IS SECESSION DEMOCRATIC?

“Plainly, the central idea of secession is the essence of anarchy.”

Abraham Lincoln’s Inaugural Presidential Address, March 4, 1861

I. Introduction

The Freedom House’s *Freedom in the World 2014* report states that, at the end of 2013, the total electoral democracies in the world numbered 122 out of 195 nations. Granted, these nations may not necessarily all be considered “free countries” as measured by Freedom House\(^1\); they may even be “partly free countries” or even “not free countries.” Nonetheless, what is important here is that approximately 60% of the world’s nations hold elections – even if they are *de facto* electoral autocracies in the Moller and Skaaning (2013) sense – which implies that 60% of the world’s nations perceive value in democracy above the opportunity cost of some other regime of governance.

What is perhaps more remarkable is that these elections, wherever they are along the spectrum, generally encompass the entire adult population in their respective nations. Just a century ago, only four nations in the world – Australia, Finland, New Zealand and, as per Keane (2009), the Pitcairn Islands – extended the franchise to women voters. Thus, given that the majority of the countries in the world are now electoral democracies and that within these electoral democracies, all adults generally have the right to vote, it would stand to reason that we live in unprecedented times. Never before has this many people been afforded the right to make a choice for themselves on the politicians they want to empower, the issues they want to address and the governments they want to rule.

That said, people do have heterogeneous preferences. One person may prefer a politician who campaigns for the restriction of immigration while another may prefer a politician who advocates for open borders.

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\(^1\) The measurement is essentially a weighted average, on a scale from 1 to 7 on a country’s Political Rights and Civil Liberties.
Similarly, one person may prefer to vote for Barack Obama while another may prefer to vote (or, at this time, to have voted) for Mitt Romney. While there are differing methods to resolve these differences in preferences such as first-past-the-post voting or preferential voting, the key point remains – people want different things.

This paper considers a special case of those “different things.” Specifically, this paper asks the question, “If the ‘different thing’ that people want is secession, would that still be democratic?” If a group of citizens decide that they no longer want to be citizens of a given nation and intend to form their own nation, would that be democratic? This paper explores the question of secession and democracy by attempting to construct a conceptual framework with which to understand if secession is democratic. I argue that if we value democracy as good in and of itself because it provides individuals with the right to self-determinacy, then individuals who wish to secede from a nation can democratically do so, given three important caveats. With this framework in mind, I then consider two historical cases of secession; the first is the secession of the Confederate States of America during the American Civil War and the second is the secession of Bangladesh from Pakistan in 1971.

This paper is organized as follows. Section II discusses the definitions used in this paper to answer the question, “Is secession democratic?” Section III attempts to construct a conceptual framework towards answering that question. I argue that secession is indeed democratic despite various complications given the unique nature of secession as a democratic issue. Section IV evaluates the case of the Southern United States during the American Civil War from the perspective I construct in Section III. Section V applies the conceptual framework to the case of the secession of Bangladesh from Pakistan in 1971. Section VI concludes.
II. “Secession” and “Democracy”

In their book, “Creating New States: Theory and Practice of Secession,” Pavlovic and Radan (2007) review and critique the literature on the definition of secession, and provide a definition of their own. I take their definition of secession which is as follows:

“Secession is the creation of a new state by the withdrawal of a territory and its population where that territory was previously part of an existing state.”

For the purposes of this paper, I do not consider independence from colonial masters as secession. Secession, in this paper, encompasses instances where a secessionist state, which was in a union with the original state at independence from, say, a colonial master, chose to later secede from the original state after independence. Thus, India’s independence from Great Britain does not count here as secession while Bangladesh’s independence from Pakistan does.

The next definition to consider is that of “democracy.” A common definition of democracy, used by several scholars such as Tudor (2013), Moller and Skaaning (2013) and others, is the definition proposed by Joseph Schumpeter (1942) in his book, “Capitalism, Socialism, and Democracy.” Given the popularity of this definition, it is worth discussing the merits of adopting Schumpeter’s definition. Specifically, he states that, “In a democracy…the primary function of the elector’s vote is to produce government.” He thus defines the democratic method as follows, “…the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.” Schumpeter further states that, “…the deciding of issues by the electorate is secondary to the election of men who are to do the deciding.”

Thus, the Schumpeterian view of democracy is a functional one. It is simply meant to produce a government which will determine which issues are important to the state and how those issues are to be
handled, regardless of whether voters care about those issues or not. It makes no judgment on whether
democracy is “good” in a normative value sense, but rather focuses on democracy’s capacity to efficiently
produce “governors” in government. Even if we assume that people always choose those who have the
greatest capacity to govern, this definition is hampered by its negligence of issues and of ideals. It is true
that people may want self-determinacy to choose whichever leader they want; however, it is also true that
people may want self-determinacy to choose the issues and policies that they care about. The same is true
of ideals. Furthermore, nations that are governed by individuals rather than being built around ideals or
principles, flawed though those ideals may be, are also likely to be more cohesive and to have a more firm
sense of purpose. Therefore, any definition of democracy must not be exclusive in the types of things that
citizens may care about.

I thus reject the Schumpeterian definition of democracy and take an alternative definition of democracy,
motivated by the notion that democracy is not just functional, but has a value in and of itself because it
provides self-determinacy for individuals. For the purposes of this paper, I employ a definition used by
Przeworski et al (1997), built on the definition expounded in Robert Dahl’s (1971) “Polyarchy” where he
treats as democratic “all regimes that hold elections in which the opposition has some chance of winning
and taking office.” This key reason this definition is persuasive is that it implies that citizens have both de
jure and de facto self-determinacy. Since they have the capacity to change the government, regardless of
why they want to change the government, they must therefore have the capacity for self-determinacy.
Dahl’s definition is consistent with Moller and Skaanning’s (2013) argument that regimes which are not
competitive do not qualify as being democratic, even if they do hold elections. From this, I therefore
define democracy even more minimally whereby a government that practices democracy is one that de
facto and de jure enables its citizens to have self-determinacy, along whatever terms that they so choose.

With these definitions in mind, the question then becomes, “Let us suppose that citizens of a given state
want to create a new state by the withdrawal of a territory and its population where that territory was
previously part of that existing state. Under a governance regime where these citizens have self-determinacy, should secession be viewed as legitimate – since citizens do have the right to self-determinacy – by the given state, particularly in the case where the territory and population in question is a minority territory and population?”

III. Why Secession is Democratic

On a prima facie basis, if an individual or a group of individuals want to have self-determinacy for themselves and seek to build their own state, it seems straightforward to argue that they should be allowed to do so and enabling them to do so would be democratic. After all, why would this case be different from cases of decolonization in the twentieth century? If the primary argument for decolonization is to be able to determine for oneself one’s future trajectory, independent of the decisions and inclinations of some colonial master, why should that argument not hold in the case of secession as well?

Therefore, from a positive perspective, it stands to reason that secession is democratic because it grants individuals or communities the right to self-determinacy. In the United States’ Declaration of Independence, the document states:

“When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected when with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.”

Therefore, if the causes are justified – in this paper, I shall be agnostic on these causes; I will assume that they are justified – “one people” can dissolve political bands. This can easily be extended to secession.
“One people” can dissolve political bands and then form a new state to have self-determinacy. Denying individuals the right to form their own state is akin to denying individuals the right to self-determinacy.

The argument that the right to self-determinacy justifies secession is not without its weaknesses. The difficulty in addressing this issue comes from the uniqueness of secession as a democratic governance issue. Secession is unique for three reasons. First, secession is logistically difficult. To illustrate, should one person and one person alone be allowed to secede? What about a thousand? One million? Furthermore, there is also the issue of territory; the creation of a new state requires that the new state have territory. Second, secession implies renouncing the laws and constitutions of the original state in favor of the laws and constitutions of a new state. This is different from, for example, choosing a different politician than the incumbent to be President; this is done within the realm of the original laws and constitutions and, in no way, requires the complete renouncement of the original laws and constitutions. Third, what of the majority? Should the majority of citizens who do not wish to secede have a say in the outcome of this secession? I tackle these issues in turn.

On the first issue, forming a new state requires thinking through logistical issues. While logistical issues are democratically agnostic per se, the consequences of logistical issues have value in the analysis of democratic secession. Let us first consider numbers, N. If one thousand people choose to secede, is that inherently different from 999 people choosing to secede? If we continue decreasing one person at the margin and we agree that each of these people have the right to self-determinacy and thus the right to secede democratically, then at some point, we arrive at the notion that just one person can democratically secede by herself. While it seems strange to think of a sole secessionist, I argue that that person’s right to self-determinacy alone should make the decision to secede prima facie democratic though it would be highly infeasible. For instance, a very small state will likely face heightened economic costs from currency exchange (Mundell, 1953) and border costs to trade (Engel and Rogers, 1996) as it may be less self-sufficient economically and may have capacity for production, whereas a large seceded state of
1,000,000 people is more likely to be able to have more goods and services to trade with one another. That said, secession being infeasible is not the same as secession being undemocratic.

On the other hand, the issue of territory is both a logistical and democratic issue. Since forming a new state implies having some territory, how should that territory be decided upon? If the original state opposes the secession, why should it grant its globally-recognized territory to this new secessionist state? Do people have a right to territory? The argument for this particular right is not as obvious. Rejecting secession on the grounds of rejecting territorial secession is, to me, not undemocratic. However, negotiations on handling the issue of territorial secession – whether it is indeed later granted or not – should also not be handled by violent force by any party because employing violent force implies forcibly taking something against the will of a given individual or, even, a group of individuals. Against this backdrop, attempts to annex or defend chosen territories via non-democratic means, such as force, are undemocratic. Yet, as Therborn (1977) has pointed out, most democracies in the world occurred via violent conflict and, as such, assuming that violence is not a potential factor in territorial secession would be naïve. Thus, it is more helpful to also consider violence within this framework. I thus distinguish between the initiators of violence and those who are forced into violence due to self-defense. If the original state chooses to be aggressive from an arms standpoint in defending its territories, then the original state is being undemocratic; similarly, if the secessionist state attempts to wrest control of a given territory via violence, then the secession movement is no longer democratic.

On the second issue, secessions usually occur because people no longer want to abide by the laws and constitution of the original state, or that the original state has abused the original law and constitutions that it propounds. Yet, rather than attempting to overthrow the present administration, people may choose to form their own state. To form their own state, they must therefore form their own set of laws and constitutions, thereby renouncing the laws and constitutions of the original state. However, if rule of law is associated with democracy, then one can certainly posit the argument that secessionists who wish to
renounce the rule of law would therefore be undemocratic and thus, secession would be inherently undemocratic. There are two objections to this. First, this argument implies that all battles for independence in the past are inherently undemocratic, since independence strugglers, by definition, do not acknowledge some foreign nation as their master and thus, reject the laws and constitutions of that foreign nation\(^2\). Given that self-determinacy is inherently democratic, independence struggles for self-determinacy cannot be automatically ruled or judged as undemocratic. Second, it is not that secessionists do not believe in the rule of law; it is that they do not believe in the rule of law of the *original state*. They may very well adhere to the rule of law in their new seceded state.

The third issue is the most contentious. What if a minority of, say, one million people – bounded together by, for instance, ethnicity, geography, religion or similar links – choose to secede and form their own state, but the majority of nine million other people – all of whom belong to the original state – oppose this secession? For instance, what if, in that nation of ten million, the one million who wish to secede are the ones who control the nation’s natural resources? Therefore, seceding would mean a large negative income shock for those nine million other people. More generally, if there are negative externalities of secession to a majority of “original” citizens, it is not obvious that secession is democratic even in the self-determinacy sense. Like the one million secessionists, the remaining nine million people, whose lives may be significantly impacted, also have the right to self-determinacy and if that self-determinacy involves sharing in the opportunities provided by the original nation’s natural resource wealth, it is difficult to suggest that they should not be granted that claim. The rights of the majority for self-

\(^2\) Along these lines, the secessionists may not have been born when the original laws and constitutions of the original state were set in the first place. They may not have an active role in the determination of these laws and constitutions and thus, they may have written something different, given the choice. If that person was arbitrarily born in the United States (or any other country), why should that person be subject to the laws and constitutions of that country which were written long before that person was born? Of course, if the person wants to enjoy the benefits of being a United States citizen, then that person should be prepared to deal with the United States’ laws and constitutions. If that person does not, and wants to secede, would it be fair to label that person’s decision not to partake in the laws and constitutions that that person did not write and did not have a say in as undemocratic? It would be difficult to argue in the affirmative as it would imply that individuals are responsible for the decisions of others in which they had no input.
determinacy must also be respected and are as valid as the rights of the minority who intend to secede. Thus, attempts for secession where negative externalities are very high to the non-secessionist citizens, to the extent that those non-secessionist citizens would democratically oppose the secession movement, are not democratic. Self-determinacy for the intended secessionists must therefore be determined by some manner other than secession\(^3\).

I have argued that the right to self-determinacy is the building block of the decision to secede and that that right is inherently democratic. I have also addressed complications arising to both the feasibility and, more importantly for the sake of this paper, the democratic-ness of secession. I therefore put forward the argument that secession is democratic because individuals should have the right to self-determinacy but with the following caveats. First, the original state must acquiesce to providing territory for the secessionists via democratic means such as diplomacy or a national referendum, as opposed to, say, armed conflict. Any arms-based aggression from either party that is not in self-defense is undemocratic. Second, the new state must obey rule of law; otherwise, it would descend into an undemocratic nature. Third, the secession outcome must not have large negative externalities on non-secessionist citizens. If those caveats are met, then secession is democratic.

IV. Case Study 1 – The Confederate States of America

I apply the framework I derived in Section III to two case studies. Section IV considers the case study of the Confederate States of America, which was a collection of states in the Southern United States that chose to secede from the Union in the years leading up to the American Civil War. The initial Confederate States of America were South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana and Texas. The first of the states to secede was South Carolina. South Carolina seceded, by a vote of 169

\(^3\) Likewise, if within the region that has ambitions of secession, there exist individuals who would prefer not to secede and remain within the original state, it would violate their right to self-determinacy if they were not given the option to relocate to the original state. I would argue that the burden of undertaking the transition for those individuals fall primarily on the seceding state.
to 0, on December 20, 1860, invoking the Declaration of Independence to defend their right to secede from the Union. The South Carolina Declaration of Causes of Secession states:

“A struggle for the right of self-government ensued, which resulted, on the 4th of July, 1776, in a Declaration, by the Colonies, “that they are, and of right ought to be, FREE AND INDEPENDENT STATES; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do.”

They further solemnly declared that whenever any “form of government becomes destructive of the ends for which it was established, it is the right of the people to alter or abolish it, and to institute a new government.”

Following the South Carolina decision, the other six states seceded by February 1861. These Confederate states justified their secession decisions by “arguing that the Constitution was a compact among states that could be abandoned at any time without consultation, and that each state reserved the right to secede from the compact.” The Confederate States elected Jefferson Davis as President of the Confederacy and adopted a governmental structure closely modeled on the United States Constitution.

While the Confederate states justified secession by invoking the right to self-determinacy of states as per the United States Constitution, it is very likely that the Southern decision to secede had much to do with the future of slavery. Secessionists perceived the potential dangers posed by President Abraham Lincoln and his Republican Party to the maintenance of slavery as a labor system in the South and the expansion of slavery into the territories (Calomiris and Pritchett, 2013). Yet, rather than attempting to resolve this

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concern via politicking and diplomacy, the Confederate states chose to secede. It is worth noting, especially against the backdrop of the framework I propose, that the justification for secession given by the Confederate states was on the right for states to be independent and, as such, have self-determinancy.

Thus, the Confederate states attempted to secede via democratic means – they held elections on the secession decision and they even attempted to justify secession within the rules and constitution of the original state. Moreover, they then created their own constitution and rule of law after secession. Thus, the second caveat in the framework is satisfied. On addressing the first caveat, it is, first, worth noting that secession here was feasible. The majority of 9 million Southerners did vote for secession; they had the same cultural “values” that they cared about in this given context and, importantly, from an economic standpoint, the South produced almost 75% of all United States exports in 1860. However, the point on territory was, literally, a battle. Abraham Lincoln refused to recognize the Confederate government as legitimate and declared secession “legally void” in his first Presidential inauguration address. Peace talks failed and the Union refused to acquiesce territory to the Confederates. Thus, any Confederate control of territory had have to been won via armed conflict and indeed, the Confederates threw the first punch when it fired upon Fort Sumter, a key fort held by Union troops in South Carolina in April 1861. This is not consistent with a democratic secession as per the framework above. On the third caveat, I argue that there were large negative externalities to the Union citizens as a result of secession. As mentioned earlier, the South produced almost 75% of all United States exports in 1860, which were primarily cotton. Southern secession would imply that their Northern neighbors would face tremendous economic stress. It is therefore likely that the North would have voted against Southern secession and, consequently, this secession is not democratic as per the framework in Section III.

Thus, while the justification for Southern secession by Southern states was indeed democratic and while they also employed the rule of law in the new Confederate States of America, the South’s secession was
not entirely democratic given the need for armed conflict to establish its territories and the likely large negative economic externalities that secession would have imposed on the North.

V. Case Study 2 – Bangladesh

In 1947, Pakistan and India gained independence from Great Britain. This enabled citizens on the Indian subcontinent to have a permanent home for Muslims in Pakistan and for Hindus in India. Pakistan comprised of two distinct, geographically and culturally, regions which were West Pakistan and East Pakistan, which later became Pakistan and Bangladesh respectively. In March 1971, an East Pakistani political party (the Awami League) emerged as the largest overall party in Pakistan during the 1971 elections, gaining the mandate to govern Pakistan in terms of both seats and voters. However, this election victory was ignored and unrecognized by the West Pakistan establishment. The East Pakistani citizens demanded that the Pakistani military junta either accept the election results or allow for the secession of East Pakistan. These calls went unheeded. This incident further compounded on the East Pakistani citizens dissatisfaction with the West Pakistan government’s poor response to a devastating cyclone that killed up to 500,000 people in East Pakistan and overall frustrations with the central government over economic and cultural issues.

Events came to a head with a violent crackdown by West Pakistan on East Pakistan, in what was later known as “Operation Searchlight.” The very next day, enraged by Operation Searchlight, the Awami League leader Sheikh Mujibur Rahman declared East Pakistan as a sovereign, independent state known as Bangladesh. West Pakistan did not take this declaration lightly. A 9 month civil war broke out, in which the civilian death toll was estimated to be at least 300,000 people. Moreover, the war saw the exodus of 10 million refugees and the displacement of 30 million people. India joined the war in December 1971, culminating in West Pakistan’s surrender just about two weeks later. East Pakistan officially became Bangladesh and was officially a sovereign, independent nation.
Immediately, it may be argued that the violent bloodshed, in clear violation of caveat one, over Bangladesh’s secession makes the secession undemocratic. However, Bangladesh were not the aggressors. West Pakistan initiated the violent Operation Searchlight which then forced Bangladesh into hostilities on grounds of self-defense. It is also clear that Bangladesh wanted to be independent; it did not want to be under the rule of the Western Pakistani elite who had underserved East Pakistan in favor of West Pakistan. It wanted the capacity to forge its own way and to have self-determinacy, which made the motivation for secession democratic. Turning to caveat two, following Bangladesh’s independence, the Bangladeshis crafted the Constitution of Bangladesh which proclaimed a secular parliamentary democracy. While it is true that military rule governed Bangladesh from 1975 to 1990, it is also true that Bangladesh attempted to begin its new path as a democracy. It wanted to provide self-determinacy for its citizens, as opposed to authoritarian rule. On the third caveat, it is not clear what negative externalities the secession of Bangladesh could have imposed on Pakistan. East Pakistan was hardly the driver of Pakistan’s economy and it was, as mentioned earlier, culturally different as it were and held no real political benefit to West Pakistan. Thus, the point of self-determinacy is satisfied and caveats two and three are likely satisfied. Moreover, caveat one is also satisfied despite armed hostilities, given that Bangladesh acted in self-defense and not as aggressors. Bangladesh’s secession can thus be viewed as being democratic.

VI. Conclusion

I have attempted to answer the following question. “Let us suppose that citizens of a given state want to create a new state by the withdrawal of a territory and its population where that territory was previously part of that existing state. Under a governance regime where these citizens have self-determinacy, should secession be viewed as legitimate – since citizens do have the right to self-determinacy – by the given

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5 This is especially true given that East Pakistan won the 1971 elections. West Pakistan did not need East Pakistan to stay in power; if anything, it would rather not compete with East Pakistan to retain power.
I answered the question by arguing that secession is democratic because individuals should have the right to self-determinacy but with the following caveats. First, the original state must acquiesce to providing territory for the secessionists via democratic means such as diplomacy or a national referendum, as opposed to, say, armed conflict. Any arms-based aggression from either party that is not in self-defense is undemocratic. Second, the new state must obey rule of law; otherwise, it would descend into an undemocratic nature. Third, the secession outcome must not have large negative externalities on non-secessionist citizens.

I then used the framework to understand two major secession movements in world history. The first was the secession of the Confederate States in the American Civil War in 1860-61 and the secession of Bangladesh from Pakistan in 1971. While greater detail and depth is certainly required for the analysis of those events, it is beyond the scope of this paper. Instead, I have used the large “summary facts” of those secession movements to understand whether those movements were democratic against the backdrop of the paper’s framework. I conclude that the Confederate secession was undemocratic while the Bangladesh secession was democratic.

Contrary to President Lincoln’s comment, the central idea of secession is not the essence of anarchy. It is the essence of self-determinacy. Citizens who no longer want to be part of any state and want to form their own state can have legitimate justifications, such as in the case of Bangladesh and, to some extent, the United States South, for doing so that are not anarchic in nature. What is paramount, however, is that the secession movements must be democratic; undemocratic secession movements, such as forceful hostilities to claim territories from other individuals, undermine the objective of secession itself, which is the capacity for citizens to have self-determinacy of the state or government under which they live.
References


