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Toward a republican theory of secession

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Like most theories of democracy, democratic republicanism has usually taken for granted who the *demos* is. However, precisely one of the most frequent sources of political conflicts in contemporary history is the determination of its boundaries, particularly –though not only– in secession conflicts. This article aims to answer a related question: *what kind of right to secede from a modern democratic state*,[1] *if any, can be acknowledged from a democratic republican viewpoint*? By answering this question, I hope to make a contribution both to republican literature (in which secession has barely been analyzed) and also to the normative literature on secession (in which republicanism has very rarely been used as a normative framework).

The core tenet of the republican theory of secession developed here is the recognition of a non-unilateral[2] right of secession for any democratic secessionist community within a democratic state, coupled symmetrically with a non-unilateral right to territorial unity for that democratic host state. The rationale behind this theory is to deny both sides the power to impose their will without having to consider the interests and opinions of the other side; that is, to deny arbitrary power, which in republican terms is synonymous with domination. As we will see, this in turn minimizes the chances of permanent majorities and powerful minorities achieving arbitrary power in center-periphery conflicts.

This article does not discuss secession as a general phenomenon, but focuses particularly on secession conflicts where both secessionists and the host state (and the unionists within it) are peaceful[3] and democratic. The rationale behind this analytical choice is to minimize what we might call *normative noise*, i.e., normative issues that distract our attention from the ones that we initially intended to discuss. Modern democracies, however imperfect they may be, are the

closest polities to democratic republican ideals that exist in our contemporary world. Thus, when neither the host state nor the potentially seceding territory are attempting to move away from this political model in a non-democratic direction, secession appears normatively "naked" in democratic-republican terms. I am not trying to find out whether democratic secessionists are legitimated in seceding from undemocratic states, nor whether democratic states are legitimated in suppressing an undemocratic secessionist attempt.

The article presents this theory over eight sections: (1) a review of current theories of right of secession, pointing out why republicanism can be a useful framework to overcome their weaknesses; (2) an overview of the main tenets of republicanism, explaining why (and how) republicanism must analyze secession conflicts as a type of factional conflicts; (3) the presentation of the normative core of my republican theory of secession, based on non-unilateralism; (4) the outline of a non-unilateralist framework for secession conflicts; (5) an outline of three problematic scenarios for the theory, and of the role that unilateral mechanisms can play in order to tackle one of them; (6) an exploration of the strengths and weaknesses of two possible institutional translations of this theory (constitutionalization and internationalization); (7) a discussion of some foreseeable criticisms of the theory; and (8) a summary of my conclusions.

For the purposes of this article, a *secessionist movement* is a group of people that seek secession for a broader group of people, namely the *target group*. When secessionists are a clear majority within the target group, this group qualifies as a *secessionist community*. While every single member of a secessionist movement is secessionist, this is not true of secessionist communities. And when a secessionist community seeks to establish a modern democratic state through democratically acceptable means, it qualifies as a *democratic secessionist community*.

1 | CURRENT THEORIES OF RIGHT OF SECESSION: PRINCIPAL TENETS AND CRITICISMS

Unilateral secession is often regarded as "the principal focus of interest for theorists of secession" (Pavkovic & Radan, 2007, 200–201). Theories of right of secession (TRS) are usually classified into three different categories depending on who they deem entitled to (unilateral) secession: territorially concentrated groups, i.e., *plebiscitarianism* (Beran, 1984; Copp, 1998; Lefkowitz, 2008; Philpott, 1998; Wellman, 2005); culturally encompassing groups, i.e., *ascriptivism* (Margalit & Raz, 1990; Miller, 1997); or groups that are unjustly and intolerably harmed by the state, particularly (although not necessarily only) in terms of basic human rights, i.e., *remedialism* (Birch, 1984; Brilmayer, 1991; Buchanan, 1991, 2007; Christiano, 2006; Patten, 2002).

The first two categories of TRS conceive secession as a *primary right*, i.e., a right to which some groups of people are entitled a priori, with no need to justify their decision; the categories only differ regarding the definition of which people(s) are entitled to this primary right. Primary right TRS are usually criticized as being an open door to: (1) *secessio* ad infinitum, i.e., unending recursive secessions, leading to anarchy, and to (2) the *blackmail threat*, i.e., the risk of giving privileged minorities (e.g., wealthy ones) the power to threaten the whole polity. In addition, ascriptivism can be further criticized for: (3) its *weak operationalization*: it is difficult to give an empirically operational definition of the ascriptive features that a group of people must share in order to be considered a "culturally encompassing group"; and (4) the *threat of exclusion* it poses: those who live in the territory of the ascriptive group that is entitled to secession, but who do not share its ascriptive features, might come to be seen as second-class citizens, and eventually be excluded from the decision on secession, or even from citizenship altogether.[4]

Due to these weaknesses, many scholars espouse some version of remedialism, which regards secession as a last resort in the face of certain persistent injustices. What these injustices are is a matter of discussion, but remedialists generally agree on some basic injustices, such as massive violations of basic human rights. However, remedial theories have been criticized as unfairly biased toward the status quo,[5] since they assume the legitimacy of current boundaries and put the burden of proof on secessionists. This is problematic since most boundaries are the result of historical episodes (e.g., wars) that are far from reflecting the democratic values that remedial theories rest upon. Remedialism suggests an answer to this objection: as long as states are reasonably just, boundaries are irrelevant. However, in a world of states, falling between terribly oppressed minorities and privileged, blackmailing ones, there are many intermediate cases of permanent minorities,[6] which are usually the weak sides in persistent controversies on certain issues related to state or nation-building (e.g., language regulations, or the territorial structure of political or economic institutions).[7] It seems unfair to assume that they must simply endure this condition because of a war lost in the distant past, for instance.

Thus, it seems that all current TRS are in some way criticized for being unfairly or dangerously biased toward either unionists or secessionists. I think that the reason behind this common weakness is that all current TRS choose an a priori winner in secession conflicts, that is entitled to the disputed territory unless X. Remedialists make this choice by means of a justice-based view of legitimacy: as long as a state is reasonably just, secession is unjustified, and therefore illegitimate. Plebiscitarian and ascriptive theories, on the other hand, make the choice by means of theories of legitimacy that are not based (or not based exclusively) on justice. In order to further examine their common weakness, I shall briefly explore this point.

It is important to distinguish between justice and legitimacy. Justice is about "the question of what should be done by political institutions or by the law; that is, what the content of political and legal decisions should be," while legitimacy is about "the question of who should make the political and legal decisions that serve to approximate this ideal of justice, and how they should do it" (Martí, 2017, 731). While this definition includes the "who" as a question of legitimacy, I think that when we look at concrete political conflicts, justice and legitimacy point toward two different "whos": the people who we would like to see ruling (because we share their view of justice) may not be the people who we consider legitimated to rule. For instance, we may share a Rawlsian view of justice and, therefore, tend to support social-democratic governments; while at the same time, we can regard a government with a Nozickian libertarian agenda as legitimate, as long as it has won power through means we regard as legitimate (e.g., through free and fair multi-party elections).

I understand the question "who is legitimately entitled to secede?" as an aspect of the "who is legitimately entitled to rule?" question. As we have seen, remedialists establish a direct connection between the "whos" of justice and legitimacy: those who rule justly are entitled to rule, and for the same reason, those who are ruled unjustly are entitled to separate themselves from that unjust rule. However, the problem with establishing a direct connection between justice and legitimacy is that it makes political conflicts highly difficult to deal with. We all tend to have very different ideas regarding justice, and even on the practical implications of those ideas (especially when our interests are at stake). This is, precisely, one of the main reasons why we need governments and laws, so that we have someone to arbitrate such differences. But that someone is, in the end, someone like us, and if we establish that the person who is more just (or who has the best views on justice) is the person who should rule, then we will just be going round in circles and not tackling the problem. This is why political communities need procedures and institutions that enable them to choose governments and make laws, in a manner that can be recognized as legitimate even by those who think

that those governments and laws are somehow unjust. In other words: political communities need procedures and institutions in order to manage political conflicts (including those involving conflicting ideas of justice) in a legitimate way.

Therefore, I think that plebiscitarian and ascriptive theorists are right not to establish a direct connection between legitimacy and justice regarding secessionist claims. The problem, however, is that they emphasize the "who" of legitimacy over the "how." In my opinion, the "how" is the constitutive point of legitimacy, while the "who" of legitimacy is only derivative. When the legitimate "how" (e.g., free and fair elections in country X) settles the question on the legitimacy of "who" (e.g., who is the legitimate person to hold executive power in X), polities enjoy a great deal of internal and external legitimizations, making it easier to tackle political conflicts without resorting to a "might makes right" logic. When, conversely, there is not a legitimate "how" to decide the legitimate "who," then might does indeed make right. This is the nemesis of freedom that was the case of wars of succession in monarchies. And nowadays, it is also the case of most secession conflicts.

For these reasons, rather than deciding who is right in secession conflicts, a TRS should first and foremost be a theory that sets out a legitimate institutional framework for secession conflicts. It needs to be a theory that could be placed within a turn that is now underway in the literature: rather than finding an a priori holder of a unilateral right to secession, several authors are delineating processes and mechanisms by which secession conflicts should be managed (e.g., Sanjaume-Calvet, 2019); this even includes authors who establish a very close connection between justice and legitimacy (e.g., Bossacoma Busquets, 2020). I will argue that democratic republicanism can provide valuable tools for developing such a theory.

2 | REPUBLICANISM AND SECESSION

This article is based on the contemporary reconstruction of the republican tradition developed by Pettit (1997), building on the historiographic work of Skinner (1998); this is arguably the mainstream in current republican literature. According to this reconstruction, republicanism: (1) stands for freedom as non-domination; (2) understands domination as the arbitrary power of the individual or group X over the individual or group Y, i.e., as a power that can be exercised by X over Y without having to consider Y's interests and opinions (Pettit, 1997, 35); (3) argues that, in order to promote republican freedom, private sources of power must be controlled and dispersed by the state; (4) argues that, in order to prevent the state from itself becoming a dominator, it must be organized as a constitutional republic,[8] with its own powers being dispersed and kept in check by civic virtue and the rule of law; and (5) argues that civic virtue and freedom are mutually dependent. In addition, democratic republicans, as opposed to oligarchic ones, (6) endeavor for republican freedom to include as many people as possible (Pettit, 1997, 95–96). Thus, *domination* and *exclusion*, as defined here, are the main concerns of democratic republicanism.

Considered in this way, republicanism encompasses canonical authors such as Aristotle, Cicero, Machiavelli, Spinoza, Madison or Wollstonecraft, to name but a few; it is, therefore, a long tradition of political thought, focused on justice as well as on legitimacy (Pettit, 2012, 18–19), not only in the realm of domestic politics but also in that of international relations (Onuf, 1998). Concerning this last value, a common topic in republican thought is the importance (and the danger) of factional conflicts when it comes to designing non-dominating (therefore, legitimate) political institutions. To republicans, political institutions should manage political conflicts in such a way that no contending faction can gain absolute (therefore,

arbitrary) power over the others. The dispersion of public power is not only needed to guard against potential abuses by public officers, but also to guard against the risk of a factional takeover. Republican theorists have also applied this concern regarding balance of power to international relations (Deudney, 2008). Republicanism, however, has not concerned itself with designing institutions that are able to manage secession conflicts, in which the contending factions neither seek to win power *within* a state, nor to win power *for* a state, but either to *become* a state formed out of another one (secessionism), or to prevent another group doing so (unionism).

Even authors with an affinity to republicanism, such as Miller (2008) or Weinstock & Nadeau (2004), have not used republican concepts and principles in their works on secession (Miller, 1997; Weinstock, 2000, 2001). And when scholars have occasionally worked on secession from a republican point of view, they often have done so in a somewhat exploratory way (McGarry & Moore, 2011), usually as a secondary issue within broader works on nationalism (Ovejero, 2006, 81), international law (Sellers, 2006, 158–66), or self-determination generally (Klabbers, 2006). Other scholars, such as Caminal (2007) or Young (2005), have examined the relationship between republicanism and self-determination, but these works have focused on multinational federalism, rather than on secession. Only Catala (2017) has outlined some ethical–political duties of potentially secessionist groups, concerning non-domination, in one particular area (distributive justice). Thus, there is much work yet to be done in formulating a democratic republican TRS.

In my view, as I have already noted, a secession conflict can be understood as a sort of factional conflict. It is usually the ultimate expression of a conflict between a permanent central majority and a permanent peripheral minority, both of them defined along the lines of permanent disagreements on how the state should be conceived and organized in terms of *economy* (i.e., its territorial organization), *territory* (i.e., the territorial distribution of political power) and *identity*.[9] In this regard, a secession conflict may imply four different threats in democratic republican terms.

The first one is the threat of *exclusion*, i.e., the risk that some people who would be under the authority of the seceding polity may be excluded from deciding on the matter of secession, or even from citizenship of the polity altogether. This threat, in my opinion, is one of the darkest points of ascriptive theories: if the group with a right to secede is one defined by certain objective traits, then those who do not share these traits may be excluded from the process of deciding on secession; in fact, they may even be excluded from becoming citizens of the new state, since they are not part of "the people."

The second threat is *domination by blackmailing minorities*: in the case of being capable of achieving unilateral secession at will, an X minority which happened to be particularly powerful (e.g., because of its wealth) would be in a position to blackmail[10] the Y citizenship of the rest of the polity,[11] with no need to consider Y's interests and opinions (thus, exercising arbitrary power over Y). This is a threat that affects ascriptive TRS, but especially plebiscitarian ones, for they are highly permissive about groups of people unilaterally seceding at will.

These two threats of exclusion and blackmail have led republican scholars like Ovejero (2006, 81) or Sellers (2006, 25) to embrace remedialism. I regard remedialism, however, as ill-prepared to handle a third threat, that of *arbitrary permanent majorities*: by stating that secessionists must bear the burden of proof, remedialism gives the high ground to permanent majorities, who may arbitrarily decide what degree of autonomy, recognition, or economic promotion they will grant to permanent minorities.

This third threat requires a little more explanation, since it may be confused with the "tough luck" attitude proffered to, say, the loser of a democratic election. For a polity to protect the

republican freedom of its members, its institutions should be designed in a manner to require them to track the interests and opinions of the people. Since unanimity is a rarity (and a unanimity rule would thus be biased toward the status quo), democratic republicanism typically defends majority rule plus counter-majoritarian checks. The goal of these checks (in democratic republican terms) is not only to protect minorities, but to allow them to intervene in public debates and, therefore, to be able to persuade people and eventually become majorities themselves. Thus, in a healthy democracy, we can expect to be sometimes in a majority and sometimes in a minority. If, for instance, I am a progressive, I will sometimes be disappointed by a conservative win in a vote, and I will sometimes be pleased by a progressive victory (or vice versa, if I am a conservative). This easily changeable nature of majorities makes majority rule plus counter-majority checks the least imperfect way to force governments to track the interests and opinions of all citizens.

However, in center-periphery conflicts about economy, territory, and identity, the majorities hardly ever change; thus, it is easy to govern the polity without much regard for the interests and opinions of permanent minorities, even if their members are individually equipped with full democratic rights. For instance, a permanent linguistic majority can decide, by the sheer force of demographic numbers but through strictly democratic procedures, to remove the teaching of the indigenous language of a permanent minority from public education. This does not mean that they will do it, but that they *are able* to do it. And in republican terms, this is a dominating stance, i.e., a stance of arbitrary power.

There are two remedialist strategies that have been developed in order to overcome this threat posed by arbitrary permanent majorities: (1) the defense of reasonable degrees of intrastate autonomy (Buchanan, 2007, 401–24); and (2) the inclusion, within the catalog of "just causes" for secession, of insufficient self-government, discriminatory redistribution, and/or failure of recognition (Bauböck, 2000; Christiano, 2006; Patten, 2002; Seymour, 2007). However, neither of these strategies actually overcomes the threat of arbitrary permanent majorities. What both strategies are actually saying is that the host state must accept reasonable settlements of center-periphery conflicts, without understanding that the definition of a "reasonable settlement" for a center-periphery conflict is precisely the very subject of that conflict. Moreover, this is a highly context-dependent matter that can only be discussed on a case-by-case basis. And in each case, the weak side in the conflict will usually be the peripheral permanent minority. So both strategies merely bounce around the threat they are trying to overcome.

It seems, therefore, that the (pro-secessionist or pro-unionist) bias of these TRS tends to open the door to exclusion and/or domination (either by permanent majorities or by permanent minorities). To make things worse, due to their bias toward one of the two sides, none of these TRS is likely to be accepted by the other side, thus leading to the fourth threat for democratic republican goals: *instability*, i.e., inappropriate handling of secession conflicts (including not handling them at all) is likely to promote instability, eventually triggering exclusion and/or domination. I have developed this republican critique of current TRS elsewhere (Perez-Lozano, 2021b). In my view, in order to overcome all four threats, democratic republicanism needs a new TRS, based on a non-unilateralist logic. I will devote the next section to developing this point.

3 | THE NORMATIVE CORE OF THE THEORY: NON-UNILATERALISM

I think that a democratic republican TRS should lean toward non-unilateral mechanisms, without completely discarding unilateral ones. This non-unilateralist logic is aimed at allowing both

secessionists and the host state to pursue their respective goals; while, at the same time, forcing them to take the interests and opinions of the other side into account, which is tantamount to forcing permanent majorities and permanent minorities, in center-periphery conflicts, to take each other's interests and opinions into account. We can see this point in the Quebec Secession Reference (Supreme Court of Canada, 1998), and in how it was received by the Canadian government and the Quebec secessionists.

The Reference ruled out two unilateralist positions in the Quebec secession conflict: it denied Quebec the right to unilateral secession, either within the Canadian constitution or international law; but at the same time, it acknowledged that the Canadian government had the constitutional duty to negotiate with a secessionist Quebecer government in good faith, if a clear majority of Quebecers answered "yes" to a clear question about secession. The reference was welcomed by both the Canadian government and by the Quebec secessionists, and the delighted reaction of the latter to it was, in fact, quite telling.

We can see why by asking a counterfactual question: what would have happened if the Reference had not included Ottawa's obligation to negotiate in the case of a "Yes" victory? Initially, it would appear that the secession of Quebec would have been impossible, at least in legal terms. However, this is not exactly true: before the Court issued the Reference, Canadian federalists had repeatedly asserted that they did not want to retain Quebec within Canada against the will of Quebecers, but to remove the threat of unilateral secession (Sauvegau et al., 2006, 108). But then, what difference did the Reference make? Why was it so gladly received by the same Quebec secessionists who had initially been so reluctant for the Court to have a role in the matter (Sauvegau et al., 2006, 105–107)?

The answer is that, without the Reference imposing an obligation on Ottawa to negotiate, actually opening those negotiations (in the case of a "Yes" victory) would have depended on the good will of Ottawa's federalists in maintaining their promises. And, even if those in the government in Ottawa had opened those negotiations, it would have been left up to them, legally speaking, to end them whenever they wanted. That is: Ottawa would have had arbitrary power to deal with this conflict in the manner that it considered appropriate. And we must recall that domination, in republican terms, is not necessarily synonymous with interference, but is only someone's power to arbitrarily interfere with someone else. The fact that X has arbitrary power over Y does not necessarily mean that X will be cruel, oppressive, or exploitative toward Y. We can understand this by recalling an extreme example pointed out by Pettit:

> I may be dominated by another—for example, to go to the extreme case, I may be the slave of another without actually being interfered with in any of my choices. It may just happen that my master is of a kindly and non-interfering disposition. Or it may just happen that I am cunning or fawning enough to be able to get away with doing whatever I like. (1997, 22)

Arbitrary power poisons relationships, whether or not it is actively exercised. Had the Court plainly denied Quebec any right of secession, there is no reason to think that Ottawa would have started to behave like an oppressive, uniformistic, and centralistic government. But any new constitutional negotiation on the status of Quebec within Canada would have been conducted from the perspective that, in the end, Quebec would have had no option (at least in constitutional terms) but to take what Ottawa was willing to give it, or to leave empty-handed. That is: in the conflict between the permanent minority of Quebec nationalists and the permanent majority of Canadian nationalists on how to organize the economy, territory, and identity in Quebec and Canada, Canadian

nationalists would have been, to a large extent, dominating Quebecer nationalists. On the other hand, had the Court plainly asserted that Quebec had the right to secede unilaterally, a relationship of domination through blackmailing could have emerged in the opposite direction.

But by forbidding each side in the conflict to pursue its own goals without taking into account the interests and views of the other side, the Quebec Secession Reference minimized the chances of domination in both directions (Perez-Lozano, 2021a). And, provided that this framework, interpreted in this way, appears to be fair and reasonable to both sides, it would be difficult for either of them to unilaterally break with it while presenting itself as a reasonable and fair player in the face of public opinion, both domestic or international; this would be a cost in terms of political legitimacy and is briefly pointed out in the Reference itself (272–273).

Republicanism aims to develop these kinds of schemes in order to obtain these kinds of results. It aims to channel deep political conflicts toward an institutional framework in which (1) all interested parties have a genuine say, and are thus protected from domination and (2) as a result, all of them legitimize the framework, therefore imposing high political costs onto anyone tempted to break away from it unilaterally. Thus, republican freedom and political stability go hand in hand. In secession conflicts within modern democracies, this job could be done, in my view, by a framework grounded in a non-unilateralist logic similar to that of the Quebec Secession Reference. In the next section, I outline what this framework could look like.

4 | A NON-UNILATERALIST FRAMEWORK FOR SECESSION CONFLICTS

In my view, a democratic republican framework for secession conflicts should be based on three pillars: (1) a *non-unilateral* right[12] of secession for any democratic secessionist community, coupled with a *non-unilateral* right to territorial unity for its democratic host state; (2) a *unilateral* right of secession for extreme cases in which democratic secessionist communities are dealing with an oppressive,[13] unilateralist, or failed state; and (3) a *unilateral* right to territorial unity for extreme cases in which democratic host states are dealing with an oppressive, unilateralist, or failed secessionist community.

The first of these three pillars would take the form of a non-unilateral framework to manage secession conflicts, which would basically reflect the elements drawn up in the Quebec Secession Reference: (1) a *democratic* (therefore, *inclusive*) *referendum* among the members of the secessionist target group, with a clear question concerning secession, in order to find out whether they actually are a secessionist community; and (2) in the case of a clear "yes" victory, a *negotiation in good faith* between the host state and the secessionist community. While this framework offers the secessionist community the (non-unilateral) right to pursue secession, it also gives the host state the (non-unilateral) right to defend its territorial unity. Thus, the referendum will have both epistemic and normative values: it will find out whether the target group is a secessionist community; and (if it is) it will create both: (1) a mandate for its regional government and/or representatives to negotiate secession, in good faith, with the host state, and (2) an obligation for the host state to negotiate with them in good faith.

Of course, this raises the question of who should arbitrate such a negotiation, and the framework as a whole; we will come to that in section 6. For now, in order to reach a full understanding of how this non-unilateral right of secession would look, we must discuss the following: (a) *what is a clear question?*; (b) *how can a referendum be inclusive?*; (c) *what is a clear*

"yes" majority?; and (d) *how would a "negotiation in good faith" between unionists and secessionists look?*

Concerning the referendum, firstly, the question on secession must be *clear*. This, at least in theoretical terms, is not a challenge: for external observers, it will be uncontroversial to accept that the question in the 2014 Scottish referendum was clear, while the question in the 1980 Quebec referendum was not.[14] Secondly, the referendum should be *inclusive*, and the "yes" majority should be *clear* in order to make sure that we are talking about a secessionist community. The *inclusiveness* of the referendum has to do with "who" should vote in order for it to be considered a legitimate vote; the *clearness* of the majority has to do with "how many" should vote "yes" in order to determine that we are indeed dealing with a democratic secessionist community.

The "who" of the vote has two dimensions: *territorial* (which territory is potentially seceding in case of a "yes" victory) and *human* (who should vote in the referendum). Concerning the territorial dimension, I think it is reasonable to let secessionists define the territory that will potentially secede, and, therefore, where the referendum should be held. This rule should, however, have a precondition: it must be based on a broad consensus throughout that territory. This has some problematic implications that I will discuss in section 5; for now, let us just assume that in the territory drawn out by secessionists for a referendum there exists such a consensus. The human dimension, however, should not be decided by the secessionists, for obvious reasons concerning the threat of exclusion. In a vote on the creation of a new state, the inclusive nature of democratic republicanism requires, a priori, the right of all those who would be under the authority of that state to vote. To me, this includes, at least, all citizens residing in that territory, without necessarily excluding other possible groups depending on the specific case.[15]

Concerning the clarity of the "yes" majority (the "how many"), the question is: *what turnout, and how much support for the "yes" option, is enough in order to consider that there has been a clear secessionist victory?* In my view, this problem is highly context-dependent. However, I think that we can delineate two guiding criteria. In the first place, *the more historically continuous the identity of the target group as a political community*, *the lower the thresholds should be*. And secondly: *the more inclusive and cohesive (not necessarily uniform) the target group is, the lower the thresholds should be*. According to these two criteria, the threshold for a "yes" victory in Padania and in the Bosniak-Croat Federation of Bosnia and Herzegovina, respectively, should be higher than in Scotland. The rationale behind these criteria is that high vote thresholds in secessionist referenda are mainly justified as an instrument against: (1) *decisions based on volatile passions* (which in "recently invented peoples" like Padania can be supposed, ceteris paribus, to play a higher role in secessionism than in "historically consistent peoples" like Scotland); and (2) *the oppression of minorities* (which can be particularly threatening in cases of societies divided by deep-seated, long-standing ethnic rivalries).

These two criteria can be included within one single principle: *in a secession referendum, the more the secessionist target group can be considered a people (in terms of history, inclusion and cohesion), the lower the threshold for a clear "yes" victory should be*. I call this the *people clarity principle*. This might seem to contradict something that my approach to secession is based on: that there is not one clear, unequivocal and unbiased definition on what a "people" is. However, this is not the case. Unlike current TRS, the people clarity principle is not implicitly based on a clear-cut definition of what a "people" is; instead, it is formulated as a matter of degree, since it aims to capture an intuition that in fact arises as a matter of degree: despite the lack of a clear, unequivocal and unbiased definition of what "a people" (or "a nation") is, it is nevertheless reasonable to be skeptical of the authenticity of a "people" whose identity was

practically formed from scratch a few decades earlier, or of the capacity of a deeply divided society to form a decent state. The people clarity principle does not deny them a path to secession, but only asks them for further proof of the seriousness and decency of their secessionist aspirations.

One last problem is who should be able to call the referendum. In my view, it should ideally be called by an autonomous democratic legislature and/or executive that represents the target group; this is classically the case in target groups organized as autonomous units within federal or regional modern democratic states. However, this will not always be the case, because the target group may belong to a unitary state. Provided that the host state has repeatedly ignored claims for decentralization, the target group should provide itself with some kind of representative institution in order to call a secession referendum if it so wishes. In addition, secessionists should have clear democratic legitimacy in order to call the referendum; this means, of course, that they should first be a clear majority in the autonomous legislature and/or executive. But they should also have had an enduring number of elected officials over time, so that we can be sure that secessionism has firm roots, rather than being just a fleeting passion. In its practical application, this condition should be softer or stricter in compliance with the people clarity principle.

Let us now assume that a secession referendum has been held in a territory; that it has been held in compliance with the requirements I have just described, and that it has resulted in a clear "yes" victory. If this result did not lead to any consequences occurring, the target group would be vulnerable to arbitrary permanent majorities. If that result, on the other hand, were to lead to unilateral secession, this would make the host state vulnerable to blackmailing minorities. From this point onwards, in order to avoid both extremes, both sides would have an obligation to negotiate *in good faith*. I think we can state that *two actors negotiate in good faith when both pursue their own agendas while, at the same time, acknowledging each other's legitimate interests, and trying to attend them in a reasonable manner*. For instance: if the potentially seceding territory contains a natural resource that happens to be crucial for the host state's economy, neither part should claim absolute control over the resource a priori; instead, they should seek some kind of agreement in order to have an equitable share in administering and benefiting from the resource.

The expectation that a regional minority could hold a secession referendum is a check against arbitrary permanent majorities. On the other hand, the expectation that a negotiation in good faith should take place after a "yes" victory is a check against blackmailing minorities: it does not make much sense to threaten the host state with secession in order to fulfill unreasonable demands if the only way to reach secession is through a reasonable negotiation with that host state. However, up until now an important question about this institutional framework has remained unanswered: should the negotiation process address secession and its details? Or should it also include the possibility of a third way between secession and the status quo (e.g., a decentralization agreement)?

The key point here is how the host state regards this negotiation, since it could take two stances: (1) to only negotiate the terms of secession; and (2) to offer and negotiate a unity agreement that is able to satisfy the secessionist community's aspirations within the host state, so that it ceases to be secessionist in the first place. In the first case, the problem disappears; whereas in the second case, we face a dilemma. In my view, at this point, we should recall the symmetry between the secessionist community's non-unilateral right of secession, on the one hand, and on the other, the host state's non-unilateral right to territorial unity. Applied to the negotiation, this means it should enable both parts to pursue their agendas, and the final agreement should

reflect their legitimate interests. If the host state takes the second stance, this will mean that it wants to make a last push for territorial unity through negotiation.

One obvious risk posed by this approach is the possibility of reaching a stalemate, in which the host state and the secessionist community, with neither being particularly unreasonable, are nevertheless both very reluctant to give up their respective initial goals. One way to handle this risk would be to adopt an iterative approach to this negotiation process, intermingling it with other democratic procedures in order to unblock negotiations. For instance, if the host state offers further autonomy in exchange for maintaining the state's unity, and neither the secessionist representatives are willing to accept it, nor the host state willing to withdraw it (and accept secession), then a new referendum could be held in the secessionist community; in this new referendum, voters would be able to express whether they still prefer secession or if they would rather accept what the host state is proposing. The result, especially if it is very clear, should be taken into account in order to reach a final agreement. The more steadfast and constant the secessionist community happens to appear in its preference for secession, the less reasonable it would be for the host state to negotiate anything but secession.

Related to this, a "no" victory also poses a question: should the secessionist government that has called the referendum have the power to call another one? In my view, allowing secessionists to call as many referendums as they want whenever they want will place the host state under the threat of blackmailing minorities; while forbidding a new referendum on the matter will put the secessionist target group under the threat of arbitrary permanent majorities. Thus, it seems in tune with this theory to allow secessionist governments to call for a new referendum after a "no" vote, but only after a cooling down period. The length of this period needs to be settled case by case, so again, the existence of an arbiter becomes important; and it should be settled before the first referendum takes place, so that voters can take it into account before making their decision.

5 | THREE PROBLEMATIC SCENARIOS AND THE ROLE OF UNILATERAL MECHANISMS

For the sake of prudence, we should acknowledge that when this general scheme is actually applied to each concrete case, even if it happens to solve all the aforementioned problems, it might encounter three further problematic scenarios, when: (1) one part of the territory proposed by secessionists as potentially seceding is not part of the political unit in which the secessionist movement holds the democratic power to call for a referendum (e.g., Navarre in the case of an hypothetical secession referendum in the Basque Country); (2) one identifiable part of the territory proposed by secessionists as potentially seceding is, in fact, inhabited by a majority of people who oppose secession (e.g., the indigenous-populated parts of Northern Quebec); and (3) one of the two factions of the conflict explicitly rejects this entire non-unilateralist scheme. Concerning the *first scenario*, I think it would be reasonable not to include the territory in the secession referendum unless the inhabitants of that territory decide to be included by democratic means.[16]

The *second scenario* can be handled, I think, by simply applying the very same scheme of non-unilateral secession. The application of this scheme to this "internal secession" would be justified on the same democratic republican grounds that justified its application to the "external" secession scenario.[17] However, I think that we must divide this "internal secession" scenario into two further sub-scenarios: (2.1) a majority of the sub-territory's population wants to

secede from the broader territory; (2.2) a majority of the sub-territory's population wants to secede from the broader territory *if the broader territory happens to secede from the host state*. I think that, ceteris paribus, the clarity threshold for a "yes" majority should be higher in the second sub-scenario than in the first one. The rationale behind this consideration is the people clarity principle: an "internally secessionist" will that is independent of the potential secession of the broader territory shows a stronger identity on the part of the sub-territory's population as a people than if they only wanted to "internally secede" in the case of the broader territory seceding from the host state.

Finally, the *third scenario* implies that one of the two actors is attempting to unilaterally impose its agenda. In the case of the democratic host state, I think that this is only justified when: (1) secession implies a serious risk of outright oppression of minorities inhabiting the potentially seceding territory (e.g., ethnic cleansing); (2) the target group would be, beyond any reasonable doubt, a failed secessionist community, i.e., incapable of establishing a functional sovereign state; or (3) the secessionists are clearly attempting to secede unilaterally in the first place. Symmetrically, unilateral secession by a democratic secessionist community would only be justified when: (1) there is outright oppression being exercised by the host state (in the same aforementioned terms); (2) the host state is a failed one; or (3) the host state is clearly intending to unilaterally maintain its territorial unity and suppress a secession attempt in the first place. Thus, the conditions for having a right to act unilaterally would be symmetrical for both factions: they would only have this right if the opposing faction happened to be *oppressive*, *failed* or already *unilateralist*.

6 | INSTITUTIONALIZATION: THE PROBLEM OF THE ARBITER

Here, it should be recalled that this non-unilateralist scheme leaves many unanswered questions when it comes to applying it to each concrete case. To point out but a few: (1) should only resident citizens vote on the referendum, or should we include other groups (e.g., immigrants or the secessionist community's diaspora)?; (2) what should be the threshold for a clear "yes" majority?; (3) in the case of a clear "yes" victory, how can it be decided whether the host state and the secessionist community are actually negotiating in good faith?; (4) how can it be determined whether the host state or the secessionist community are actually experiencing any of the scenarios that justify them acting unilaterally?

The answers to these questions would inevitably be context-dependent. Thus, we need to determine *who* should answer them: i.e., who should be the arbiter of the whole process, and under what legal and political framework that body should act. There are two possible forms of arbitration: (1) constitutional; and (2) international. Concerning the first one, it is usually assumed that "non-unilateral" and "constitutional" secession are synonymous (Buchanan, 2007, 338–39). Indeed, the possibility of a constitutional right of secession has attracted the attention of different scholars, either to endorse it (Corlett, 1998; Jovanovic, 2007; Norman, 2003; Weinstock, 2000, 2001), or to reject it (Aronovitch, 2006; Sunstein, 1991, 2001), but up until now no analysis of the matter has been carried out from the point of view of democratic republicanism.

The introduction of this constitutional right would imply that the arbiter of this non-unilateralist framework could be either a constitutionally sanctioned specialized agency, or the institution charged, in each state, with the task of constitutional review, i.e., the host state legislature, its supreme court or its constitutional court, depending on the case. In my view, this

raises a problem: a constitutional right of secession, while promising in terms of minimizing domination and exclusion, will always be limited by the fact that the arbiter of such procedure will be, in the end, one of the powers belonging to the host state; that is, a power belonging to one of the conflicting factions. That does not mean that this power will necessarily be unable to be reasonably impartial (as the Quebec Secession Reference shows), but nevertheless, in terms of legitimacy, this problem stands.

However, the synonymizing of "constitutional" and "non-unilateral" secession, while common in the literature, is doubtful. I think there is a second possible institutional translation of this republican TRS: its non-unilateralist principles should be taken up within the international system, through a series of deliberations and agreements (from joint declarations to treaties) between democratic states, as well as between them and internationally relevant democratic actors (from sub-state secessionist governments to international organizations or NGOs). This would outline an institutional framework for a non-unilateralist management of secession political conflicts. Again, the arbiter in this framework could either be a specialized agency, or the institutions charged with monitoring the lawfulness of the international system (particularly, the International Court of Justice).[18]

To embed this non-unilateralist framework within the international system would transform it into a *multilateralist* framework. This would be in tune with the fact that, in their contributions to International Thought, current republican scholars working within Pettit's paradigm usually stand for a combination of: (1) promoting democratic regimes and (2) avoiding the undesireable extremes of anarchy and hierarchy through international organizations and law, rather than through the formation of a world state rendered unfeasible and/or undesirable (Besson, 2009; Cheneval, 2009; Deudney, 2008; Pettit, 2010, 2016; Slaughter, 2005). Cheneval uses the term *multilateralism* to label this middle ground between international anarchy and a world state. According to him, an institution is multilateral (as opposed to bilateral or unilateral) "if it follows generalized behaviour principles and implies elements of creation of common law and collective action by more than two states" (Cheneval, 2009, 246). The specificity of republican multilateralism lies in the fact that "the Member States of the process adhere to republican principles and strive at a more perfect realization of republican principles via the multilateral institutions they adhere to" (Cheneval, 2009, 246).

There are two important assumptions that underlie these republican proposals for a multilateral international order: (1) the existence of independent states; and (2) that humankind is not willing to merge them into a world state. However, there has been little reflection on the legitimacy of the borders of these states. And among the few international republican theorists who have dealt with secession, an unjustified bias for the existing borders tends to be the norm.[19]

Since international law is made by states, it could be argued that, in the end, we cannot expect an international arbiter to actually be more impartial than a constitutional domestic arbiter. It is true that it is not a perfect solution. But while international law is law created by all states, the parties involved in one given secession conflict are not all states against one given secessionist community, but one given state against one given secessionist community. So it seems reasonable to expect that an international arbitration body would be more trusted, by secessionists, to be an impartial arbiter without, nevertheless, being regarded as partial by the host state. In a way, the gain would be similar to that achieved by the creation of international courts of human rights: it is true that they are created by the same states that are expected to be monitored by them. And yet, they are usually a last line of defense against human rights abuses perpetrated by one concrete state or another.

So it seems that an optimal institutional translation of this republican TRS would be an international, multilateralist framework to manage secession conflicts. But if the constitutional translation would be problematic because of the risk of a partial arbiter, the international translation would be problematic because it is highly ambitious: states, even democratic ones, tend to be highly protective of their sovereignty over their internal affairs, so the day when they accept third partners interfering in their relations with secessionist communities remains far in the horizon. In practical terms, therefore, the most realistic approach for implementing the principles of this republican TRS would be: (1) to persuade as many democratic actors as possible (both state and non-state ones) of the soundness of this non-unilateralist approach to secession conflicts, so that they begin to incorporate it when facing actual secessionist controversies; and (2) to work for the implementation of this approach both in constitutional as well as in international law, when and where possible.

7 | CRITICISMS AND ANSWERS

I think that six main criticisms can be leveled at this democratic republican TRS: four *republican* and two *practical* ones. The first republican criticism would be a *deliberative* one. Republicanism tends to regard deliberative democracy as an efficient shield against factional domination (Pettit, 1997, 187–90). It would not be justified for a deliberative democracy, the argument goes, to recognize a non-remedial right of secession: if regional majority claims are persistently a minority view in the host state, this is because they have a factional nature. In my view, factional conflict does not disappear, nor is it well handled, just by saying that "we should deliberate"; rather, it is the other way around: only an institutional design that keeps factional arbitrary power in check will force all factions to publicly discuss and convince each other by using public reasons.

The second republican criticism, namely that of *civic virtue*, consists of recalling that republicanism gives primary importance to citizens' disposition to participate in public affairs by taking care of the common good. This can only arise from a shared allegiance with the whole political community; secession can only undermine this allegiance, and therefore a republican TRS should condemn secession except in very specific remedial cases. As in the previous criticism, I think this one confuses wishes and reality: secession conflicts arise precisely when this kind of shared allegiance is already considerably weakened. To force people to share a state does not mean, in any sense, that they are going to share allegiance to it. And before we start arguing that this allegiance should be based upon "shared democratic values," we should realize that "the fact that two societies share the same values is not particularly informative regarding their willingness to live together (e.g.,: the secessions of Norway and Sweden at the beginning of the twentieth century and Slovakia and the Czech Republic in the 1990s)" (Requejo, 2010, 152–53).

In this sense, the adoption of a non-unilateralist framework for a secession conflict can only produce two outcomes: (1) an agreement to a secession; or (2) an agreement for unity through decentralization and recognition. In the first case, the host state, as well as the seceding one, will each become far more cohesive political communities than the host state prior to secession; in the second case, the host state will have accommodated the secessionist community so that it ceases to be secessionist in the first place. Thus, it is reasonable to expect that this democratic republican TRS, if practically applied, will be helpful, rather than harmful, in terms of promoting political communities which are able to cultivate civic virtue among their citizenry.

A third republican criticism would be that of *exclusion*. The argument would be that this TRS falls precisely into the threat of exclusion, because in fact all secessions are intrinsically exclusionary. To give some people a right to secede from a modern democracy, even a non-unilateral right, would mean: (1) to let some people decide over a matter that affects the whole political community; and (2) to brand the rest of the political community as foreigners, i.e., as non-citizens.

In my view, both versions of this criticism would be misleading. Concerning the first, we can only consider that secession affects "the whole political community" if we take for granted that "the political community" (the "nation," one could say) is the host state, which would basically be methodological nationalism.[20] Otherwise, secession would "affect" the host state in the same way as many decisions taken by the government of the host state (e.g., concerning tariffs or immigration policies) affect its neighbors. If this is an argument against secession, it should equally be an argument against the independence of the host state. Moreover, this TRS ensures a say for the host state and its population in a non-unilateral framework for secession conflicts. "A say," not "the only say."

Concerning the second version of this criticism, secession does not "exclude" the people at the other side of the new border in the same way in which, for instance, African–Americans were excluded from full citizenship in the Southern U.S. before the 1960s. If Quebec secedes after a referendum in which all Quebec residents have been able to participate, and if all Quebec residents are entitled to the new Quebecer citizenship, then the people of the rest of Canada would not be any more "excluded" from Quebec than they currently are from the U.S.; in any case, they would be excluded from the new Quebecer citizenship, but not from "democratic citizenship," generally speaking, which was the case of African-Americans: the Canadians will continue to be full members of a well-functioning democratic community. The territorial borders of their democracy will be smaller; their inclusion within that democracy will not.

A fourth republican criticism, one of *permanency*, goes as follows: the republican tradition wishes to guarantee that republics will endure in time (Pocock, 2003). Thus, secession will be anathema to any republican project. However, I think this is misleading. The "permanency" that ancient and early modern republicans such as Aristotle, Polybius or Machiavelli were seeking was basically permanency in the face of corruption and the related extremes of anarchy and civil war on the one hand, and of tyranny on the other. In the end, what matters for democratic republicanism is to prevent domination and exclusion,[21] as well as to avoid instability (which may trigger them).

Concerning the practical criticisms, the first one would argue that this theory, even if it were widely accepted in public debate, would be *useless* in practical terms. Modern democratic states are sovereign states, and as such they conduct themselves according to their own interests, not according to ethical standards. However, take Human Rights, for instance. The theoretical notion of the human being as having a set of "natural" rights was, before the foundation of the U.N., a useful standard in order to morally assess the legitimacy of the way states treated their inhabitants; its embodiment in an international framework has obviously not been enough in order to ensure that states respect these rights, but nevertheless: (1) it has provided a legal standard to appraise states' behavior; and (2) connected to this, it has made Human Rights an element of soft power for states. I hope the principles described in this republican TRS, if they become widely accepted, have a similarly limited-but-useful impact on the behavior of states and secessionists.

The second practical criticism, the *autonomic* one, would argue for adopting other, "softer" solutions for center-periphery conflicts, rather than secession—particularly, intrastate autonomy arrangements.[22] However, I think that: (1) my theory does not exclude the possibility of reaching such agreements; (2) secession has, for any minority, a comparative advantage over intrastate autonomy: it transforms the minority into a majority with its own sovereign state, something that provides an ultimate protection for its self-government (Pavkovic & Radan, 2007, 246); and (3) there is some evidence that the very existence of a legal path toward secession favors the promotion and protection of self-government agreements (Sorens, 2012, 139–52). Thus, the possibility of initiating a secession process, and not just in the face of outright oppression, is also a resource for a permanent minority to discourage a permanent majority from unilaterally subverting an intrastate autonomy arrangement.

8 | CONCLUSIONS

The democratic republican TRS developed here can be summarized as follows: (1) secession conflicts must be regarded as factional ones (in fact, as the the ultimate stage of center-periphery conflicts); (2) a democratic republican framework for secession conflicts within modern democracies should be based on a non-unilateralist logic, that could be translated into a non-unilateral right of secession for any democratic secessionist community, plus a non-unilateral right to territorial unity for its democratic host state, plus a right for both sides to act unilaterally when the opposing faction happens to be *oppressive*, *failed* or already *unilateralist*; and (3) the monitoring and arbitration of the framework could be undertaken through constitutional and/or international institutional designs.

It is clear, though, that there are many unfulfilled tasks that fall out of the scope of this article, but which need to be undertaken by further research in order to further develop this TRS. In particular, there are two main groups of open issues that remain to be addressed: (1) concerning the institutionalization of the principles of the theory (e.g., what provisions should a constitutional clause on secession contain? How could we shape an international arbiter for secession conflicts? What should be the elements of an iterative approach to solve a stalemate in a negotiation on secession?); and (2) concerning the impact of this theory on adjacent theoretical problems (e.g., should its principles be applied to non-democratic contexts? Should they be applied to other territorial conflicts, such as irredentist ones?).

I have deliberately considered secession conflicts as not having a theoretical resolution based on answering the "who should the *demos* be?" question, contrary to almost all current TRS. Unfortunately, I think that there is no clear answer to this question, in purely theoretical terms; so in the real world it inevitably has to be answered through politics. Asking if only states are to be considered sovereign *demos* or if "stateless nations" (however defined) also hold legitimate sovereignty, is like asking whether left-wing parties or right-wing parties should govern. Regarding this sort of power disputes, the main task of a democratic republican theory is not to decide "*who is right?*," but rather to design institutions that are able to channel those disputes using civilized and non-dominating means.

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CONFLICT OF INTEREST

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ENDNOTES

[1] By "modern democracies," I mean modern polities which combine universal suffrage, free and fair elections and a robust body of citizens' rights, whether they are only civil and political, or also social, economic and cultural. I prefer to use this term rather than the more common "liberal democracies," since other traditions (e.g., republicanism, socialism or feminism) have been no less important than liberalism in informing the institutional architectures of these polities.

[2] By "unilateral" I mean "performed or undertaken by one side without the agreement or the consent of the other side/s."

[3] Here, "a peaceful state" means a state that tries to confront peaceful secessionists through democratic persuasion, not through violent persecution.

[4] Many primary right theories include justice-based constraints, which among other things aim to avoid this threat of exclusion. Another thing, however, is whether these constraints are coherent or contradictory with the normative logic of their theories; particularly, in the case of ascriptive theories concerning groups of people who do not share the ascriptive tenets of the group entitled to secession, but that inhabit the potentially seceding territory.

[5] See Catala (2013).

[6] Though "permanent majority" and "permanent minorities" are largely self-explanatory concepts, in the interests of greater clarity, we can recall Christiano's definition, which states that a permanent minority is "a group of persons within a society that always or almost always fails to get its way in democratic decision making" (2006, 90).

[7] For instance, this would be the case of Ireland at the end of the 19th century. Ireland was not a colony, since the Irish people were full citizens of a fairly democratic United Kingdom (by contemporary standards), and they were not victims of ethnic cleansing or disenfranchisement. But the fact that around 80% of the Irish MPs in Westminster were pro-Home Rule did not stop the British parliament from repeatedly refusing (or delaying) its adoption. As individuals, there was no legal inequality between Irish and English people; but as a group, the Irish people were an identifiable permanent minority in important constitutional controversies within the United Kingdom.

[8] Here "republic" does not necessarily, or merely, mean a state without a monarch as its head, but a self-governing political community. This term is not coextensive with "democracy," since a republic can be, by degrees, more oligarchic or more democratic, i.e., politically more exclusive or more inclusive.

[9] See Rokkan and Urwin (1983).

[10] See Catala (2017).

[11] This is, for instance, one of the reasons for Sunstein to reject the constitutionalization of a right to secede: political blackmail is, precisely, one of the risks that constitutions try to minimize (1991, 634). In my view, however, this threat is mostly associated with unilateral secession: as I explain in section 4, if a non-unilateral right to secede allows for secession only after negotiations in good faith, then secessionists are forced to take into account the interests and opinions of the rest of the population of the host state.

[12] It may be argued that a non-unilateral right is not actually a right. However, it is relatively usual to speak about rights that are not unilateral in nature and in practice. For example: in most democratic countries, the right to strike is not unilateral, at least in legal terms. Unions have to make public their decisions to call strikes; subsequently, some minimum work hours can be established by employers, which can be challenged by the union and either ratified, rejected or modified by public authorities.

[13] Here, by "oppression" I mean certain points of *outright and clear* oppression, beyond any reasonable doubt: ethnic cleansing or discrimination, religious persecution, and other violations of basic Human Rights. I understand that other actions or policies can be reasonably described as "oppressive" by one of the two sides of the conflict (e.g., this or that policy on language, religious symbols or territorial allocation of economic resources), but that's not the kind of harsh oppression that would give rise to a legitimate claim to harsh unilateral counter-action in a secessionist or unionist direction.

[14] The Scottish question contained 6 words, and it explicitly asked about independence. The Quebecer question contained 108 words, and it did not ask about independence as such, but about an agreement giving political "sovereignty" to Quebec while remaining in an "economic association" with Canada.

[15] For instance, citizens residing overseas but with strong links with the secessionist community; or permanently residing non-citizens.

[16] Such as electing a parliament and a government with that aim, and/or calling a specific referendum on the matter.

[17] Here, a remedialist could regard this as a proof of one of the evils that a too permissive approach to secession is expected to promote: *secessio* ad infinitum. However, we have reasons to consider this risk as unlikely: people tend to be risk averse, and there is evidence pointing out that only a limited range of groups with some sort of "ethnic" or "national" identity show a relevant share of its members as supporting secession (Sorens, 2012, 52–56).

[18] We must recall that the existence of this arbiter does not mean that it should intervene in all cases and at all stages of all secessions conflicts. I think that the agency must only intervene if at least one of the two sides of the conflict asks so. This would be a safeguard of the weaker part of the conflict, and thus an incentive to the stronger part to be reasonable.

[19] Sellers, for instance, criticizes the idea of a world republican state as utopian and undesirable, among other reasons for the sake of diversity (2006, 15–17); however, on the other hand he shares a remedialist view of secession (2006, 153–66). But why can diversity justify the existence of current independent states, yet not the creation of new ones?

[20] "Methodological nationalism is the naturalization of the nation-state by the social sciences. Scholars who share this intellectual orientation assume that countries are the natural units for comparative studies, equate society with the nation-state, and conflate national interests with the purposes of social science." (Wimmer & Glick-Schiller, 2006, 1).

[21] I would like to thank Rainer Baübock for pointing me out that if citizens assumed that their polity, with its current borders, will not long endure, they may have less incentives to take care of interregional or intergenerational welfare. In this respect, I would argue that: (1) the continuity of the territorial status quo may have this positive outcome, but still will not have an inherent value in democratic republican terms, but an instrumental one; and (2) actually, in our modern international system, territorial changes, while not constant, are far from being rare, so in absence of an ultimate normative prohibition against those changes, democratic republicanism is still in need of a TRS able to civilize the political struggles that such changes usually imply.

[22] This is, for instance, a point in Buchanan's remedialist TRS (2007, 343–45). It is also the case of different scholars working, more or less, under republican assumptions (Caminal, 2007; Young, 2005).

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