



# Against a Primary Right to Secede

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# Why care about secession?

- ▶ <https://www.newsweek.com/states-bidding-secede-respond-marjorie-taylor-greenes-divorce-idea-1784390>
- ▶ “It is the right of the people of each state to examine their relationship with the federal system and determine whether or not it is in their political, economic, and cultural best interests to stay in that system or follow the path of 140 other nation-states around the world and claim their right to become self-governing and independent.” – Daniel Miller, Texas National Movement

# What is secession?

- ▶ Unilateral separation: it is not mutual (agreed to by the existing state) and the state actively opposes it (aims to maintain its jurisdiction)
- ▶ Territorial claim: a territorial claim is made against an existing state

So: a group of people makes a territorial claim against an existing state, a claim that the state does not agree to and actively opposes, and demands new jurisdiction over it (their own or that of another state)

# Primary rights vs remedial rights accounts

- ▶ Primary right to secede: any group has a right to secede and any group can exercise it over the objections of an existing state
  - ▶ \*terms and conditions may apply\*
- ▶ Remedial right to secede: there is a right to secede as a remedy to lasting and otherwise irremediable rights violations
  - ▶ Slavery, genocide, oppression, etc.

# Wellman's primary rights account

- ▶ A fan of the right to secede, but not secession!
- ▶ The right to secede can be overridden by other moral obligations
  - ▶ Duty to benefit others in an existing state, for example
- ▶ Groups who exercise this right must be geographically contiguous
  - ▶ A “clear majority” of people in this group must favor secession
- ▶ Harm Principle: the existence of states is good; we cannot break them up without consideration of what will happen afterwards



# Is there a primary right to secede?

- ▶ “If self-determination is [morally] valuable, then there is a primary right to secede from legitimate states.”
- ▶ Wellman also claims that self-determination is morally valuable.
- ▶ Why think self-determination is morally valuable?
  - ▶ People operate poorly when making self-determining decisions all the time!
- ▶ Wellman: there is a general right to negative liberty.

# General right to negative liberty

- ▶ *Negative liberty*: freedom from external interference
  - ▶ E.g. the right to wear whatever clothes you want in your own house
- ▶ A *general right* to negative liberty is the right to be free from interference absent overriding moral considerations
  - ▶ E.g. the right to choose your own clothes – except in a surgery room

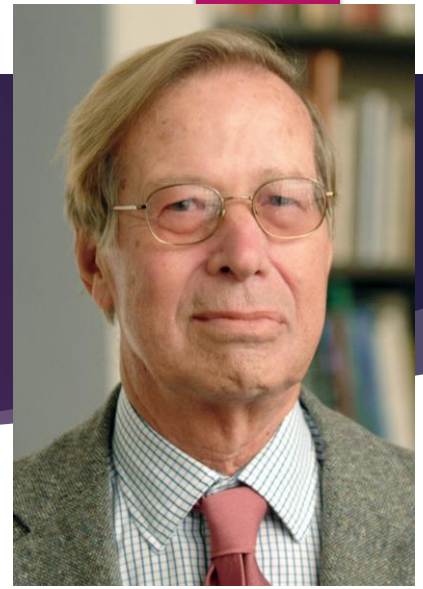


# Does this ground a primary right to secede?

- ▶ If it is true that we have a general right to negative liberty, then the moral value of self-determination would be derived from that
  - ▶ So, a general right to negative liberty *plus* Wellman's conditional claim that he defends in his 2005 book, *would* imply a primary right to secede
- ▶ But I deny that there is a general right to negative liberty
  - ▶ There is a good argument for preserving, as much as possible, individuals' freedom from outside interference (we often interfere poorly or maliciously!)
  - ▶ But the government needs no specific moral justification for, say, requiring seat belts, or for banning the sale of cigarettes, alcohol, or cheese cake



# Dworkin's argument



- ▶ Dworkin argues against a general right to negative liberty as follows:
  1. A government needs no special justification to deny all things to someone.
  2. If someone has a successful right claim to all things, then a government needs a special justification to deny all things to someone.
  3. One does not have a successful right claim to all things. (By 1 and 2)
  4. A general right to negative liberty implies that one has a successful right claim to all things.
  5. Therefore, one does not have a general right to negative liberty.

# Examples

- ▶ Dworkin's example: if you are driving the wrong way down Pennsylvania Avenue, the government needs no special moral reason for ordering you to stop and, if necessary, compelling you to stop.
  - ▶ We can modify this example: there's no one else around, you are driving the right way but the government still tells you not to drive on that road, etc.
- ▶ The government needs no moral justification for requiring seat belts in cars.
  - ▶ It has one, but this is not a violation of some basic moral right to compel this.
- ▶ The government needs no moral justification for banning wearing blue.
  - ▶ It has none, and if it did do this, it would not violate basic moral rights – but it violates legal rights to free expression and may have bad moral consequences.

# Conclusion

- ▶ Wellman's account of a primary right to secede relies on a general right to negative liberty (to be free from external interference)
- ▶ Dworkin's argument casts serious doubt on the claim that we have a general right to negative liberty

Putting these together:

- ▶ We should prefer a remedial rights view of secession as opposed to a primary rights view; remedial rights views do not have the burden of defending a general right to negative liberty (that we may not have)



# Thank you, KPSA '23ers!

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