

# **Design for an Assessment of Gaining Access to the International Interoperability Systems in the Bid for Secession**

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## Introduction

Positioning for peace in sovereignty based conflicts where secession is threatened is a contentious issue which has come to be fought at increasingly enormous social and economic costs. From such wars between the government's military forces and threatening secessionist fighters, occasional lulls and rarer sessions of Peace Talks comes the literature of 'lessons learnt'. Another aspect is 'realpolitik analysis' where emerging relationships, such as those between regional and international powers, are considered from the perspective of the potential they hold as driving factors towards a solution.

In contrast, this paper seeks to introduce a unique approach to positioning for peace and proposes that research be undertaken to develop a framework for Assessment of a certain type of Foreign Relations as advocated here.

The commencing premise is that it is time to re-position 'equality on substantive issues' as the proposition for peace. Such a proposition needs to be set in the context where it is of sufficient weight to displace the current proposition, which constitutes a dilemma. That current proposition, based on legal and emotional grounds, is the right to preservation of territorial integrity versus the right of secession.

Each opposing protagonist is convinced they are right and that their future survival is threatened - so they kill for it. One side calls it war, the other terrorism<sup>1</sup>. In between are the Peace Talks. The pattern oscillates as it spirals but peace remains evasive whilst social and economic deterioration accumulates and pervades large segments of society.

Confronted by the dilemma of, the pattern of spiralling oscillation and the deterioration, the question is - upon what foundation (a meta-level logic) can that equality proposition find acceptance and help resolve the conflict? It is proposed that the answer lies with recognising the implications that arise from 'operational viability'.

## Prelude to Operational Viability

Let us initially understand what 'operational viability' means, how it works and its relevance to secession threatened sovereign countries in the context of positioning for internal self-determination Peace Talks.

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<sup>1</sup> The use of the term terrorism is a matter of perspective. Today, the non-government aggressor is generically referred to as terrorist. In contrast, the non-government aggressor usually refers to itself as freedom fighters who may be engaged in heavy artillery conventional warfare or hit and run guerrilla type attacks.

The relevance of operational viability cannot be recognised in a single step. Like a game of chess, the consequences of many moves ahead have to be factored in when determining earlier move/s. It can be viewed from the perspective of the Parent State (who seeks the preservation of territorial integrity) or the aspiring secessionist (who seeks partition thus entailing the breaking of territorial borders).

In this paper, the perspective chosen is secession and its implications for counteraction. This reflects the positioning sought by those threatening secession and those seeking to avert it. Secession is a contingency<sup>2</sup> in the event of failure to arrive at a solution for internal self-determination. Such failure may be exposed at the Peace Talks or years later during implementation.

By ‘viability’ is meant the on-going existence of one’s identity. In this paper, identity has a much broader meaning than race or ethnicity. It encompasses all of the country’s history, infrastructure and social system<sup>3</sup>. Taken together these are what persist and enable the recognition of the country – its identity. The features used for recognition depend on what it is being compared to, and its background. I use the word ‘operational’ viability to bring attention to on-going survival in its day to day operational sense and to realise that viability can be achieved by many routes. Sometimes traditional legal routes are followed. At other times creative interpretations and agreements underpin the way on-going survival is achieved. This will become clearer later when Taiwan and Timor-Leste are considered.

The discussion and proposition in this paper are for the purpose of discovering other negotiation possibilities. It is about bringing attention to a set of (in this instance, international interoperability) rules that already exist and interpreting how they apply to re-position ‘equality on substantive issues’ as the governing guideline for the peace process.

For this purpose internal self-determination<sup>4</sup> (ISD), is viewed in the context of the contingency of secession, in specific its operational viability. Secession is also known as external self-determination (ESD) which entails the carving of sovereign borders. The distinction between internal and external self-determination is based upon the perspective of the international community of States. Often the term self-determination is used without its adjective (external or internal), which leads to much confusion and emotional heat<sup>5</sup>.

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<sup>2</sup> Examples of other contingencies in the event of failure are war/terrorism, trade embargoes, cordoning off of territory and access paths.

<sup>3</sup> This profile applies similarly to each of the embedded communities within the country.

<sup>4</sup> This is where centralised power is devolved whilst preserving the territorial unity of the sovereign country.

<sup>5</sup> Another example of confusion in the case of Sri Lanka is the Tamil word ‘Eelam’ which roughly translates to homeland. To get a sense of what homeland means, Cheran describing the Tamil word ‘oor’ or ‘Ur’ says it “cannot be properly translated as village, or country, city or place. The term *Ur* evokes a sense of homeland, a place where you belong, and are born and a sense of nostalgia. In this sense *Ur* is more than a place, a dwelling, a village and a habitat inscribed with cultural markers and infused with social and family relations.” (Cheran, R, Ambalavanar, D, Kanaganayakam, C., eds. *History and Imagination, Tamil Culture in the Global Context*, 2007 TSAR Publications.).

In practical (operational) terms, external self-determination entails the creation of a new State which is recognised<sup>6</sup> as another State by (some or all of) those who comprise the international community. It also means the territorial boundaries of one or more existing State/s change (is partitioned) as a consequence of the new Sovereign State coming into being.

In contrast, a solution within the realm of internal self-determination sees no new State come into being. Rather, within that existing State the (likely) solution entails changes in the rules of governance - for example, devolving various degrees of power from the encompassing State to its embedded entities as it pertains to matters of geographical territory, subject domains<sup>7</sup> and functionality<sup>8</sup>. This way, the cohesiveness of the State is maintained whilst the embedded systems exercise their autonomous powers to ensure their own survival. These autonomous powers are however circumscribed by the powers which are required to maintain the cohesiveness of the State.

If the design for balancing such cohesion and autonomy can be agreed upon, which is proposed as the organising principle at the heart of internal self-determination negotiations, then continued survival of the encompassing and embedded systems becomes a possibility. Furthermore, if successfully implemented, it obviates the need for partition.

Whilst that might be the end objective, discussion is needed to address the emotional and intellectual response that the threat of secession generates. Also, we need to find a way beyond bringing the opposing protagonists into a peaceful mode of negotiations. Negotiation talks need to be sustained to the point of solution rather than stalling at stalemates. For this reason, let us understand what achieving and therefore positioning for the contingency of external self determination means, and likewise what averting it involves.

### Operational Viability of External Self-Determination

It is one thing to threaten secession - quite another to achieve it. In turn, to the extent it is achievable, for the Parent State the question is how can secession be averted? In this paper I have steadfastly sought to refer to what might be called the rules and procedures of the game. It is left to each player (as in Game Theory, or the game of

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<sup>6</sup> There is a long standing debate in international law as to whether a State comes into being upon meeting the basic requirements of statehood or upon recognition by others of its statehood. The former is called Constitutive Recognition and exists independent of recognition by others. The basic requirements of statehood are a defined territory, a people, and independent government. Statehood which depends on recognition is known as Declaratory Recognition. Here the State comes into existence by meeting not only the basic requirements of statehood but upon formal recognition by others. This opens the question to 'recognition by whom' and in this sense shares a correspondence with 'operational viability'. However, as this paper will demonstrate viability of the State can be achieved in ways that are independent of whether the State is recognised.

<sup>7</sup> Examples of subject domains are agriculture, fishing, education, health. In the revenue earning domain it is taxation in all its hues. In the context of expenditure it includes capital, operating, and maintenance expenses which in turn extend to ownership - meaning who owns the asset or liability.

<sup>8</sup> By functionality is meant functions like planning, implementation, administration.

chess, netball or soccer) to apply the rules as they interpret, can manipulate, and can implement, given the context and action of other players.

For the pro-active strategist of either side, the pre-emptive question is - on what basis can the seriousness of the threat of secession be assessed? Such assessment is desirable because the degree of threat or non-threat is a powerful point of leverage during Peace Talk negotiations.

International law, in this era of post-decolonization, provides no prescriptive criteria as to how new Sovereign States come into existence. Also lacking is the procedure of how to go about gaining sovereignty. Each aspiring secessionist designs its own path, influenced, one would expect, by the precedents set by others. Likewise, the counteraction by each Parent State is ad hoc.

Finding no entry point in international law, an option is to ask the practical question - what does it take for a new country to operate in the international arena as a State<sup>9</sup> like any other fully fledged State? This leads to asking what operating as a Sovereign State entails. Indeed, who recognises the new State, how is that recognition achieved and of what relevance is that recognition?

Addressing the last point:

- How will the new State's varied channels of communication (e.g. letter-posts, telephone calls, emails, web sites, radio frequencies) from overseas destinations be delivered to it given its new international designation as a destination?

Logistically the hurdles for outbound communications are less demanding since they could be routed via a single external international site with whom the (aspiring) Secessionist State could have entered into a bi-lateral agreement. In this sense, even if inbound communications could be routed via a single site, it still requires all other international sites to know of the single site for routing. This is where international interoperability applies so that all nodes belonging to that top-level domain (e.g. the international telephone exchange body) are synchronised to know of that chosen routing.

- How will its international financial settlements be effected and will its monetary currency be recognised internationally?

There is also, for new States faced with developing their core financial facilities and re-constructing their war-torn physical infrastructure, the attraction of access to multilateral agencies like the IMF<sup>10</sup> and World Bank<sup>11</sup>. The latter provides

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<sup>9</sup> Country is colloquially used to mean State. State (note the capital S) is a politically governed territory recognized by international law and usually a member State of the United Nations. There are exceptions however, like Taiwan which is not a member of the United Nations or the State of Palestine which is usually not considered to have gained State recognition - although approx 100 State governments have recognized it.

<sup>10</sup> Article II of the Articles of Association of the IMF has two sections which pertain to membership. The first states that Original Members are those who were at the United Nations Monetary and Financial Conference whose governments accepted IMF membership before 31<sup>st</sup> December 1945. The second section requires that Other Members shall be based on principles consistent with those applied to other countries that are already members.

However, an IMF article (Developments at the International Monetary Fund, p14) discussing the subject of a member ceasing to be a member stated "It is for the Fund to determine, for its own purpose, whether a member has ceased to exist and, therefore, has ceased to be a member of the Fund. The Fund, when making this finding, is not

concessionary lending rates to sovereign countries whose per capita income is low.

- How will the new State's national flag achieve recognition?

Besides being a national symbol displayed at international forums, it is particularly important for maritime matters in the legal context as much depends on the flag flown by ocean-going craft.

Each of these is an example of where the new Sovereign State enters into the domain of international interoperability which is frequently governed by ISO<sup>12</sup> standards. Adherence to these standards is voluntary. However, in practice many of them are universally the basis upon which the top level domains of the international interoperability (or interchange) systems work.

If that be the reality then it needs both the aspiring secessionist and the Parent State to find out what it takes to participate and upon what criteria new entrants are accepted into the fold of the various international interoperability systems. Clearly, the aspiring secessionist needs to know the criteria for it needs to satisfy them if it is to gain acceptance to participate in these international interoperability systems. The Parent State, for the purpose of seeking to avert the operational viability of the (aspiring) Secessionist State and thus preserve its territorial boundaries, needs to know the criteria so that it can counteract the bid of those that want to achieve secession.

### International Interoperability Systems

As can be expected there are numerous international interoperability systems which the aspiring secessionist would want to belong to, and most importantly, would require, in order to exercise its participatory rights. Participation in some will be more vital than others. Some would be mandatory, others optional and still others inconsequential.

A comprehensive list of all these international interoperability systems needs to be constructed and researched to find the pattern of criteria for membership and participation as a fully fledged Sovereign State. In the meanwhile, let us look at three

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bound by the position taken (or absence thereof) by other organisations, including the United Nations. If a finding of dissolution is made, it is for the Fund to identify the successor states. The fact that a successor state is not generally recognised by the international community does not preclude the Fund from finding this state to be a successor to the former member if its existence as an independent state is in fact acknowledged.”

<sup>11</sup> The World Bank constitution requires that its Sovereign State members be members of the IMF.

“Under the Articles of Agreement of IBRD, to become a member of the Bank a country must first join the International Monetary Fund (IMF). Membership in IDA, IFC and MIGA are conditional on membership in IBRD”. Source: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,contentMDK:50004946~menuPK:64020025~pagePK:64020054~piPK:64020408~theSitePK:278036,00.html> (accessed, 4/4/09)

<sup>12</sup> ISO besides being known as the acronym for International Standards Organisation, owes its name to the Greek work ‘isos’ meaning ‘equal’. “The relation to standards is that if two objects meet the same standard, they should be equal.” – source:

<http://www.sis.pitt.edu/mbsclass/standards/atomcoc/isohistr.htm> (accessed 19<sup>th</sup> March 2009)

obvious international interoperability systems which the (aspiring) secessionist would want to belong to and exercise their participatory rights. These are:

- Universal Postal Union (UPU) for the reciprocal exchange of letter-post items therefore needing its postal destination recognised as an international country.
- International Telecommunications Union (ITU) to gain its international telephone code, besides allocation of bands of the radio-frequency spectrum, etc.
- Bank for International Settlements (BIS) to recognise its Central Bank where BIS acts as the trustee or agent for international financial settlements amongst those parties that belong to BIS.

Research at this juncture shows there are two distinct patterns for how membership is gained. The preferred basis to recognise sovereignty of a country is whether the country is a Member State of the United Nations (UN). The other option is what could be described as a ‘miscellaneous option’ where membership is left to the discretion of the Board or a substantial majority of the membership of the particular organisation.

Keeping with the three examples mentioned above, this twofold pattern of criteria for ‘sovereignty’ recognition is evident in:

- UPU which states ‘Any country member of the United Nations may become members of the UPU. Any country non-member of the United Nations may become a member provided that its request is approved by at least two-thirds of the member countries of the UPU’.
- ITU-T (International Telecommunications Union - Telecommunications Standardization Sector), which specifies in E.164.1 article 5.2.1 that the criterion for assignment of a country code be based upon ‘the applicant country(ies) must either be recognized by the ITU or by the UN.’

Article 2 of the ITU Constitution states its Member States are a) those who belonged to ITU during the prior constitution, b) those States belonging to the UN as a Member State and c) ‘any other State, not a Member of the United Nations, which applies for membership of the Union and which, after having secured approval of such application by two-thirds of the Member States of the Union, accedes to this Constitution and the Convention in accordance with Article 53 of this Constitution.’

Article 51 of the ITU Constitution additionally states ‘Each Member State reserves for itself and for the recognized operating agencies the right to fix the conditions on which it admits telecommunications exchanged with a State which is not a Member State of the Union. If a telecommunication originating in the territory of such a State is accepted by a Member State, it must be transmitted and, in so far as it follows the telecommunication channels of a Member State, the obligatory provisions of this Constitution, of the Convention and of the Administrative Regulations and the usual charges shall apply to it’.

- BIS whose statutes state that whilst Central Bank membership of a country is a matter for the Board of the Bank (Article 8 (3)), Article 56 states ‘country means a monetary zone within a sovereign state or a monetary zone extending over more than one sovereign state’.

This opens itself to the obvious question - on what basis is sovereignty recognised by BIS? Whilst this is yet to be researched, given the close link between the IMF (amongst other features, being the lender of last resort to Central Banks) and the BIS (acts as trustee or agent for international financial settlements amongst its Central Banks) it is expected that the conditions of BIS Central Bank membership may not be too dissimilar to the country membership criteria used by the IMF.

The expectation is that as the various international interoperability systems are researched and the list is populated, it will be found that the default principle employed to verify that a country is a country will be heavily influenced by, if not based upon, that country being a Member State of the UN. If so, this is particularly relevant for new countries coming into existence as being a Member State of the UN serves as a master entry point which unlocks most, if not all, of the international interoperability systems, where being a country is the criteria for acceptance.

### Gaining Participatory Rights and Membership

Let us now recap and move to addressing the two options for gaining participatory rights and, as the case may be, membership. By this is meant participation in the various international interoperability systems can be gained via membership of the organisation that runs that system. Or, participation can be achieved via some other means. With membership the pattern evidenced is that it can be gained via a State being a UN Member State or by the State gaining membership via what was referred to as the ‘miscellaneous option’ specific to each international interoperability organisation (like ITU, UPU, etc).

#### a) UN Member State Status

Given the default preference for gaining membership of many international interoperability organisations is via being a UN Member State, the Charter of the UN is considered for the purpose of coming to grips with the grey area of the membership criteria for gaining UN Member State status.

Firstly, evaluation of a secession claim and counter-claim requires a two-thirds majority of all Member States at the General Assembly to admit a new member State (Article 18.2). The formal procedure however starts with the Security Council (Article 11) where its five Permanent Members (i.e. US, UK, China, Russia and France) must not veto<sup>13</sup> recognition of the new Member State. If any one of them exercises their veto power, (a nay vote) then the claim dies.

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<sup>13</sup> Whilst veto power is not explicitly mentioned in Article 27 of the UN Charter, the wording ‘the concurring votes of the permanent members’, means that any of those permanent members can prevent the adoption of substantive matters, by explicitly not concurring (nay vote).

The critical value of knowing this UN membership process, which is a substantive matter, is that it reveals another arena in which the quest for secession or preserving territorial integrity is fought. It specifically shows the variables (initially the five Permanent Members of the UN Security Council) that need to be convinced of the merit of the claim.

Thus, a non-violent strategic way to handle the claim for secession is for each protagonist to position their claim and counter-claim with each of the five Permanent Members. What this means for the Parent State is that it must ensure that at least one of the five Permanent Members will exercise its veto power. By doing so the secession claim is blocked and the territorial integrity of the Parent State is preserved. Applying this thinking from the perspective of the Parent State who seeks a sense of cohesion of its diverse embedded<sup>14</sup> systems and to preserve the territorial integrity of its borders, what is advocated is that its Foreign Policy be designed so that should it be needed, this veto power will be exercised in its favour.

For the aspiring secessionist, it means their Foreign Policy (if one could term it such) must cultivate the five Permanent Members to either vote in favour of or abstain from voting on the resolution for secession. Certainly, there are more hurdles to jump to gain UN State membership beyond the way the five Permanent Members of the Security Council exercise their vote, but it is the first critical step for both opposing protagonists.

So we can better understand what the Foreign Policy<sup>15</sup> will need to contend with let us look at the logic that will be brought to bear on the claim and counter-claim, and commence by recognising that the UN Charter does not apply to matters within a UN Member State's domestic jurisdiction (Article 2 (7)). What places secessionist claims under the UN mantle is the UN membership that the potential breakaway State seeks.

From the perspective of what it takes to sustain viability operationally, what UN Member State status affords is a very efficient way of gaining entry to participate as a country in the various international interoperability systems. In turn, this gives the UN the negotiating strength to require its aspiring new member to comply with the UN ethos of respect for the principle of equal rights and international peace (reflected in Article 1 of the UN Charter). What draws in the Parent State, and moves away from the domestic jurisdiction argument, is the need to counteract the secessionist's claim at the UN.

This opens the way to enquire - in UN parlance, what is the secessionist's claim? The answer is - lack of equality on substantive issues. I propose that is what the aspiring secessionist minimally needs to evidence if it is to gain membership as a UN Member State. It is stated as 'minimally' because certainly there are many other geo-political considerations that will influence the voting and interests which each opposing protagonist's Foreign Policy will seek to cultivate.

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<sup>14</sup> By embedded systems is meant those communities that comprise the Parent State. Those systems could be communities based on geographical terrain, on race, on language, on religion, etc.

<sup>15</sup> Throughout this paper, Foreign Policy is taken to express the interactions with the international community engaged in by the supervening State and the aspiring secessionist.

However, let us return to understand what this UN principle of equality means, and state it generically from the perspective of the secessionist and counter-claimant. Starting with the secessionist, this concept of equality is minimally three pronged.

1. If evidence of equality on substantive matters is absent in legislation and in current practice in the relationship with the supervening<sup>16</sup> State, it offers an embryonic basis to advance a claim for secession.
2. If internal self-determination negotiations do not result in agreement on institutionalising the principle of equal rights on substantive issues within the supervening system of governance, it strengthens the case to advance a claim for secession.

It is important to point out here that negotiations which result in the absence of agreement should not be the product of the secessionist sabotaging the negotiations by, for example, not attending or withdrawing from the negotiations. As to whether this is the case is a matter for the Security Council to decide, particularly given provisions of Article 33 which one would assume are pre-requisites to invoking Article 4 of the UN Charter.

3. If recognition of external self-determination is sought, the secessionist needs to demonstrate that in its manner of governance it applies the principle of equal rights on substantive issues in its relationship with its embedded systems.

This can be evidenced in the manner it governed its de-facto State (if it had one) and in the proposed Constitution under which it will govern itself. From a UN perspective, one would expect that the Security Council as part of their evaluation will place importance on such equal rights being evidenced because otherwise their absence or weakness might eventually lead to another secessionist claim by an embedded system/s. Furthermore, it would be hypocritical for the secessionist to propose less, given that is the very principle that its Parent State stands accused of perpetrating on its embedded community. It is also likely that the UN would be alerted to such hypocrisy by the Parent State or others who oppose the secession.

Having proposed this ‘three pronged point’ it is pertinent to mention the contrast of the frequently attributed basis of self-determination – namely a ‘distinct people’ within a larger society that displays a common set of cultural traits like language, religion and shares a distinct (historical) territory. The reason that such is not advocated here is because the notion of a ‘distinct people’ is a comparative and would lend itself to repeated iterations for self-determination and thus dwindling territories. A classic example of that was during negotiations for a non-apartheid South Africa when the Afrikaans mounted an argument for self-determination. Whilst Whall<sup>17</sup>

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<sup>16</sup> The term ‘Parent State’ is used in the context of external self-determination, when referring to claims for secession, also known as separation. The term ‘Supervening State’ is used in the context of internal self-determination. In using the term Supervening State, the distinction being conveyed is the notion of an encompassing system which seeks cohesiveness across its autonomous embedded systems (for example, its various geographic or ethnically based communities).

<sup>17</sup> H Whall (1995) in *The Right to Self-Determination*, page 4.

points out that this example demonstrates the fear of being a ‘minority in a majority-ruled state’ what is proposed here is that an effective way of addressing that fear is to achieve in law and in practice the principle of ‘equality on substantive issues’ which is why the ‘three pronged point’ is proposed as the minimum criteria for testing the grounds for external self-determination.

What is being said here is that ‘a distinct people’ is inadequate grounds for secession. It needs to be grounded in continuing evidence of inequality on substantive issues. If such is evidenced to the satisfaction of the international community the other hurdle to be jumped is whether that distinct people can survive domestically with territory of its own and access to the international interoperability systems.

Whilst it is acknowledged that a ‘distinct people’ has a relevance to this there needs to be added the necessity of ‘equality on substantive issues’ and viability.

Let us now move to state this ‘three pronged consideration’ in the language of the Parent State - the counter-claimant who seeks to preserve territorial integrity. One option is for the counter-claimant to evidence holes in the arguments put forward by the secessionist. Another, which is a facet of the former, is to concentrate on evidencing ‘equality on substantive issues’ which is the spirit of Article 1 of the UN Charter, which each UN Member State subscribed to when joining. Where aspects of ‘equality on substantive issues’ are weak the Parent State has the opportunity to avert secession by taking on the responsibility to re-design its governance structures to achieve such equality, which after all is the substance of internal self-determination negotiations.

What is found is that ‘equality’ is central to the claim and counter-claim of the opposing protagonists. The UN Member States are at liberty to apply that consideration, besides whatever other strategic interests they may wish to incorporate into their evaluation<sup>18</sup>.

UN State Membership appears at this stage of research the most efficient way to gain access to the international interoperability systems, which are an intrinsic requirement for the New State to achieve operational viability.

#### b) Direct Membership via Bi-lateral Agreement

Besides the efficient path that UN membership offers, there is the choice of pursuing individual agreements with the various international interoperability organisations. This is where the individual organisation votes specifically on whether to accept the new State into their membership. As much as bi-lateral agreements may be the path the secessionist may choose (or is forced) to follow, it is likewise a path the Parent State will need to be aware of and seek to block.

In positioning to achieve or avert such bi-lateral agreements, generically this means each opposing protagonist will need to design its Foreign Policy based on the

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<sup>18</sup> Research indicates legal counsel to the Security Council initially considers whether there is evidence that a referendum on secession was held and whether it was conducted in a free and fair manner.

membership requirements as pertinent to the relevant international interoperability organisations.

### Another Way into the International Interoperability Systems

As would be evident, opting not to follow the path that UN recognition affords does not mean gaining access to the various international interoperability systems is impossible. What it does mean is that access to each of the international interoperability systems will need to be achieved via the onerous task of bi-lateral or multilateral agreements or some other creative approach.

In this regard, the efficiency of the UN recognition path can be contrasted by reference to those exceptions where special agreements were exercised utilising other options. Also included are special arrangements that new UN Member States themselves have made. They serve to show other ways of entering the international interoperability systems and achieving viability in the day to day running of a State.

- Prior to Timor-Leste coming into existence, Indonesia arranged with ITU for it to be allocated two international dialling codes. One was for exclusive use of what was then the province of East Timor in Indonesia. At the time of Timor-Leste's independence this dialling code was then allocated to the country of Timor-Leste.

Timor-Leste has opted not to issue its own currency. Rather it has an agreement with the US for its official currency to be the US dollar.

- Taiwan, despite not being a Member State of the UN, uses what might be described as a 'squatter' international country telephone code (+886). It uses what ITU officially lists<sup>19</sup> as a 'reserved code' and has succeeded in having it operationally accepted based on bi-lateral agreements Taiwan has with some major service carriers. Today that default Taiwan international country telephone dialling code has become the norm.

Whilst the New Taiwan dollar was first issued in 1949 and was the de facto currency it was only in July 2000 that the New Taiwan dollar became the official currency. Research is yet to be undertaken to understand the regulation that governs currency recognition in the international domain.

- Palestine Authority<sup>20</sup> in ISO 3166/MA is a reserve code element. This arose due to the Oslo agreement between Israel and the PLO. ITU and ICANN<sup>21</sup> have

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<sup>19</sup> Source: [http://www.itu.int/itudoc/itu-t/ob-lists/icc/e164\\_763.pdf](http://www.itu.int/itudoc/itu-t/ob-lists/icc/e164_763.pdf) (accessed 18th March 2009)

<sup>20</sup> 'The implementation of the Oslo Agreement between Israel and the PLO has led to the need for ISO 3166-1 to code elements for the areas under the authority of the Palestinian Authority. However, without a UN-approved name for these areas they cannot be included in ISO 3166-1. In 1996 the ISO 3166/MA reserved the code elements PS (Alpha-2 code) and PSE (Alpha-3 code) for the areas under Palestinian Authority. These code elements were selected on the assumption that the area would have a name containing the component "Palestine" or "Palestinian." By the end of 1998 no UN-official name for the areas under the Palestinian Authority exists. For the time being the ISO 3166/MA advises users of ISO 3166-1 to use PS and PSE. An ISO 3166-1 code element for the area in question will be issued if and when the UN officially includes the area in its lists of country names'.

(Source: <http://www.niso.org/standards/resources/3166.html> - accessed 18th March 2008)

respectively allocated to Palestine a country code for its telephone (+970) and internet (.ps) and both codes are operationally well known and used.<sup>22</sup>

- Despite Kosovo not being a Member State of the UN, during the time of UNMIK (UN Mission in Kosovo) for postal purposes the destination of Kosovo as a country was recognised by UPU. This was done under a ‘special technical cooperation agreement’ and neither UNMIK nor Kosovo gained UPU membership at the time.

After Kosovo came under NATO and UN control in 1999, the de facto currency in Kosovo was the Deutsche Mark. The Euro superseded the Deutsche Mark after the introduction of the Euro in 2002. Thus, the currency used in Kosovo is the Euro.

The first mobile telephone network in Kosovo apparently uses Monte Carlo numbers and the second mobile telephone network uses Serbia numbers.

The pattern of solutions evidenced above to aid operational viability is:

- Bi-lateral agreements (e.g. major telecommunication providers recognising squatter codes which have grown to be operationally universally recognised).
- Solutions exercised are the consequence of technology (e.g. roaming feature of cellular technology does not need to be operationally identified or located within a country’s physical boundaries).
- Parent State supports separate classification for recognition (as Indonesia did for East Timor which later became Timor-Leste).
- Recognition accorded whilst the UN acted in a Parent State type of capacity (e.g. with Kosovo’s international postal designation).

Lastly, it is important to recognise that once some international interoperability systems have been activated, they continue despite the country status changing. This is evident with Hong Kong also, where China (to whom Hong Kong now belongs) has not objected to the continuation.

## Relevance

Overall the importance of international interoperability systems has gained prominence with the rise of ISO<sup>23</sup> and other internationally recognised standards since

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<sup>21</sup> Internet Corporation for Assigned Names and Numbers (ICANN)

<sup>22</sup> Source: [http://www.palestinefacts.org/pf\\_1991to\\_now\\_telephone\\_internet.php](http://www.palestinefacts.org/pf_1991to_now_telephone_internet.php) (accessed 18th March 2008)

<sup>23</sup> ISO commenced in 1946, born from the union of ISA (International Federation of the National Standardizing Associations which commenced in 1926 and issued Recommendations) and UNSCC (United Nations Standards Coordinating Committee which was established in 1944). ISO’s 1972 Annual Report says the demand for international standardization was due to “an explosive growth in international trade” caused by a “revolution in transportation methods”.

the 1970s. This coincides with the turmoil of post-decolonization independence claims which is what makes international interoperability systems relevant to new (aspiring) States as they need to participate to be operationally viable.

From a generic perspective, having acknowledged the need to reciprocally participate in the international interchange systems, an even-handed way is found to assess secession claims and counter-claims. Viability considerations as they pertain to the international environment offer a way to assess the weightiness of the threat of secession and what it takes to position for secession or avert secession.

Such assessment is a valuable substitute for war/terrorism which usually plays a vital role as a point of leverage in build-up to, entry, and during the Peace Talks negotiations. Assessing the preparedness to achieve or counteract secession can instead serve as a point of leverage. It should help reduce the carnage and the high economic and social costs of war/terrorism.

This being the case, there is generic value in building a list of the various international interoperability systems that a new State needs to access, and researching the basis upon which participation can be achieved.

### Peace Talk Negotiations

There is a fundamental question – should internal self-determination negotiations be a two party stakeholder negotiation? The answer appears to be no, particularly when knowledgeable distinction is brought to bear between internal and external self-determination and specifically in matters of cohesion and autonomy.

There is a fundamental difference between external and internal self-determination. In the former, the act of separation severs the need to address cohesive issues in the context of each other. Internal self-determination requires that a balance be achieved between cohesion and autonomy which means those others affected must participate in the design of that balance. Part of the success of the Northern Ireland resolution is attributed to negotiations that moved from ‘two party’ to multi-stakeholder negotiations<sup>24</sup>.

In external self-determination negotiations, the cohesive policies of the UN are themselves not matters for negotiation<sup>25</sup>. Their interpretations are. It is those differing interpretations that the Parent State and aspiring secessionist seek to convey, initially to the five Permanent Members of the Security Council, to convince them that they comply with the UN’s cohesive policies. As the UN’s cohesive policies are not matters for negotiation (in the specific instance of assessing a prospective UN State Membership claim), the UN’s embedded Member States are not called into the negotiation process. However, the Member States are called upon to vote on the secession claim and counter-claim based on their interpretations of the cohesive policies and their own strategic interests.

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<sup>24</sup> British High Commissioner’s speech to the BCIS during the Panel Discussion entitled United Kingdom’s Peace Building Efforts in Sri Lanka – (H.E. Dominick Chilcott – 2007).

<sup>25</sup> There are of course separate initiatives to change the character and workings of the UN that are influenced by the various experiences of countries, amongst which is the issue of secession.

In contrast with internal self-determination negotiations, the cohesive policy of the meta-level system, the Sovereign State, is open for negotiation. Indeed cohesive considerations are a vital part of the negotiation for it is the complement of autonomy which is the very point of internal self-determination negotiations - to avert secession and achieve peaceful co-existence. Thus the basis upon which cohesion is built needs to be re-designed and agreed upon so that the State's identity adapts to avert secession and achieve peaceful co-existence amongst its embedded systems. The need to re-design the principles upon which cohesion is premised therefore requires that the full array of embedded systems participate to negotiate the principles and the way in which the principles are to be designed and achieved.

What this suggests is a need to propose a protocol for internal self-determination negotiations which is capable of handling the full variety of the situation in terms of a) the multiplicity of systems, b) representation by those systems, and c) the plethora of content issues that pertain to internal self-determination. In this regard, the content will relate to more than resolution of the conflict as usually there are other emerging serious matters of crisis and problems of varying proportions, that interact with the principles upon which peaceful co-existence is premised. These too need to be addressed as part of the negotiations.

What attract the aspiring secessionists to Peace Talks are unpalatable and unsustainable war conditions. Another strategy however is to follow the path of UN involvement and evidence inequality on substantive issues. This in turn entails the need to provide evidence that the aspiring secessionist has sincerely participated in the arena of conflict transformation, and not limited its negotiations to matters of reconstruction and rehabilitation. Likewise the Parent State needs to give itself the chance to genuinely participate and design equality into its manner of governance so that it has the opportunity to preserve its territorial borders. In that sense because negotiations are overseen, or at least the results are overseen, by the UN 'equality on substantive issues' it has a better chance of being resolved which thus dissolves what today presents as an undecidable proposition between rights to preservation of territorial borders and secession.

There are separate writings<sup>26</sup> which propose tripartite negotiations employing a concept of an internationally supervised negotiation, possibly involving representation by (some of) the UN Security Council veto powers. If the opposing protagonists agree to such UN involvement it could be invoked under Article 38<sup>27</sup> of the UN Charter. It is proposed such negotiation would be devoted to addressing different types of issues and in that context involve different combinations of stakeholder representatives.

### Exploring the Significance of the Novelty

Having recognised there are different ways for an aspiring State to achieve operational viability in the international context, this research shows there is a particular type of Foreign Policy strategy calling for design and implementation by

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<sup>26</sup> Refer Chapter Five of doctoral dissertation by Leonie Solomons (2009) – Issues of Governance in Sri Lanka, A Cybernetic Diagnosis and Solution 'Process' Proposal. University of Sunderland, UK.

<sup>27</sup> Interestingly, it appears Article 38 has to date not been invoked despite its 'recommendation' quality. There is also potential for attention under Article 35(1).

each opposing protagonist. It is of vital importance to note, such Foreign Policy is not about proscription of terrorist groups or gaining the 'aggrieved sympathy' vote.

The Foreign Policy advocated here pertains to achieving or averting operational viability. In generic terms, the objective of that Foreign Policy is both to counteract the achievement of the other's goal/s and to achieve one's own goal/s. The aim of the Assessment is to gauge the potential and implemented effectiveness of each protagonist's Foreign Policy and serves to indicate the weightiness of the threat of secession.

In the absence of such assessment, the threat of secession is like a red flag to a bull. One side charges to achieve it and the other charges to avert it. For those opposing secession it is a call to war to preserve territorial integrity which they see as intrinsic to the survival of what constitutes their identity. For the aggrieved who perceives its identity as jeopardized and deteriorating, the inadequacy of Peace Talks to arrive at equality on substantive issues feeds the pressure to opt for secession, or minimally to threaten secession to promote meaningful Peace Talks. To give substance to the threat and the contingency, war is engaged in to cordon off territory which is also of relevance for internal self-determination should such negotiations be premised on a geographically based devolution strategy. Such cordoning of territory is also vital to the secession bid.

Yet what this research shows is that employing Foreign Policy in the context of 'operational viability' is a vital ingredient to achieve or avert secession. This prompts the question – can Foreign Policy obviate the need for war? The response is - no. However, concurrent use of astutely designed and implemented Foreign Policy can reduce the demand for the intensity of war. At the very minimum it acknowledges and gives substance to a particular aspect of the non-domestic dimension of the solution. Bringing this type of research to the attention of people, particularly the Foreign Policy consideration will help call attention to the Foreign Policy dimension of secession, not in the meaning of international law which is a moot point in this post-decolonisation era, but in the matter of operational viability.

At this juncture some may take the view that secession is a rare achievement. Yet reflection would show that the right of self-determination and the right of preservation of territorial borders are both rights that need to exist if negotiations are to make headway. Deny the right of self-determination and the aggrieved is not only deprived of valuable leverage in negotiations but is damned to live forever under the mantle of dominance of its perceived oppressor. Deny the right of preserving territorial integrity and the existing State not only loses its leverage in negotiations but is exposed to the risk of constantly diminishing terrain.

Others would argue that whilst that may be the theory, in reality secession is not to the liking of most States. This is often ascribed to conflicts in their own countries, and the 'easy out' it gives other conflict situations which, given time, could result in further fractioning of States.

Yet the fact remains, many secession attempts linger as threats only, whilst in some instances secession does happen as proven by Timor-Leste and the ex-Soviet Union and ex-Yugoslav countries. There is also Taiwan who whilst being precluded from

being a UN Member State, proves independence and viability can be achieved. Embryonic Kosovo in its unilaterally declared independence may also show a new pattern of achieving the on-going viability<sup>28</sup> of its statehood. Indeed if gaining UN membership is protracted it may signal the emergence of a new variety of State which is still different to those such as Cyprus<sup>29</sup>, Georgia's Abkhazia and South Ossetia, Transdniestria and Nagorno-Karabakh.

The retort to such examples is that with some sovereignty based conflicts where secession is threatened, the conflict does not have international political backing for secession. Also there is the case where war moves from secession prevention to the need to annihilate terrorists, who resort to terrorism and seen to renege on what they agree to at Peace Talks, or exit Peace Talks<sup>30</sup>, or specify unpalatable conditions of negotiation.

Taking the lack of international backing as the argument, the next question is whether secession is the same as operational viability or whether there is a subtlety which applies in the case of unilateral declarations of independence which gain the support and recognition of some in the international community.

Either way, including from the perspective of the aggrieved aspiring secessionist, it opens the question to whether the threat of secession is a vacuous threat. The answer calls for an assessment of the type proposed in this paper. It also poses the question whether the threat of secession is only that - a threat, which however needs to carry weightiness so that its appearance achieves the intended outcome. The desired outcome is leverage at internal self-determination negotiations. Or is secession a meaningful contingency which calls for a much stronger Foreign Policy stance by both opposing protagonists?

In the absence of assessment it is fair to respond to these questions with a 'we don't know' whilst also acknowledging the dynamics of positioning could mean the answer changes with time. What it does mean however, is that each protagonist's Foreign Policy needs to have sufficient variety to counteract the other's stance. Also it means the strength of that Foreign Policy is an aspect of leverage at Peace Talks. Foreign Policy can also be positioned as an antidote to war.

Clearly there are many permutations of the relationship between war/terrorism and Foreign Policy based on their strengths that need to be considered to understand when and to what extent each acts as an antidote to the other. This field warrants study and research.

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<sup>28</sup> Take for example the quandary Serbia faces with routing land based telephone calls for Kosovo. If Serbia routes calls to Kosovan destinations it lets Kosovo enjoy viability in its self-declared independent State. If Serbia does not pass the telephone calls to Kosovo it buys into Kosovo's independence statement, or worse feeds the accusation that Kosovo is treated inequitably and thus its independence should be internationally recognized.

<sup>29</sup> Cyprus is a UN Member State but there is a divide between Greek Cypriots (in the south) and Turkish Cypriots (in the north).

<sup>30</sup> The counter argument to exiting Peace Talks by the threatening secessionist is that the Supervening State fuelled the conditions to warrant the exit. Another is that the agreements made at Peace Talks lacked clarity and thus when their fulfillment did not reach the expectations of the other side, the path was paved to exit.

The other aspect warranting consideration is the counteraction component of Foreign Policy. By this is meant, Foreign Policy minimally comprises two components. One is scoring one's own goal and the other is not permitting the opposing protagonist to score its goal, specifically when that goal is non-conducive to achieving one's own goal - for example, the distinction between secession and equality. What this means is that the counteraction component of Foreign Policy requires intelligence gathering of the options available to, and the choices made by, the opposing protagonist.

Generically, the options available minimally include:

<b>Options</b>	<b>Parent State</b>	<b>Aspiring Secessionist</b>
a) Continuing with current status	Attractive but subdued by weight of waging war and effects of terrorism	Unacceptable. Strives for equality and peaceful solution.
b) Internal self-determination	Attractive if terms of governance and equality can be agreed upon.	Attractive if terms of governance and equality can be agreed upon and implemented.
c) Secession (external self-determination)	Unacceptable – as it entails violation of territorial integrity.	Acceptable – requires acceptance to participate in the international interoperability systems.
d) Formal annexure or merger of contentious territory with another State.	Unacceptable – as it entails violation of territorial integrity.	Acceptable. Accepting country risks war, or at least displeasure of Parent State of the seceded territory.  An example of attempted annexure was Aaland Island to join Sweden. It belonged to and was successfully disputed by Finland in 1921.
e) Informal but practical annexure/merger of contentious territory with another State.	May be attractive for it preserves the territorial integrity of Parent State	May be attractive for it achieves the viability of its people under the practical protection of the other State.  Also, poses no international interoperability problems as both States (belonging in the formal and informal mode) are already members and participants.  However, who will meet government expenditure pertaining to the annexed territory is questionable. In specific where the antagonism is unresolved between the parent State and aggrieved community.
f) Formal annexure/merger of whole State to another State.	May hold attraction as territorial integrity of a hybrid type is achieved.	May hold attraction based on governance structure of State to which it becomes annexed.

Inevitably resource constraints will warrant that the counteraction component of the design and implementation of Foreign Policy will need to be tailored to meet the challenge posed by the opposing protagonists' objectives (what is to be achieved) and strategies (how the objectives are to be achieved). Embedded within the objective of secession (point c) are the options of the way international interoperability is sought. It is this combined intelligence gathering that will influence the design and implementation of each protagonist's Foreign Policy.

Likewise, in each particular case it is this array of Foreign Policy objectives and strategies that the International Interoperability Assessment proposed in this paper will need to assess. This assessment besides being done by each of the opposing protagonists can also be done by NGOs, other States who are politically or financially influential, and other learned institutions versed in Foreign Policy intelligence.

### Need for Further Research

As the international dimension in terms of operational viability is realised, there is scope for a reduction in the numbers of those willing to opt for and participate in war. Instead, realising the leverage it affords Peace Talk negotiations, some may choose to develop strength in the novel concept of Foreign Policy proposed here and international positioning

Whilst Foreign Policy and the associated intelligence gathering upon which to develop the counteraction component are matters for each opposing protagonist to design and implement, International Interoperability Assessment is open to supporters of every hue. Preferably the assessment carried out would be by those with a working knowledge of the manoeuvrings within international politics that are relevant to the aspect being assessed.

The research that needs to be done pertains to the many ways that international interoperability can be achieved. This means:

- 1) Building a comprehensive list of international treaties and organizations that a secessionist would need to have participatory access to, and the many avenues by which this could be achieved. Based on customary procedures, this would entail a case list of exemptions and the circumstances that enabled success. It would be useful to pay particular attention to those exceptions no longer applicable. The residue hints at future applicability.
- 2) Deciding what needs to be assessed in order to gauge the weightiness of a secession threat and/or contingency as it pertains to each country in conflict
- 3) Step 2 entails coming to grips with Foreign Policy including its counteraction component.
- 4) Ascertaining from where and how the information require in steps 2 and 3 can be obtained.

- 5) Designing a scorecard which recognises distinctions between participating in mandatory and optional international interoperability systems, and caters for assessments for either or both of the opposing protagonists.
- 6) Testing that assessment proposal in the context of historical cases and current cases of sovereignty based conflicts where secession is threatened. As a preliminary example, refer appendix 1 which succinctly addresses the secessionist threatened Sri Lankan conflict.
- 7) Researching the many permutations of the relationship between war/terrorism and Foreign Policy based on their strengths to gain a sense of understanding of when and to what extent each acts as an antidote to the other.
- 8) Researching the type of leverage that war/terrorism affords compared to the leverage that Foreign Policy addressing International Interoperability affords

For those who are sensing the powerful prospects and novelty of what is being proposed, further questions may arise. These may include - what relevance is the UN and how can it contribute to dissolving the dilemma that presents in sovereignty based conflicts where secession is threatened? Another is – under whose auspices will the Foreign Policy assessment be performed and the type of intelligence gathering it requires? These are questions I too have pondered, researched and developed perspectives on possible answers. These are matters for further discussion - in particular how they link to a design for internal self-determination Peace Talks which move beyond two-party to multiple stakeholder negotiations.

### Conclusion

At varying times trends show each protagonist has had the power to call the shots regarding war and at other times the terms of Peace Talks. In response, the other, based on the strength of their leverage has danced to the rhythm. The tune has been either preserving territorial integrity or threatening secession. The proposition here is the revival of another tune – equality on substantive issues – danced to the new rhythm of Foreign Policy and assessing it based on understanding international interoperability, an intrinsic component of viability as it pertains to secession.

Clearly, the tune and rhythm are intertwined, their combinations are not serial, and the varying strength of their permutations many. It is that array we are seeking to come to terms with. Introduced here is the beginnings of a unique approach to positioning for peace in sovereignty conflicts where secession is threatened.

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