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FROM OPPRESSION TO INDEPENDENCE: THE LEGAL CASE FOR REMEDIAL SECESSION

- Aryan Sharma¹

There is a constant rise of separatist and secessionist tendencies all around the globe, from Crimea to Palestine to Kashmir to Balochistan, and many more. However, the international order lacks a concrete legal framework to deal with these demands for separate states. Unilateral secession and, by extension, remedial secession, have always been a topic of constant debate and deliberation among the legal community. It is critical to identify and address the issues related to the principle of remedial secession and how it can help provide legal solutions to various international issues.

DEFINITION AND TAXONOMY

Throughout international history, various forms of secession have appeared, among which unilateral secession remains the most controversial. It is defined as the creation of a new sovereign state by the secession of a portion of an existing state's territory in defiance of the parent state's objections.¹ Remedial secession is a form of unilateral secession that is implemented as a direct response to oppression, violations of human rights, or exclusion from the parent state's governance or development structures. For example, the breakup of Kosovo from Serbia is a notable case of unilateral secession. [Van Der Driest](#) further defines remedial secession as *the establishment of a newly independent state by withdrawing an integral part of the territory from an existing state, carried out by the resident population of that part of the territory, without the consent of the present State or domestic constitutional authorization, yet as a remedy of last resort to the severe injustices.*² Other forms of secession also include constitutional and consensual secession.

¹ 1st year student, Law Centre-1, University of Delhi.

ELEMENTS OF REMEDIAL SECESSION

Remedial secession, as a principle, as defined earlier, can have three major elements to it, namely, **grave injustices concerning human rights, exploitation of natural resources, and denial of internal self-determination**. Widespread violations of the people's fundamental human rights, and grave violations or denials of the people's right to internal self-determination are all examples of grave injustice concerning remedial secession³. When a serious injustice threatens to hurt a particular group of people, they should be permitted to secede for remedial purposes. A significant violation of human rights by state authorities may be used as justification for the unilateral secession of a vital portion of a state and its citizens. When the state abuses the basic human rights of the group that demands independence, secessionists' violent acts may occasionally be justified.

By itself, the exploitation of natural resources without distributing the benefits to the owners of those resources, a particular ethnic group, constitutes an element under remedial secession. First of all, it violates the right to equality, which is guaranteed by the [UDHR](#) and all other human rights accords. Furthermore, it violates the fundamental principles of the [United Nations Convention on the Elimination of All Forms of Racial Discrimination](#). Lastly, it is among the injustices that negatively impact the group's socioeconomic well-being. The exploitation of natural resources without sharing them with the rightful owners can lead to people demanding remedial secession.

Since international law acknowledges internal self-determination as the main way for peoples to pursue political, economic, social, and cultural development inside a state, remedial secession can be allowed when internal self-determination is routinely denied.⁴ The promise of internal self-determination is undermined when a group is denied access to resources, is not allowed to participate meaningfully in national decision-making, or is not given proportionate representation. Denying communities a fair share of governance and cultural expression deprives them of the advantages of state membership, even though secession is not a default right. Remedial secession, therefore, becomes a valid, last-resort method to protect the self-determination principle.

LEGAL FOUNDATIONS AND PRECEDENTS

International law neither expressly permits nor prohibits secession; it treats it as a neutral act, but it is through legal readings and past precedents that a demand for remedial secession can be articulated. The earliest discussions around the concept of remedial secession started with the process of decolonization, when the majority of colonised states were achieving freedom from the yoke of their colonisers. Their demands were mostly based on their unfair treatment and exploitation by the colonising entity, which later became the basis of the demand for remedial secession. Earliest form of legal framework for remedial was defined by the [Aaland Island Vs Finland case](#) as discussed by the League of Nations, specified that “*Separation of a minority from the State of which it forms part and its incorporation into another State may only be considered as an altogether exceptional solution, a last resort when the State lacks either the will or the power to apply just and effective guarantees.*”⁵ The report implies that the principle of secession has a wider scope, which goes beyond colonial freedom and also includes the case of exceptional denial of self-determination.

The Canadian Supreme Court in the [Reference re Secession of Quebec \(1998\)](#) also recognized remedial secession as a possible right in cases of denial of internal self-determination. The Court held that, ‘*when a people is blocked from the meaningful exercise of its right to self-determination internally, it is entitled, as a last resort, to exercise it by secession*’⁶. The Canadian Supreme Court set a standard that leaves room for the creation of states without the consent of a parent state in situations of denial of internal self-determination and gross human rights violations.

In 1994, the African Commission on Human and Peoples’ Rights in the case of [Katangese Peoples’ Congress v. Zaire](#) maintained that *In the absence of concrete evidence of violation of human rights to the point that the territorial integrity of Zaire should be called to question and in the absence of evidence that the people of Katanga are denied the right to participate in government as guaranteed by Article 12 (1) of the African Charter, the Commission holds the view that Katanga is obliged to exercise a variant of self-determination that is compatible with the sovereignty and territorial integrity of Zaire.*⁷ In this case, the disruption of territorial integrity was possible if there was evidence of serious human rights violations and a denial of internal self-determination. It is also argued by jurists that the [Kosovo](#) and [Bangladesh](#) cases can be models of secession arising from grave human rights violations.

REMEDIAL SECESSION AS A TOOL FOR FUTURE PEACE

Remedial secession can be used as a tool for stabilising peace in international conflicts by recognising the right self-determination. There are several cases where lasting peace and prosperity can be achieved through remedial secession; two cases are explained here: **Nagorno-Karabakh** and **East Turkistan (Uyghurs)**.

[Nagorno-Karabakh](#) should be granted self-determination through remedial secession because its Armenian population constitutes a clear “self-determination unit,” sharing strong ethnic, cultural, and historical ties distinct from Azerbaijan. ⁸The Nagorno-Karabakh Armenians have repeatedly sought meaningful autonomy, facing systemic barriers and threats to their human rights under Azerbaijani rule, including violence, forced displacement, and cultural erasure. International law, while lacking a formal positive norm for remedial secession, tolerates it as a last resort when internal self-determination is persistently denied, and there is no viable prospect for negotiation or peaceful settlement. The presence of Russian peacekeepers and ongoing humanitarian threats only underscores the urgency and gravity of the situation.

The [Uyghurs](#), as a geographically rooted people, appear to fulfill the three-dimensional requirement list outlined by remedial secession partisans, as they have (i) persistently been denied the right to internal self-determination; (ii) have suffered discriminatory treatments amounting to gross violations of fundamental human rights; and (iii) have resorted to all reasonable methods of settling the self-rule issue internally, particularly by accepting the institutional arrangements of regional autonomy, whose terms were violated by China. ⁹The Uyghurs have enjoyed two brief stints as independent principalities from 1931 to 1934, under the “[Turkish-Islamic Republic of Eastern Turkistan](#)” and again from 1944 to 1949, under the so-called “[East Turkistan Republic](#)”. There are active international organisations that advocate for an independent East Turkistan, namely the [World Uyghur Congress](#) and [East Turkistan Government in Exile](#). Therefore, after being submitted to such high threshold scrutiny, it seems appropriate to sustain that the Uyghurs do have a right to engage in remedial secession maneuvers.

CONCLUSION

The international legal order must develop a balanced framework that simultaneously upholds the principle of territorial integrity and recognizes the legitimacy of remedial secession in exceptional circumstances. Domestic oppression—whether political, social, or economic—poses a greater threat to peace and security than the secession of a portion of sovereign territory. Accordingly, international law should establish a structured legal mechanism that enables groups subjected to systemic marginalization, particularly those excluded from equitable access to their own resources, to pursue external self-determination through remedial unilateral secession. The persistent denial of internal self-determination thus emerges as a compelling justification for the eventual assertion of external self-determination, framed as a remedy to sustained injustice and exclusion.

ENDNOTES

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