

Hypothetical: Asilia's Secession

ASIL Panel*—Unilateral Secession in a Multipolar World (Wash, DC, Renaissance Marriott, April 5, 2013, 11:00 AM)
[*Alfurna and Rutasia are the 2013 Jessup Moot Court States. ASILia is a hypothetical province in Alfurna.*]

Alfurna and its adjacent neighbor, Rutasia, are developing countries. Their ethnic Asilite populations comprise 25 percent of the total population of each country. The Asilites constitute almost 100 percent of the rural and mountainous area, known as Asilia—which overlaps the border between Alfurna's southeast and Rutasia's southwest quadrants. Starting in 1997, Asilites in this cross-border area began to demand more protection from the majority populations' deteriorating mistreatment of ethnic Asilites who live or venture into the respective lowlands.

Asilia is the main province on Alfurna's southeast border. Asilia has been historically autonomous. Just after 9-11, Alfurna's president revoked Asilia's autonomy and disbanded its organs of self-government. Many of Alfurna's Asilites have since fled the lowlands, up into Asilia's mountains. Ethnic Asilites in both countries thus felt compelled to ramp up their demands for: better treatment by the respective dominant cultures; more governmental protection; and Asilian self-determination.

Alfurna's government ultimately responded by sending a sizeable military force into Asilia in 2007. The Asilites reacted to this "protection" with protests near the main Alfurnan military base, then located just outside of Asilia's provincial capital city named Ilsa. In 2010, Alfurna's military commander urged Alfurna's Asilite leader to end the protests. She refused. She is then placed under house arrest. From her home, where international attention resulted in CNN coverage, she encouraged all Asilites in the entire region to defend themselves against their respective governments and majority populations. She specifically demanded that Alfurna's government use its forces to protect, not punish, the Asilite ethnic minority population.

Asilite militias were formed in the above cross-border Asilite region of Alfurna and Rutasia. In 2011, Asilite militia leaders first asserted their belief that the Asilite right to self-determination required independence. Certain UN Security Council member states strongly opposed this secessionist claim. They did not want it to boil over into Rutasia, and other states with an Asilite Diaspora. The Security Council urged all parties to respect human rights.

In 2012, Alfurna's Asilite leader staged another press conference, at which she proclaimed: "Asilites will no longer sit idly by, while the Alfurnan government denies us our right to self-determination, and our freedom from discrimination. Our children cannot attend public schools. Our adults cannot find work. Our religious heritage is being vandalized." Alfurna's president responds with evidence of money, munitions, and other support flowing into Alfurna from the region's Asilite Diaspora. Per his demand: "the Asilite terrorists must stand down, relinquish all weapons, and cease all efforts to get such external support for their cause." He orders military snipers to "eliminate all threats" to Alfurna's majority population in Asilia. He further accuses the Asilite leader of being more interested in becoming a "Banana Republic Head of State," than doing what is best for her country and constituency.

The lack of meaningful negotiations spawns a downward spiral. It is seemingly proceeding toward a bloody stalemate, involving numerous skirmishes between Asilite militias and Alfurnan soldiers. Last year, Alfurna's president ordered Alfurna's military force to enter and occupy Isla (Asilia's former provincial capital). The Asilite Diaspora presses the leaders of both countries to recognize the Asilite rebellion, and to facilitate an end to the bloodshed on mutually agreeable terms.

Yesterday, the Asilite leader formally declared independence for the New Republic of Asilia. Her speech has been broadcasted all over the world. Per her related posts on Facebook and Twitter: "The ancestral lands of the Asilite people are now the independent New Republic of Asilia! International law gives oppressed peoples like the Asilites the right to remedial secession." This morning, both Alfurna and Rutasia's governments issued a joint statement: "Yesterday's declaration of independence of the so-called New Republic of Asilia is illegal under international law. It has no effect, because Asilia cannot become a state. International recognition of this secessionist entity would also be illegal. Asilia has no right to remedial secession, a concept that is not recognized under international law. The Asilites are merely an ethnic minority, not a People. They cannot claim the right of self-determination. Even if the Asilites did have that right, self-determination does not include the right to independence."

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Relevant publications:

Nagorno Karabakh: An Alternative Legal Approach to its Quest for Legitimacy

9 Miskolc Journal of International Law 69 (Hungary, 2012)

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Palestinian Statehood: A Secessionist Dialogue

8 Miskolc Journal of International Law 1 (2011)

Legitimacy of the Kosovo, South Ossetia, and Abkhazia Secessions:

Violations in Search of a Rule

6 Miskolc Journal of International Law 1 (2009)

Reprinted as book chapter: 3 Ukrainian Yearbook of International Law __ (Kiev: 2013)

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Diplôme d'études supérieures (D.E.S.) in International Law (2000);

Université de Montréal, Faculty of Law LL.B. (1996);

Université de Montréal, Department of Political Science B.Sc. (1995).

Faculty of Law, University of Ottawa (Civil Law section),

Ottawa, Assistant Professor 2009-pres);

Ministry of Foreign Affairs and International Trade of Canada,

Trade Law Bureau, Ottawa Counsel (2008-2009);

Ogilvy Renault, Attorneys-at-Law, Montreal Associate (2006-2007);

Lalive, Attorneys-at-Law, Geneva, Switzerland Associate (2000-2006);

Lenz & Staehelin, Attorneys-at-Law, Geneva, Switzerland Associate (1998-2000)

Relevant publications: State Succession to International Responsibility, Leiden & Boston,

Martinus Nijhoff Publ., 2007—winner of the ASIL's 2008 award for

High Technical Craftsmanship and Utility to Practicing Lawyers and Scholars

“Lessons Learned from the *Quebec Secession Reference* before the Supreme Court of Canada,”

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Recent State Practice”, *German Yearbook of International Law*. (2006) 49: 413-448;

“New State Responsibility for Internationally Wrongful Acts by an Insurrectional Movement”,

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“The Hawaiian Kingdom Arbitration Case and the Unsettled Question of the Hawaiian Kingdom's Claim to Continuity as an Independent State Under International Law”, *Chinese Journal of International Law*. (2002) 1:655-684.

Vanessa J. Jiménez Working field of public international law and human rights > 20 years
Currently Director of the Sudans Project at the *Public International Law & Policy Group (PILPG)*, where she has served for the past 5 1/2 years as legal & policy advisor to Government of Southern Sudan—now the Government of the Republic of South Sudan—as well as Advisor to Sudan People's Liberation Movement/Army.

Ms. Jiménez graduated *cum laude* with a dual degree in international affairs and Spanish from James Madison University in 1991 and graduated *summa cum laude* from the Amer U's Washington Coll Law 1998

Her work included advising on matters of self-determination, referenda, and state-recognition; serving as co-counsel in the int'l arbitration over the disputed border area of Abyei; Served as advisor to the RSS negotiation team in post-secession negotiations with Government of Sudan, the Ministry of Justice, national Technical Committee to Review the Interim Constitution of Southern Sudan, Ministry of Petroleum and Mining, on matters ranging fm existing & new oil concessions to development of new oil infrastructure.

Ms. Jiménez also worked in Bagdad from 2005-2007 advising the Iraqi Transitional Assembly on the drafting of its constitution

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Currently Ms. Jiménez also serves as a Senior Attorney with the Legal and Human Rts Prog. UK-based *Forest Peoples Programme (FPP)* where she focuses on securing domestic and international legal reforms to address the human rights of indigenous peoples particularly with respect to the right to self determination and rights related to lands, resources and territories.

This includes, advising and training indigenous communities and bringing cases before the Inter-American Commission on H Rts & UN human rights committees

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He has also been counsel before the International Tribunal for the Law of the Sea in

ARA Libertad case.

Author of about hundred of works in the field of International Law, in French, Eng & Spanish

His book '*Possession Contestée et Souveraineté territoriale*' (Adverse Possession and Territorial Sovereignty) awarded the Paul Guggenheim Prize 1997.

He has also been Rapporteur or Co-rapporteur on matters of State Succession & State Immunity for the International Law Association, the Council of Europe, and Institute Int'l Law

Relevant publications on Secession:

M.G. Kohen (ed.), *Secession. International Law Perspectives*, Cambridge, Cambridge U Press, 2006 (paperback ed: 2012)

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M.G.Kohen, "Création d'Etats en droit international contemporain", *Cours euro-méditerranéens Bancaja de droit international*, vol. VI, 2002, pp. 546-635

Dr. Jure Vidmar = Leverhulme Early Career Fellow Faculty of Law & Research Fellow of St. John's College, University of Oxford.

Currently teaches EU law & public international law for several colleges Oxford University & acts as a research supervisor in law and neighboring fields.

He also taught other legal subjects, including criminal law, international human rights law, and introduction to English law.

Jure was a Research Fellow in the Institute of European and Comparative Law, Faculty of Law, University of Oxford.

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As a visiting fellow, Jure regularly cooperates with the Institute for International and Comparative Law in Africa at the Faculty of Law, University of Pretoria, South Africa,

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Jure's main research interests lie within public international law, human rights, European law, and legal and political theory.

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He has also authored a number of articles on various aspects of international law, including: Territorial Integrity and the Law of Statehood, 44(1) George Washington International Law Review (2013).

In 2012, Jure was awarded an early career grant by the Leverhulme Trust in the UK.

The grant will enable him to carry out the research project entitled Abusive Governments in International Law.

Jure is also an editor of the Hague Yearbook of International Law.
