

On the other hand, no land claim can remain valid indefinitely; many patches of territory have been stolen time after time by different groups over the centuries, making a mockery of the principle of prior ownership. Thus the aboriginal populations of the Americas have no prospect of regaining their lands from the European invaders who have been settled there for centuries. For this reason systematic, rational criteria need to be developed that will put an end to the ambiguities of these claims.

All the aforementioned factors plus many others may be identified and weighted as factors in a legal equation that will allocate ownership rights to contested territories. Ordinarily, international law advances slowly. If it continues to develop at today's rate, perhaps the world may have answers to these questions within a century or two. Unfortunately, we cannot wait that long.

The French political philosopher Edgar Pisani spoke briefly during the conference as a discussant, focusing on the symbolic importance of land in all separatist and nationalist struggles. He pointed out the declining salience of geographical proximity in matters of work and the economy, especially with the expanding importance of electronic information technologies. While territory and the borders around territories are no longer crucial determinants of what people can *do together*, territory remains highly meaningful in what people can "be" together — i.e. how they identify themselves collectively. Pisani proposes a new way of thinking in which *doing and being* would become disentangled.¹⁶ However, it is not clear what practical implications may flow from his analysis for international law or the constitutions of states.¹⁷

Lessons Regarding International Law

The participants in the conference agreed without exception that the following lesson is of

¹⁶Pisani did, however, comment privately that his suggestions are consonant with an article he had read: Metta Spencer, "How to Enhance Democracy and Discourage Secession," in *World Security: The New Challenge*, edited by the Canadian Pugwash Group. (Toronto: Dundurn Press, 1994), pp. 161-180.

¹⁷Two books that point to a new, non-territorial form of electoral constituency are Jean-Marie Guihenno, *The End of the Nation-State* trans. from French by Victoria Elliott (Minneapolis: University of Minnesota Press, 1995), and David J. Filkins, *Beyond Sovereignty: Territory and Political Economy in the Twenty-First Century* (Toronto: University of Toronto Press, 1995).

unique importance. Clarification of international law is urgently needed to standardize the conditions of legitimate secession. Although sovereign states probably will continue to decide for themselves whether to recognize the assertion of independence by a separatist movement, certain basic minimum criteria should be established by international agreement, and a procedure should be established for determining whether those basic criteria have been met. Had such standards been fully codified and recognized before 1990, Yugoslavia would not nearly as likely have broken up, for all separatist politicians would have known that their breakaway country would not win international recognition or financial or military support from abroad.

The participants in the conference recommend that Canada take the initiative in clarifying international law by asking the United Nations to convene a conference to codify a set of minimum conditions for recognizing new states. The participants further suggest that such a document must assure protection of the human rights of minority populations. One (though not the only) way of providing that guarantee is to require the consent of a majority of voters belonging to each minority group within a separatist state as a minimum condition for recognizing its independence. The proposed conference may further authorize the United Nations to conduct the referendums that may be required for this purpose and manage the process of partition in order to avoid the human suffering and destruction proceeding from chaotic breakups of states.

Curtailed of a Free Press

Yugoslavia had barely begun its democratization when it broke apart. Many institutions that are taken for granted in democratic states had not yet developed there. For example, the communist state had always controlled the press, and there remained a presumption that, even if elections were free and fair (which has never yet been the case), the winning party would continue to control the media. Such control allowed the newly nationalist leaders to vilify their opponents and distort reportage in their own favor. Practically no assistance had come from the West to develop professional standards of journalism, to provide technological resources for disseminating unapproved ideas, or (least of all) to protect journalists from private recriminations and official punishments. The vulnerability of news sources to political pressure allowed the flagrant manipulation of the press by powerful hate-mongers.