

Editorial: Introduction: Justice, Legitimacy, And Secession

[es] Introducción: justicia, legitimidad y secesión

Sergi Morales-Gálvez¹

Politics is about managing conflict, about how we should live together (Arendt, 2015, p. 131). Many traditions of thought and political thinkers have nonetheless taken this shared space of conflict, this *we the people*, as a given. *The people* is considered as a necessary precondition for politics. What happens when a part of this *we* disagrees with that? When, for some, this shared community is not taken as a given and claim their right to secede and build their own independent political community. Such claims bear on the fundamental questions: who is the “*demos*”? who are the people entitled to self-government?

Scholars have reflected on this issue widely. Some have defended the morality of groups to secede if they have a democratic majority (Beran, 1984, 1988, 1998; Philpott, 1995, 1998). It does not matter that much whether groups suffer injustices or have good reasons to promote secession. As long as there is a majority in a particular territory claiming for self-determination and/or secession, this should be allowed.

Others have argued that secession is warranted only when it is a remedy against an evil—for example, when a minority group is persecuted by a state controlled by a majority group. Scholars such as Birch (1984), Buchanan (1991, 1995, 1997, 1998, 2004), Norman (1998), Patten (2002, 2014) or Seymour (2007) argue that there should be an important reason for a right to secession to be justified. Secession should work as a remedy against an unjust state, not as a primary right.

This is a pressing issue in contemporary democratic societies. It thus calls for further philosophical reflection. How should political institutions deal with secession? Are democratic procedures a normatively appealing solution? Pro-independence supporters argue in the affirmative on the basis of a right to self-determination. From a philosophical point of view, however, things are not obvious. Does democracy even warrant secession in the absence of grievances or rights violations? Which majority are we talking about? A majority state-wide, or only within the minority group claiming for independence? Moreover, what does self-determination mean and imply in democratic terms? Does it imply the creation of a nation-state or should internal self-government suffice? Is self-determination territorially conditioned? What would happen with dispersed minorities? Besides, is a democratic procedure enough to justify a decision regardless of its content? How should we balance justice claims and democratic procedures?

The relevance of questions about secession are not merely academic. They are at the core of, for example, the Spanish constitutional crises derived from the political claims of Catalan pro-independence parties and institutions, perhaps the greatest political turmoil since the beginning of Spanish democracy in 1978 (in addition to the recognition demands of other territories such as the Basque Country). It was also a pressing issue for the Quebec and Scottish referendums on independence in 1995 and 2014 respectively, New Caledonia’s agreement with France regarding its political status, the Kurdish unilateral referendum on independence in Iraq in 2017, or the political status of both Taiwan and Hong Kong within the Popular Republic of China.

What can the different theories of democracy and theories of justice have to say about these issues? This special issue is a collective endeavour contributing to answer these and other related questions.

Content of the special issue

This dossier starts with four articles written by prominent political and legal philosophers in the field of secession. Firstly, in his “La teoría (de la secesión) de la minoría permanente a la luz de la democracia deliberativa” Félix Ovejero Lucas, argues against the validity of the concept of permanent minorities as a justification for secession. Relying

¹ Political Theory Research Group, Department of Political and Social Sciences, Universitat Pompeu Fabra (Barcelona).
Email: sergi.moralesg@upf.edu – ORCID ID: <https://orcid.org/0000-0001-5790-5837>

on the analytical toolkit of deliberative democratic theories, Ovejero challenges the moral validity of secession in deliberative democratic regime.

He claims that secession is justified only under specific conditions, conditions impossible to be met, he claims, in any deliberative regime. Deliberative democracy requires to scrutinize everyone's reasons in light of a public deliberation that only should accept impartial reasons, that is, reasons acceptable by all. A deliberative regime is at odds with the possibility of secession, he claims, because this means that everyone's interests (minorities too) are considered. If that's not the case, this means that no democracy is in place, which in turn would create the conditions to justify secession as a remedy. The upshot: democracy-based arguments for secession, if they want to claim validity, must collapse into remedialism.

Secondly, Lluís Pérez-Lozano in his "Theories of Right of Secession: A Republican Analysis" develops an innovative approach to normative theories of secession. Instead of using the mainstream liberal approach to tackle issues of secession, the author develops an alternative view, namely republicanism. For him, discussion on secession should be about central concerns of the republican approach such as how to avoid domination (especially from majorities towards minorities) and how to civilize what should be seen as a conflict between different factions.

He argues that secession conflicts may lead to threats for democratic republics, especially in terms of domination (or arbitrary interference) of permanent majorities, instability, exclusion and minority blackmailing. In this regard, he explains that, so far, no current theory of right of secession correctly deals with all these threats altogether. In order to fill this gap, he outlines how an innovative republican theory of the right to secede, based on a non-unilateralist logic, could perform this job and try to regulate and civilize this kind of disputes in a better way.

Thirdly, Josep Joan Moreso writes "De Secessione. Los Escondites de La Vía Catalana." Moreso scrutinises the Catalan process to independence (especially focused on the 2012-2017 period) in light of normative theories of secession, especially those of Buchanan (remedial theories of secession), and Beran and Philpot (primary rights theories of secession).

On the one hand, the author argues that Catalan claims for independence fail to warrant secession as a remedial right. There are no strong reasons, he claims, to justify secession as a remedy against an injustice (or injustices) suffered by Catalans. On the other, he claims that even if primary right theories of secession would be applicable to the Catalan case, these theories would not be able to justify a purely unilateral right to secede. He instead champions for a democratic and agreed solution between Spanish and Catalan institutions.

Finally, Joan Vergés Gifra in his "In a Democracy, What Makes an External Self-Determination Claim Reasonable?" deals with the morality of secession in democratic regimes. Vergés Gifra analyses the strengths and weaknesses of the three main "pure" theories of secession (plebiscitary theory, remedial theory and the theory of national self-determination) and suggests to promote an "impure" or mixed theory instead. For him, the best way to defend the reasonableness (instead of only speaking about the right to) of a self-determination claim is not by adopting a pure approach, but an impure one.

The issue then continues with an interview to Anna Stiltz, professor at Princeton University, on her recently published book "Territorial Sovereignty: A Philosophical Exploration," published by Oxford University Press in 2019. In this book, Stiltz aims to provide three basic moral justifications to territorial political authority: rights of occupancy, basic justice and collective self-determination. In this regard, in this interview we elaborate on her main normative claims and arguments, especially in relation to the topic of this special issue: self-determination and secession.

Additionally, we ask Prof. Stiltz to elaborate on her defence of territorial sovereignty and self-determination, what this implies for her normative theory and whether secession would be permissible and/or justifiable under the umbrella of her theory.

This dossier concludes with book reviews of recently published monographs on secession. On the one hand, Marc Sanjaume-Calvet reviews "Strategies of Secession and Counter-Secession" (2020) by Ryan Griffiths and Diego Muro (published by ECPR Press). On the other, Anna Meine reviews and comments "Morality and Legality of Secession: A Theory of National Self-Determination" (2020) by Pau Bossacoma Busquets (published by Palgrave Macmillan).

All the works included in this dossier tackle some of the most important dilemmas, tensions and discussions in normative political theory broadly speaking. They include, for example, sovereignty, democratic deliberation, domination and conflict, inter alia, and theories of the right to secede particularly. They contribute to enrich academic debates and give better tools to analyse our reality and deal with the political conflicts taking place in our increasingly diverse societies.

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