



## SECESSION, RECOGNITION, AND INTERNATIONAL LAW: THE CASES OF KOSOVO, SOUTH SUDAN, AND SOMALILAND

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### **Abstract**

A major open topic in international law is whether or not a group can legitimately secede from an existing state and be acknowledged as a sovereign entity. Although some areas have been able to declare independence, others are still in a precarious diplomatic and legal position. Understanding how the international legal system handles secession and recognition is the purpose of this study, which explores three such cases: Kosovo, South Sudan, and Somaliland. There is a clear trajectory in each of these cases: one leads to a unilateral proclamation, another to negotiations, and the third to long-standing self-governance without international recognition. “This paper uses these cases to investigate the practical application or neglect of concepts like statehood, territorial integrity, and self-determination. Inconsistencies characterize the worldwide reaction to secessionist attempts, and this study shows how recognition is based more on political backing than on legal standards.

### **Keywords**

Secession, Recognition, International Law, Statehood, Kosovo, South Sudan, Somaliland, Self-Determination





## Introduction

Law, politics, and power all come together in secession, the process by which an area or group forms a new state apart from an existing one. Over the last hundred years, there have been a lot of separatist movements, but very few have actually achieved official statehood. The absence of a consistent and clear framework in international law regarding secession has led to varying results that are influenced by both political goals and legal rules.

At issue in this discussion is the right to self-determination, which grants individuals the freedom to choose their own political status, and the UN Charter's foundational principle of territorial integrity. There is still no clear answer to the question of when and if a group can unilaterally secede from an existing state, even if international law forbids the use of force to change borders.

In order to comprehend how the international legal system handles this conflict, this article looks at three extremely pertinent examples. Somaliland is a de facto state that is not recognized, while South Sudan is an example of a peaceful and generally acknowledged separation and Kosovo is a case of unilateral secession with partial recognition. What constitutes a state and the function of recognition in establishing or renouncing such status are essential concerns in each case's pertinent legal and political considerations.

This study seeks to clarify the murky legal landscape of secession and recognition by examining these cases through the lens of international law concepts like the Montevideo Convention, parts of the UN Charter, and pertinent judicial opinions". When does secession become permissible under international law? Furthermore, if political recognition is withheld, does it really matter to meet legal criteria?

## Legal Framework: Secession and Recognition in International Law

There are few issues of international law as contentious as the legitimacy of secession. The legislation is mostly mute on the question of whether a group has the right to secede from an existing state and establish a new one, while there are explicit regulations on the behavior of states toward each other. Because of this lack of response, discussions have centered on the extent to which international law safeguards a state's unity and the existence of any non-political legal means of secession.





The need of maintaining sovereign territory is emphasized in the UN Charter. The Charter forbids, in Article 2(4), the use or threat of force against any state's territorial integrity or political independence. "The common understanding of this clause is that it forbids any measure that would violate the territorial integrity of a duly recognized state. On the other hand, the Charter acknowledges the right of peoples to self-determination, which has long been a guiding concept in anti-colonial movements and the pursuit of political independence by many populations.

At issue in the secession argument is the conflict between the rights to self-determination and the preservation of one's territorial integrity. Although most people recognize the right to self-determination, it is typically associated with formerly colonized nations or occupied peoples who were persecuted. There is little to no legal support for the concept of a unilateral right to secede outside of those narrow contexts, and the issue continues to be contentious.

A person or organization cannot be legally recognized as a state unless it satisfies the requirements outlined in the Montevideo Convention of 1933. A permanent population, a definable region, an effective government, and the ability to establish diplomatic ties are all necessary conditions". Although meeting these criteria is a prerequisite for many aspiring governments, it is not a guarantee of legal recognition. Identifying the problem is the next important step.

A single legal rule governs the recognition of a state. In academic circles, there are primarily two schools of thought on the subject. According to proclamatory theory, it is irrelevant whether or not an entity is recognized as a state as long as it satisfies the fundamental requirements for statehood. Contrarily, according to the constitutive approach, something may only be considered a state once other states acknowledge it as such. Legal norms have less of an impact on recognition in practice than political interests, alliances, and strategic considerations.

The 2010 advisory judgment on Kosovo from the International Court of Justice was one of the few official announcements regarding secession. "The Court concluded that the independence proclamation by Kosovo did not break any international laws in that instance. Unfortunately, the Court was very cautious not to rule on the more general issue of a right to secede, hence the larger legal matter remains unanswered.





All things considered, there is no obvious way out of a legal bind for secession under international law. Present regulations are more suited to preserving the integrity of already-established states than to facilitating the formation of brand-new ones. Given the lack of well-defined legal criteria, the success or failure of any separatist movement is frequently dependent on the backing of foreign powers rather than any inherent right to recognition.

### **Comparative Case Studies**

Using three separate cases, this section examines the ways in which international law interacts with secessionist assertions. In their quest for independence, Somaliland, South Sudan, and Kosovo all took various approaches. Despite possessing the characteristics of a functional state, Somaliland continues to go unrecognized, in contrast to South Sudan and Kosovo, which have obtained varied degrees of international recognition. Secessionist movements are influenced by political decisions and legal principles, as these case studies show.

#### **A. Kosovo**

Kosovo declared independence from Serbia in 2008 after years of ethnic conflict and international administration under the United Nations. Its path to statehood was not through agreement with Serbia, but rather through a unilateral declaration. This raised legal questions about whether such a move was valid under international law.

In 2010, the International Court of Justice gave an advisory opinion stating that Kosovo's declaration of independence did not violate international law. The Court focused on the fact that no rule explicitly prohibited declarations of independence. However, the opinion did not address whether Kosovo had a legal right to secede or whether other states were obligated to recognize it.

Despite this ambiguity, over 100 countries have recognized Kosovo as an independent state, including the United States and many European countries. However, others such as Russia, China, and Serbia continue to reject its status". Kosovo's situation highlights how recognition is often influenced by politics rather than legal criteria alone.

#### **B. South Sudan**

South Sudan followed a different route. After decades of civil war with Sudan, a peace agreement was signed in 2005. "As part of this deal, South Sudan was granted the right to hold a referendum on independence. In 2011, the people of South Sudan voted overwhelmingly to secede, and the government of Sudan accepted the result.





This peaceful and mutually agreed process led to immediate recognition from the international community. South Sudan was quickly admitted as a member of the United Nations, becoming the world's newest recognized state. In legal terms, South Sudan's case is one of the clearest examples of a consensual secession.

Its success shows that when secession occurs with the approval of the parent state and is supported by international institutions, the legal and political path to recognition becomes much smoother.

### **C. Somaliland**

Somaliland declared independence from Somalia in 1991, following the collapse of Somalia's central government. Since then, it has developed its own political system, held democratic elections, maintained internal stability, and provided services to its population. By many measures, Somaliland functions as a state.

However, it has not received recognition from any member state of the United Nations. The African Union and the United Nations have both remained cautious, largely due to fears of setting a precedent that could encourage other secessionist movements on the continent.

Even though Somaliland meets the traditional criteria for statehood laid out in the Montevideo Convention, the lack of recognition keeps it in legal limbo". Its experience shows that meeting the legal conditions for statehood is not always enough without the backing of powerful international actors.

### **Critical Analysis**

All three examples show that there are no hard and fast rules when it comes to secession and international law. The result of each separatist movement is frequently dictated by politics rather than the law, even though legal notions like as territorial integrity, self-determination, and statehood offer a fundamental framework.

The example set by Kosovo demonstrates that a new state can acquire global recognition with the support of influential nations even in the absence of approval from the parent state. However, despite Somaliland's functional statehood, it is still not recognized, mainly due to concerns that the African Union and other important international actors may encourage further separatist claims. South Sudan was able to achieve its success by adhering to a peaceful and negotiated process that enjoyed early and consistent support from throughout the world.





Strategic objectives, rather than legal justice, appear to be the underlying basis for recognition in many cases. In places like Africa, where colonial borders are still in effect, there is an obvious preference for keeping them that way. Instead of being seen as a valid means to self-governance, secession is thus typically viewed as an outlier.

These inconsistencies are not well-served by international law. “It permits powerful states to influence results to suit their interests and provides too much space for interpretation. Because of this, some secessionist claims are given more weight than others, even when the underlying legal arguments are identical.

### **Conclusion**

The legal complexities surrounding secession and recognition persist to this day. While concepts like the right to self-determination and the requirements for statehood provide some direction, no hard and fast rule dictates the circumstances under which secession is permissible or the appropriateness of recognizing a newly formed state.

Kosovo, South Sudan, and Somaliland are all examples of regions that saw significant changes after taking distinct routes to independence. Despite its unilateral action, Kosovo was able to gain recognition from the international community. Negotiations and international assistance led to South Sudan's independence. Somaliland is still not a member of the group of acknowledged nations, even though it has upheld the peace and order necessary to be considered a state.

There has to be more transparent international norms to address this disparity. In their absence, political interests, rather than the rule of law, will determine the destiny of prospective governments”. To avoid unfairly and inconsistently judging future separatist movements based on global power dynamics alone, a more principled and balanced approach is needed.

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