

TABLE OF CONTENTS

Chapter I. Introduction	17
1.1. Caveat.	17
1.2. The meaning and pervasiveness of secession . .	18
1.3. Is there really a law of State secession?	21
1.4. The principal rules governing the creation and secession of States	23
(a) Premature recognition	23
(b) Montevideo Convention	26
(c) Prohibition on the use of force	27
(d) Self-determination	28
(e) Territorial integrity and <i>uti possidetis</i> . . .	29
(f) <i>Jus cogens</i>	30
1.5. Policy	32
Chapter II. Recognition and secession	35
2.1. Brief history of recognition	38
2.2. Some reasons for the controversy surrounding recognition	45
(a) Recognition as a political act	45
(b) The dispute between constitutivists and declaratorists	47
(i) Constitutive theory of recognition. . .	48
(ii) Declaratory theory of recognition . . .	50
(iii) Assessment	61
(c) Collective recognition	64
(i) The writings of jurists	68
(ii) The practice of States within the United Nations	74
(d) Collective non-recognition	81
Chapter III. Conflicting values and competing rights: self-determination and territorial integrity	86
3.1 Self-determination.	90
(a) Self-determination as a legal right	90
(b) Self-determination as the right of colonial peoples only	94

(c) Internal self-determination: the preferred course	103
(d) The "self" in self-determination	107
3.2. Territorial integrity	121
(a) Territorial integrity as a legal right	121
(b) <i>Uti possidetis</i> and territorial integrity.	123
(c) Does the obligation to respect territorial integrity extend to non-State actors?	133
(d) Remedial secession	140
Chapter IV. State practice	154
4.1. Overview of State secessions	155
4.2. Unsuccessful secessions	158
(a) Secessions condemned as unlawful by the United Nations	158
Katanga	159
Rhodesia	161
Bantustan States	163
Turkish Republic of Northern Cyprus	166
Republic of Srpska	168
(b) Secessions that have failed to receive recognition by any Member State of the United Nations, or have received insufficient recognition to survive as a State	170
Unsuccessful secessions (with name of secessionist entity or movement followed by the State from which secession is or was sought)	171
Biafra	172
Chechnya	174
Somaliland	177
4.3. Successful secessions	181
Israel	182
Bangladesh	187
Yugoslavia	191
Eritrea	196
South Sudan.	198
4.4. Partly successful secessions	201
Kosovo	202
(i) Premature recognition.	207

(ii) People, self-determination unit and <i>uti possidetis</i>	209
(iii) Remedial secession	211
Abkhazia and South Ossetia	212
(i) Premature recognition	215
(ii) People, self-determination unit and <i>uti possidetis</i>	216
(iii) Remedial secession	217
Chapter V. Judicial decisions, with special reference to the <i>Kosovo</i> Advisory Opinion	220
5.1. Pre- <i>Kosovo</i> judicial decisions.	222
(a) Presumption against secession	222
(b) The concept of people	225
(c) <i>Uti possidetis</i>	226
(d) Remedial secession	227
5.2. <i>Kosovo</i> Advisory Opinion	227
(a) There is no rule prohibiting unilateral declarations of independence	235
(b) International law prohibits unilateral declarations of independence that violate peremptory norms	239
(c) Territorial integrity is confined to the sphere of relations between States	244
(d) Self-determination	245
(e) Remedial secession	246
(f) Statehood and recognition	249
5.3. The narrowness of the Court's Opinion.	249
Chapter VI. The law of State secession in the wake of the <i>Kosovo</i> Advisory Opinion.	254
6.1. Is <i>Kosovo</i> a precedent for future secessionist claims?	254
6.2. Was the Court's Opinion neutral on the subject of secession?	262
6.3. The rules and principles governing secession.	267
(a) Consensual secession	267
(b) Dissolution	267
(c) Violation of a peremptory norm	268
(d) Self-determination in the non-colonial context	268
(e) Internal self-determination	269

(f) The "self" in self-determination	269
(g) Territorial integrity	271
(h) <i>Uti possidetis</i>	273
(i) Remedial secession	276
6.4. Conclusion	279
Table of cases	285
Select bibliography	288
About the author	293
Biographical note	293
Principal publications	294