countermeasures outside of Europe, namely against the process of decolonisation that led to a steep increase in newly independent states after World War II and economic sticks and carrots that have been used in non-colonial counter-secession strategies. It then dedicates a special section to the European Union, where economic aspects and trade issues have played a crucial role in independence aspirations and counter-secession strategies alike.

### **Economic sticks and carrots in counter-secession outside Europe**

Decolonisation accounted for a surge in independent states after World War II. The number of independent states hovered around 50 from 1850 to 1950 and then shot up to above 150 at the end of the 1970s. India

(1947), Vietnam (1954) and Egypt (1954) were notable examples. Ghana (1957) launched the independence drive in Sub-Saharan Africa, which accounted for a majority of new states in the postwar decades.

Decolonisation had important economic drivers. Its proponents decried the exploitation of their natural and human resources and the systematic underdevelopment of their territories, while their peoples enjoyed no or only limited political participation to decide over their fate. Local elites who felt their ascendance was blocked or feared relative decline began to develop narratives of national liberation that were based on newly “imagined communities” (Anderson, 1983). Over time they drew in broader segments of the population and cultivated social bases of support. In such cases nationalism became a mass phenomenon.

The economic side of the decolonisation narrative focused on the importance of industry for economic development, and the need to foster “infant industries” with protectionist policies. It was not dissimilar to the narratives of catch-up development that Friedrich List and Alexander Hamilton propagated in Germany and the USA in the 19<sup>th</sup> century, when both countries were economic latecomers (Chang, 2002). In more recent times Asian development states, such as China and South Korea, opted for this kind of state intervention before gradually engineering an opening-up via export promotion.

Colonial policies used economic pressures to fight secession movements. India for example was by far the most important colony to the British Empire. Many British political and military initiatives circled around safeguarding transportation routes to India, whether it was the Suez Canal, the build-up of a chain of protectorates around the coastlines of the Arabian Peninsula, or the Great Game with Russia over influence in Iran. The agitation of the Congress Party for independence put arch-colonialists like Churchill on high alert. When the Bengal famine of 1943 erupted and British authorities in India asked for urgent famine relief, he quipped: if food was so scarce “why Gandhi hadn’t died yet” (Mishra, 2007). The famine killed about 3 million people and was caused by war-related inflation, bureaucratic neglect, and racial prejudice. In a crude way it served Churchill’s counter-secessionist strategy. It also helped a recruitment drive of the British military that enlisted about 5 million soldiers from its colonial possessions during World War II, as Bengali recruits opted for enlistment to escape famine and possible death.

Beside economic pressures and hardship, colonial counter-secession strategies also used incentives. In the late 1950s France tried to prevent the independence of Algeria, whose northern part was actually not a colony, but legally part of France. The Plan de Constantine (1959–63) envisaged spending on infrastructure, education, and industrial development. “All of Algeria must have her share in what modern civilization can and must bring to men”, declared de Gaulle when announcing the plan in 1958 (Davis, 2010). However, it was too little too late to appease the people of a country that was impoverished, grappling with growing shantytowns since the 1920s, and had seen its traditional socioeconomic structures destroyed. The plan was unable to prevent the eventual independence of Algeria in 1962.

Apart from conscious political secession and counter-secession strategies, economic logic worked in favour of decolonisation, too: The urge to colonise faded with diminishing economic incentives. The costs of colonialism increased with the dissemination of military technology that reduced the advantage of empires. Further capital accumulation and productivity gains favoured influencing terms of trade and guiding the global commons over holding actual territory for the exploitation of raw materials (Gartzke and Rohner, 2011).

The politics of economic sticks and carrots of colonial counter-secession strategies can be found in non-colonial contexts, too. During the American civil war Unionists imposed a naval blockade on southern ports, thereby ruining the cotton export industry of the largely rural south. From 1863 Unionist control of the Mississippi also blocked cattle exports from Texas and Arkansas to eastern parts of the Confederacy. The decline in interregional trade and food imports led to shortages and bread riots in a number of southern cities.

Stopping short of outright blockade there are other means of negative economic counter-secession measures, such as cutting payments by the central government, stopping supplies of crucial utilities, such as electricity, or pointing to the negative repercussions of economic exclusion from existing trade arrangements: the Kurdistan Region in Iraq, Crimea, and Quebec provide some illustrations.

The federal government in Baghdad has had only limited influence in the Kurdistan Region of Iraq (KRI) since the latter gained semi-autonomous status in 1991. Oil is the most crucial source of government revenues in KRI and the rest of Iraq alike. Baghdad has sought to curb the independence drive in KRI by blocking a pending oil law and sanctioning international oil companies that have invested in the oil sector in KRI. In 2014 it stopped KRI's share of the federal budget and its oil receipts completely. KRI on the other hand has built its own oil infrastructure with a bespoke pipeline for oil exports via Turkey.

When Russia intervened in Crimea and engineered a secession of the territory from Ukraine, including a managed referendum, a considerable challenge in terms of utilities and transportation infrastructure arose. Most of Crimea's electricity supplies used to come via the Ukrainian mainland until unknown people blew up the transmission lines and the Ukrainian government showed little urgency in repairing them. As a result Russia has faced the challenge of building new power plants on Crimea under international embargo conditions.

Economic counter-secession arguments played a role when Quebec launched its referendums on secession in 1980 and 1995 (see André Lecours' chapter in this volume). In 1980 the federal government of Canada warned that an independent Quebec would end up impoverished and cut off from its most important market – the rest of Canada. In 1995 secessionist forces tried to disperse such concerns by arguing that Ottawa would come up with a deal of economic and political partnership in the wake of a positive secession vote. They saw their economic position strengthened in the wake of the NAFTA trade deal, which had made Quebec less dependent on the rest of Canada

for trade. However, US diplomats signalled that an independent Quebec would not remain in NAFTA and would need to reapply for membership.

Since then the economic “Montreal effect” has left a sobering imprint on any renewed independence aspirations: Since the 1990s more and more companies have moved their headquarters from Montreal to other Canadian cities, such as Toronto, Calgary, and Vancouver. Such moves were spurred by more business friendly legislation in other municipalities, the growth of trade with Asia, and the importance of English in an increasingly globalised business environment, but also by the political and legal uncertainty in the wake of Quebec independence agitation (Lo and Teixeira, 1998; Lamman, 2013).

More often than not, economic counter-secession measures also include positive incentives which can, however, have ambiguous impacts, such as reconstruction, new infrastructure, prestige projects, and trade deals. Chechnya, Turkey, and China can serve as examples.

After the wholesale destructions of the two Chechen wars of 1994–96 and 1999 Russia embarked on a reconstruction campaign in 2003. Chechnya was reintegrated into Russia and granted limited autonomy under the client regime of Ramzan Kadyrov, who came to power in 2007. The totally destroyed capital Grozny was rebuilt from scratch after 2003. Russian foreign minister Lavrov sold it as a possible model for any future reconstruction of Aleppo after Russia intervened in the Syrian civil war on the side of the Assad regime.

Turkey has sought to develop predominantly Kurdish south-east Anatolia with the GAP irrigation project, which includes the gigantic Atatürk Dam. GAP has aimed at doubling the irrigated area in Turkey, but its main thrust has been electricity generation, often used for capital-intensive agribusiness and food processing in specialised economic zones. While this might serve to co-opt local elites, the economic benefits for the broader population have been less clear. Many have been forced to migrate to cities where they can be more easily assimilated and controlled, thus complementing displacements that have occurred in the wake of conflict and the impounding of the dams.

China has regarded Taiwan as a renegade province since 1949. Its One China policy has successfully isolated Taiwan internationally on a political level. With the exception of two dozen countries, mainly in Latin America and some Pacific islands, no nation recognises Taiwan as an independent state today. Military threats between China and Taiwan have not been uncommon, but since the 1980s there has been a thaw and even close cooperation on an economic level. During the 2000s Taiwanese exports to China grew steeply, which is by far its most important trading partner. In 2010 both countries even signed a preferential trade agreement (Rosen and Wang, 2011). The Chinese strategy to keep Taiwan in its fold can be read as an important counter-secession strategy. China is a major market for Taiwanese goods and Taiwan is an investment destination for Chinese companies.

## Economic counter-secession in the EU

Economic aspects of secession and counter-secession have gained increasing importance over the last century. For two reasons this is particularly true in the EU: On the one hand the EU defines itself as a values and rules-based community; coercive counter-secession measures, economic or otherwise, are more likely to be met with international disapproval and pressure. Blockades, embargos, and sabotage of infrastructure, quite common in different contexts and time periods as we have seen above, are not really an option for counter-secession strategies within the EU.

On the other hand membership of the common market, structural assistance, transfer payments, and monetary protection measures within the eurozone provide a strong incentive to remain part of the nation-states that form the European Union. The question of continued EU membership played an important role in the quests for independence in Scotland and Catalonia for example (Muro and Vlaskamp, 2016).

The costs of leaving the EU are considerable, even for larger countries, as the case of Brexit illustrates. The UK will lose unfettered access to the largest common market in the world and will become a less attractive destination for foreign direct investment that seeks to gain a foothold in this common market. It will be more difficult to finance its current account deficit, while a depreciating currency and reduced labour migration from the EU exert inflationary pressure. Rebuilding the administrative capacities that have been hitherto handled on the EU level, namely in trade, is also a challenge.

It has been argued that membership of the European Union has made secession more palatable for smaller states, as they could break away while still maintaining access to a large economic market (Alesina and Spolaore, 2005). The treaties of the EU are ambivalent. They do not specify what happens to the EU membership of territories that secede from their nation states (Guirao, 2016). Before the Scottish independence referendum in 2014, Scottish nationalists argued that they could maintain EU membership after a successful secession referendum. They eyed an “internal enlargement” via Article 48 TEU that deals with treaty amendments (Kenealy, 2014). However, with the Prodi doctrine the EU stated in 2004 that any territory that breaks away from an EU member state would be outside of the union and would need to re-apply for membership via Article 49 TEU – a process that normally takes years, even in the absence of vetoes by member countries.

It is probably no coincidence that this legal clarification is named after Roman Prodi, the former Italian prime minister from 1996–98 and 2006–08 and president of the European Commission from 1999–2004. With the Lega Nord Italy has seen one of the most prominent secession movements within the EU. The Lega Nord was founded in 1991. It has advocated more political and fiscal federalism and greater regional autonomy for Italy’s prosperous north; between 1996 and 1998, in particular, that included the propagation of independence of “Padania”, as the northern region is called by secessionist advocates (McDonnell, 2006).

Italy is a net payer into the EU budget, so withdrawal from the EU would not carry as high costs for “Padania” as for a net recipient, such as Catalonia, which is part of Spain. But beside payments to structurally weaker countries and regions, membership of the EU also provides access to the world’s largest single market and monetary protection mechanisms for the eurozone members – factors that are not easily discarded, especially after economic turbulence in the wake of the global financial crisis of 2008. Given the economic costs of exiting the EU, the EU might rather hinder secessionist strategies than enabling them.

EU membership is indeed vastly popular among Catalans, less so among the Scots, and has played a prominent role in discussions about independence. In the years prior to the Catalan referendum on October 1st 2017, which Spain’s Constitutional Court declared illegal and unionist forces boycotted, leaders of the secessionist camp were adamant that an independent Catalonia would be able to stay in the European Union or could accede to it after a short period of time. They felt that if that were not going to be the case, support for secession would wane. Countervailing evidence and statements by the European Union were brushed aside. “The big umbrella is the European Union ... within Europe we can have a different political status”, then Catalan President Artur Mas declared in 2012.

Scottish nationalists similarly argued during their campaign for the independence referendum in 2014 that Scotland would be able to maintain EU membership or retransition smoothly into the EU after a short period of time. However, European Commission President Jose Manuel Barroso cautioned that this would be “extremely difficult, if not impossible”, in an attempt to temper such expectations. Proponents of British unity used the negative repercussions of potential EU exclusion in their campaign. They also denied the request of Scottish nationalists for continued use of the British pound after independence. Immediately before and after the Catalan referendum the EU made itself even clearer than Barroso in 2014, reiterating the basic tenet of the Prodi doctrine: that new states would be outside the EU and would need to apply for membership.

Re-accession during such an application process could be jeopardised by vetoes by any single member state. Such vetoes would be likely. Spain might oppose EU membership for an independent Catalonia out of spite and because partition of assets, pension liabilities, and government debts would likely lead to considerable conflict. Other European countries such as France, Belgium, or Italy would oppose it in order to discourage secessionist sentiments within their own territories. Spain also signalled that it would oppose Scottish EU membership in an effort to nip Catalan aspirations in the bud.

The Spanish government has used the threat of EU exclusion prominently in its counter-secession narrative and has sought to use the resulting anxiety among Catalan companies to its advantage. When Catalonia’s largest bank, La Caixa, could not change its legal headquarters without the approval of its general shareholder assembly, the Spanish government accommodated it with a swift change of the legal requirements. Over 2,700 companies have moved their place of legal registration out of Catalonia between the October 1st referendum

and the end of November 2017. About 1,000 have also changed their fiscal domicile to other parts of Spain. They feared the legal and political uncertainty, the loss of markets, deposit withdrawals, and speculation against their shares. While the immediate fiscal loss of this exodus might be limited in the short run, investments and jobs will follow over time if this process is not reversed.

Secessionists sought to belittle the impact, saying it would only amount to a legal procedure, while productive capacities would remain in Catalonia. Yet the reputation loss hurts investments and companies typically contract the most value added inputs such as legal, technical, and creative services at the places where their headquarters are located. Nobody would consider Apple a company from China, just because the iPhone is produced there. Many in Barcelona now fear the possibility of a “Montreal effect”, i.e., the loss of economic dynamism that Canada’s erstwhile economic centre suffered over the decades following independence agitation in Quebec. In another economic counter-secession move the federal government in Madrid has tried to alleviate such fears during the campaign for the Catalan elections on December 21st 2017 with the prospect of tax breaks for companies that relocate back to Catalonia. The promised fiscal gains of secession and the underlying statistical misinformation look increasingly dubious (Borrell and Llorach, 2015). Expectations of a smooth and economically painless road towards secession were widespread in Catalonia before October 2017. They have proven to be misguided.

## Conclusion

Economics play a major role in counter-secession strategies. Negative sanctions such as blockades and boycotts rank less prominently today than in the 19<sup>th</sup> and early 20<sup>th</sup> centuries. Brutal suppression and famine during the British campaign against the independence of India would be difficult to justify and maintain in today’s international environment. The same is true for a naval blockade that Unionist forces imposed on the south during the American civil war.

Positive economic incentives such as trade deals, prestige projects, and reconstruction have become more important. This is particularly true for the EU, with its large common market, pooled bureaucratic capacities, and transfer payments. Negative repercussions of an EU exit affect secession calculations. Rather than being the enabler of secessionist forces, the EU has become their cage.

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