

**Peter Radan, *The Break-up of Yugoslavia and International Law*.  
Routledge Studies in International Law. Routledge, London and New  
York, 2002. ix + pp.278. Maps. Appendix. Bibliography. Index. £65.00**

THIS book deals only tangentially with the subject matter of its title. Rather than a detailed study of international law and the break-up of Yugoslavia, this is a study of two aspects of international law applied in the recognition of new states: the concept of the right of self-determination and the development and use of the legal principle of uti possidetis (possession). Radan uses a discussion of these two aspects to challenge the conclusions of the EU Badinter Commission which ruled in a series of judgements, from November 1991 to July 1992, that the new states formed in the break-up of Yugoslavia should be granted independence on the basis of their pre-existing federal borders.

There is really only one chapter that deals with international law and the break up of Yugoslavia. The foregoing chapters deal with three preliminary issues, each dealt with in two chapters: the legal concepts of 'nation' and 'people'; the historical development of the concept of uti possidetis; and the history of Yugoslavia and the wars of secession. These three issues are dealt with in a highly compartmentalised way, giving the reader the feeling of reading separate papers rather than a unitary monograph.

Regarding the concept of the right of self-determination, Radan favours the 'romantic' definition of concepts such as 'nation' and 'people' over the 'classical' territorially-based perspective and, rather controversially, seeks to assert that his preference is supported in international law. By process of a complex selection of assorted material culled from legal documentation ranging from the 1920s to the 1990s he argues that international law could be construed to favour a right to secession in cases of discrimination against minorities and that statements under UN Charter law in defence of territorial integrity are not easy to interpret in this area.

Of more interest to the international legal scholar are the chapters on the development of the principle of uti possidetis with decolonisation in Latin America in the early decades of the nineteenth century and in the very different circumstances in Africa in the twentieth. His detailed and interesting survey demonstrates that the principle was used to establish borders where there was pre-existing agreement that they would follow previous colonial administrative boundaries. The historical material on Yugoslavia highlights that the republics' administrative boundaries were never the subject of a legal document, that they were designed to prevent secession rather than to encourage it, and that there was no thought that they could ever be used as international borders between states, and that if this had been the case then they would not have been agreed to. In the description of the Yugoslav secessions Radan highlights that the international institutions involved in the disputes over secession, including the European Union, OSCE and UN, all defended the right of republics to secede within their internal federal borders.

The chapter on the Badinter Commission binds the work together focusing on the legal misjudgements of the EU in failing to facilitate a negotiated solution to boundary disputes between majorities and minorities within the new states. Radan correctly argues that calling into question the international borders of Yugoslavia while regarding internal administrative boundaries as sacrosanct was contradictory and without any consistent legal defence. He asserts that the Badinter judgements were based on a misreading of international law on several counts: the wrong declaration that the Federal Republic was disintegrating rather than that states were seceding; the misconstruction of the right of self-determination to read that fixed boundaries should be maintained; and in regarding that the principle of uti possidetis should be applicable in circumstances where it could only lead to conflict.

Rather than a study of Yugoslavia, this fascinating and slightly eclectic work appears to be conceived more in order to learn the lesson of the Yugoslav case to address a possible Quebec secession from Canada. Radan's conclusions, that the EU Badinter judgements effectively removed the possibility of negotiations over minority claims, particularly in Croatia and Bosnia, and embroiled the international community in conflicts where they effectively took the side of dominant national groups within federal units, are correct. However, his argumentation falls between two stools: in the early chapters he is not focused enough on international law in explaining the legal questions, such as the right to self-determination, while, on the other hand, he tends to be too legalistic in his attempt to explain the break-up of Yugoslavia as bad law-making, in isolation from international pressures for intervention.