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MINORITIES' CLAIMS: FROM AUTONOMY TO SECESSION, INTERNATIONAL LAW AND STATE PRACTICE by Gnanapala Welhengama. Burlington, VT: Ashgate Publishing Co., 2000. 342pp. Cloth $84.95. ISBN: 1-7546-1077-2.

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The effort of a group to break away from a preexisting national polity and to recreate itself as a separate nation state is invariably a high profile story. When that effort is conducted through warfare, its notoriety is enhanced. The brutalities of civil wars, the fierceness of commitments with which they've been fought, the inhumaneness of tactics employed, and their frequently prolonged duration have all been hallmarks of secessionist movements. The post World War II decolonization process was heralded with the breakup of "British India" in an anticipatory effort to avoid the consequences of a secessionist civil war. That policy was not extended to Africa, and the civil wars in Nigeria and Sudan followed. Nor was the British decolonization process unique in underpinning civil wars. The Katanga secessionist movement in the Congo, a former Belgian colony, first squarely confronted the new international order of the United Nations system with the
need to make pronouncements on the legality of secession. The French may have handled well the peaceful disintegration of the federation of its former colonies in West Africa, but the wars in Algeria and Indochina were as much civil wars as they were wars of decolonization or "liberation." The secessionist movements in Chad and the Comoros are not less wars of decolonization because academics and journalists outside of Africa have ignored them.

In all of these cases, it is fair to say that the civil wars were indeed wars of nation building. The local inhabitants of former colonies who had had no voice in the political demarcations of their territorial boundaries were using their newly found independence to attempt to redraw those maps for themselves. With the spectacular exception of Bangladesh, buttressed as it was by Indian might, most of the secessionist movements failed. They did so in no small measure because their claim to separate national identity often foundered on the shoals of the legal doctrine of uti-posidetis, which delegitimized external assistance to secessionists.
Proponents of secession as the expression of the right to self-determination thus were in glum retreat --if not outright rout--by the mid-1970s.

The disintegration of the Soviet Union and of Russian hegemony over Eastern Europe at the turn of the last decade propelled forces of nation building that were not unlike those exposed in the decolonization processes of Africa and Asia a generation earlier. Bosnia, Kosovo, Krajena, Chechnya and Nagorno Karabakh have entered into the international relations vocabulary much the same way that the Congo, Biafra and Bangladesh did. However, are Bosnians or Kosovars any more entitled to form a distinctive political entity than were the Katangans or Igbos? Also, do the claims of these groups raise different or similar legal questions to those

of some Quebecois in Canada, or of "indigenous" or "aboriginal" peoples in Australia or Latin America?

These ongoing debates, like most interesting debates, are not susceptible to easy answers. In any case, those events in Eastern Europe and Central Asia have rekindled interest and scholarship as to the basis, if any, by which identifiable groups justifiably can withdraw their loyalty from an existing political entity and give it to another of their own choosing; and, just as fundamentally, whether the international system ought to lend legal legitimation to the process. The trumpet blasts of "political independence and territorial integrity" which characterized the Afro-Asian moment have now met their matches in the blaring slogans of "humanitarian intervention," "human rights violations," "ethnic cleansing" and "genocide" which now dominate the discussion of these issues. It is to this cacophonous debate that Dr. Gnanapala Welhengama seeks to make a contribution in his MINORITIES' CLAIMS: FROM AUTONOMY TO SECESSION. His contribution is framed resolutely in purely legalistic terms.

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The introductory chapter attempts to situate the framework of the book by presenting a historical sketch of the problems that "minorities" have posed for state systems over time, and the responses those claims have generated. It is these interactions that frame the basic theme of the book, and according to Dr. Welhengama, "[u]ltimately, everything comes down to boundaries. Minorities' concerns have always been with the reconstruction of existing boundaries, because most minority groups think either that they are on the wrong side of the boundaries or that the territories inhabited by the minority groups are not properly recognized in terms of the ethnic or national origin of their population. The common perception amongst minority groups appears to be that the frontiers should be flexible and changes should
be made to existing borders taking into account ethnic, racial and other differences in contemporary multiethnic polities" (p. 22).

Dr. Welhengama is of the view that there is not -- at least under international law--a "right" to secession, and as such, minorities at best can only make a "claim" to some kind of "autonomy", not a "right" to secede. The justification of this claim takes him from a description of the benevolence of the Ottoman Millet system, through the idealized confusions of the Post-World War I League of Nations scheme, to the pragmatism of the United Nations and the turbulent domestic discussions going on in several Western societies as to whether "the very idea of equality amongst individuals will be violated by the application of any preferential treatment
based simply on race, color, ethnic or national origin, or the religious, linguistic or cultural characteristics of a group of citizens in a given State." This is a lot to cover in a single chapter, but were these provided simply as the appetizer of the more to follow, this reader would have little complaint. Unfortunately, Chapter 1 stands out as an essay unto itself, and it is only barely relevant to the rest of the book. However, it is the chapter most worth reading.

The remainder of the book is essentially a deployment of the classic skill of a lawyer as a "wordsmith," aided and abetted by the tendency of the academic to rely on the statements of others (preferably through extended quotations) to make elliptical points. There are thus extended and ultimately indeterminate and ineffectual efforts to define such crucial terms as

"minority," "autonomy," and "self-determination." Thus, we're provided with a "dictionary" definition of minority as "the condition or fact of being small, inferior, or subordinate" (p. 46). We're then told that the term "minority" was in use in religious literature as early as 1646, and that Edmund Burke used it as early as 1790 (p. 46). All this is all a prelude to the reader being told that, "in terms of general international law there is no precise definition of the term (pp. 47-48). And yet the writer, purportedly relying on international law, simply decrees that the minority groups he's interested in have been defined in terms of "religion, language,
culture, ethnicity, nationality and race." Excluded from this grouping, he notes, are the "aged, gays and the "disabled" (p. 2); and this reviewer might add, the ideologically unfashionable members of any society. Precisely what role the dictionary or historical definitions of "minority" play in this dichotomy is elusive to this reader. That is not to disagree with his choice, it is to assert that much of the historical and dictionary definitions ultimately prove to be pointless; and this is a pervasive difficulty with the book.

Similarly, the reader is given etymological derivations and historical usages of such terms as autonomy, federalism and self-determination, but no use is subsequently made of such information in the formulation of the arguments of the book. It was certainly unclear to this reader what role the various classifications or attributes of minority status play in the study. I doubt that the book would have been any different if the writer simply accepted a quoted definition of a "minority as "a non-dominant group, [which] while wishing in general for equality of treatment with the majority, wish [sic] for a measure of differential treatment in order to preserve basic characteristics which they [sic] possess and which distinguish them from the majority of the population" (p. 51). Put another way, if international law
treats the claims of minority groups differentially on the basis of the attribute of the group, this book does not endeavor to show it, and the effort to distinguish among minority groups on account of their ethnic, racial, linguistic or religious identification appears to have no relevance for the subjects under study. The issues addressed could just as readily have been posed and resolved with regard to group identification based on gender, sexual preference or ideological compatibility.

The book abounds with indications of extensive familiarity with the academic and diplomatic literature on the subjects of the rights of minorities, as well as on the place of autonomy, self-determination and secession in international law. The numerous quotations attest both to the obvious interest these subjects have for writers, as well as to Dr. Welhengama's diligence in ferreting out these sources. The notes and references are rich sources for the bibliographer interested in the varied
subjects Dr. Welhengama exposes over the course of his tour.

And yet, despite the facial breadth of coverage, the literature invoked is limited to those that might be found in a law school's library. There is virtually no indication of awareness that political scientists, international relations experts, sociologists or other social scientists have also studied these issues extensively. This is a regrettable omission given the extensive empirical and statistical material that have been compiled in recent years on the nature and sources of the status of being a minority, the structure of "ethno-nationalist" claims, and the relevance of such material to the arguments advanced (Gurr 1993). For

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example, a basic contention of the book appears to be both that minority claims are more often claims for autonomy than for secession, and that international law is favorably disposed to the former (or at least moving towards it), but not to the latter. Obviously, the first claim is one that can be supported through statistical and
anecdotal evidence, but none is provided.

Moreover, the "international law" that one encounters in this book is highly formalistic in character. It is the law of academic essays, of the occasional judicial opinion, and of the statements of diplomats and official rapporteurs. Even within the narrow confines of international law, and despite the book's subtitle, little is made of the actual practice of states, as opposed to official and academic pronouncements.

A striking but all too frequent example of this remarkable omission can be found in Dr. Welhengama's discussion of the legitimacy under international law of the secession of Bangladesh from Pakistan (pp. 291-93). This is the most developed of the examples that he uses in Chapter 11 to demonstrate the illegality of secession under international law. The reader is given a perfunctory account of the background to secession, and an equally unilluminating discussion of the extent to which then prevailing legal understandings of the concept of self-determination justified the break away of East Pakistan. United Nations pronouncements and votes are recorded with equal brevity. The views of a few academic scholars are quoted, but with nothing approaching close scrutiny. At no time is the reader told of the significance of Indian intervention in the Pakistan-Bangladesh civil war, let alone the extent to which that intervention might have influenced the change in views and votes at the United Nations. This is not an inconsequential omission in a study about international law and state practice. As a reader, I would have liked to know what significance India's military intervention in support of a secessionist movement (and its tacit acceptance by the community of nation states) had for Dr. Welhengama's claim that there is no right to secession in international law. Such information might aid the evaluation of current legal issues posed in the Balkans; a state of affairs frequently referred to by Dr. Welhengama, but not seriously analyzed.

The forewords to the book, of which there are two, disclose that Dr. Welhengama is a Sri Lankan forced into exile on account of that country's civil war. I plunged into the book then, with the expectation that, in addition to providing the academic account of the rights (or as Dr. Welhengama prefers "claims") of minorities in international law, the reader might have the benefit of views that are informed by the close personal proximity of the writer to the subject matters under discussion. This proved to be a forlorn hope. The early chapters which present a historical account of the views of diplomats on the subject of the rights that should be accorded minorities draw much of their strength from the breadth of views represented: notably Latin American, European, Asian, African and North
American. Unfortunately, much of the rest of the book lacks this representative reliance on world opinion. With the exception of the views of United Nations rapporteurs, Discussions of autonomy, self-determination and secession, whether in the context of Africa, Asia or Eastern Europe, draw their material overwhelmingly from the academic writings of Western legal scholars. Much of that writing is frequently academic, not for being theoretical or abstract, but for being ahistorical. There are, of course, Western journalists and academic historians

who have given lively accounts of many of these issues, but those works are conspicuous by their absence from this study.

Nor does Dr. Welhengama inject any of his own personal observations to enrich the narrative. Where he presents his own views (as opposed to the academic assertions of others), they tend to be in summary or conclusory fashion. Take as an example his adoption of the term "postmodern tribalism." At no point is this term explained. And yet this is surely a contested term, whose validation for general purpose usage should be influenced by the enlightened elucidation of persons like Dr. Welhengama who, one might expect,would bring to the issue the pull of heartstrings along with those of cerebral intellect.

Finally, a persistent question that gnawed at me throughout the book was the identity of the audience for whom it was intended. The absence of clearly articulated thesis and a careful defense of that thesis would seem to rule it out for most serious academics. Although postgraduate and law students will doubtless find the extensive notes and references useful, I doubt they would learn a whole lot from the textual material. Also, the book is much too narrowly focused to be of interest to a general readership or to undergraduate students.

REFERENCE:

Gurr, Ted Robert. 1993. MINORITIES AT RISK: A GLOBAL VIEW OF ETHNOPOLITICAL CONFLICTS. Washington, D.C.: United States Institute of Peace Press,

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