

human rights will be secure within the new regime.

On one topic it is impossible to say what lesson should have been learnt, since the speakers held widely diverging views. There was no consensus within the conference as to whether the international community should resist demands that borders be changed. Some speakers maintained that any attempt to change borders either in the pre-secession federal state or in the post-secession Croatia and Bosnia-Herzegovina would be a "Pandora's box," and that the importance of territorial integrity should be defended strongly at both points in time. Other speakers saw the matter differently, arguing that, while it had made sense to defend the territorial integrity of the federal state of Yugoslavia, the breakaway republics, Slovenia, Croatia, Macedonia and Bosnia-Herzegovina, had abandoned that principle when they seceded. Therefore they cannot logically treat their own borders as inviolate, or reject the secessionist demands of dissatisfied minorities within the newly independent states. "What is sauce for the goose is sauce for the gander," proclaimed one speaker.

International Law

Theoretically, international law could have been invoked to rule on the legitimacy of the separatist republics' claim for independence. In fact, however, international law is a weak instrument for that purpose, since it is self-contradictory. There are obvious incompatibilities between the declarative position that supports "self-determination" — the right to secede — and the "territorial integrity" of states that are already recognized members of the international system. In practice, the United Nations has almost invariably supported the latter principle whenever it has clashed with the principle of self-determination. In the Yugoslav situation, authoritative bodies such as the Badinter Commission were created for the purpose of arbitrating the dispute and determining whether the breakaway republics had provided the minimum standards of human rights (especially for their minorities) required to merit acceptance as a sovereign state by other countries. Though the Badinter Commission was not satisfied on these matters (except in Macedonia) Germany nevertheless demanded that other states recognize Slovenia and Croatia after they unilaterally declared independence. In fact, Germany offered some financial concessions related to the implementation of the Maastricht Treaty as an incentive to induce other European countries to recognize Slovenian and Croatian independence.

It is far from certain that a clearer set of international laws would have been accepted, since

sovereign states jealously protect their right to recognize other states as they see fit. Nevertheless, the legal ambiguity was among the reasons why the Yugoslav crisis turned into the tragedy it subsequently became. This issue, which is often expressed as a conflict between the principles of "self-determination" and "territorial integrity," can also be seen as a conflict between alternative — and profoundly different — understandings of democracy. One understanding assumes that a democratic assertion of self-determination requires only that a republic's parliament declare independence, grounding its decision in a referendum showing that the majority of citizens favor secession.

An alternative concept of democracy is based, not just on the principle that the majority rules, but no less importantly on a guarantee of equal rights and legal protection to citizens who constitute a minority. Without some such protection of minorities, for example, the majority in a supposedly democratic state might legally vote to expropriate an ethnic minority group's property, say, and force them into slavery.

What is in question is *how* minority rights shall be protected, and what those rights shall be considered to be. In states comprising sharply polarized communities, such as the former Yugoslavia, what is sometimes required is that a majority of voters in *each* of those communities accept a decision in order for it to be valid. There is no universal agreement as to which type of democracy is fairer. However, international law almost always rejects the right of a simple majority of voters in a referendum to secede. Of course, if all major interest groups in a society do agree to partition their state, outsiders have no right to object unless that act would affect their neighbors in an obviously unfairly detrimental fashion. Generally, however, there are internal minorities who bitterly oppose efforts by the majority to deprive them of citizenship in their native country. What is legally ambiguous until today is how far *their* rights should be protected by international law.¹¹

Moreover, within any federal system there are people outside the separatist republic who may have much at stake, having made investments in the development of jointly held resources which will be appropriated by the breakaway state in the event of secession. The division of assets and liabilities is always problematic in cases of secession and such questions are normally handled in an ad hoc way, not

¹¹In a similar precedent, the Supreme Court of Canada has ruled that the government of Canada is obliged to protect the rights of federalists in Quebec to remain Canadian.