constrain legal reasoning with "legal doctrine," as in the "American model," it does not take us very far. I believe there are good reasons for differentiating "traditional" areas of law and fundamental rights law. Rights express themselves in essentially contested concepts. This is why constitutional judges' discretion will never be tamed by legal categories, as long as they (the judges) retain direct access to the Constitution (unmediated by laws or statutes).[19] "Traditional" law is meant to exclude evaluative judgments (at least political or moral evaluative judgments). Essentially contested concepts, on the contrary, demand from judges (and from legislators, and from citizens) evaluative judgments. Moral or political reasoning on rights is not a bad thing, as long as it is handed to deliberative bodies with democratic credentials. This is not only a case against judicial review[20] but a general claim about the proper place of rights in a democratic society.

Urbina's book does not argue for a reasonable textualism on the basis of the "dignity of legislation." It presents the goals both judges and legislators should aim for (not necessarily in coordination), with the purpose of transforming human rights law into a sophisticated branch of law, and then explains the preliminary steps to take in order to reach those goals. It is, in that sense, a work in progress, and despite the open flanks for criticism examined here, the work introduces the newer generations' critical approach to proportionality in a very accessible way. In that sense it is an indispensable read for those interested in rights adjudication and human rights law in general.

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Giacomo Delledonne and Giuseppe Martinico, eds. *The Canadian Contribution to a Comparative Law of Secession: Legacies of the Quebec Secession Reference*. Palgrave Macmillan, 2019. Pp. 286. £66.00. ISBN 978-3-030-03469-6.

Celebrating the twentieth anniversary of the *Reference Re Secession of Quebec* (hereinafter the Reference) is a very good reason to put together a volume on "one of Canada's most well-known legal exports" (p. 5). But there is another equally strong reason that makes the decision of Giacomo Delledonne and Giuseppe Martinico to bring together scholars with expertise in constitutional law to deal with the comparative law of secession important and timely. The winds of secession that are blowing in Europe and beyond are making secession a burgeoning topic of constitutional law. By examining the legacy, relevance, and contribution of the Reference to a

[19] This is the case in Urbina's model, given that fundamental rights may operate inside or outside the legal system. The latter is the case in constitutional bills of rights or human rights documents. The question then becomes, "who gets to decide when will rights operate 'in' the legal system?" And the answer is: *both* courts and legislatures (at 232).

[20] Webber (as many others who develop the "legislation as the forum for disagreement" horn of Waldron's theory) does not subscribe to the critique to strong judicial review. He offers a very particular defense of judicial review in Webber, *supra* note 8, at 201–212. In Urbina's model, judicial review does not show up, except, maybe, in the following phrase: "Neither is the distinction [between what a human right requires, and what the legal system requires by way of protecting it] subverted when a court is tasked with *reviewing* this legislative specification of human rights. Both legislative and judicial specifications of human rights are in principle compatible with the distinction presented here" (at 237).

comparative law of secession, this edited volume provides a valuable constitutional law perspective to a topic that is largely dominated by political science.

A landmark judgment of the Supreme Court of Canada delivered in the aftermath of a referendum in which the population of Quebec voted (by a tiny majority, 50.58 percent) to remain in Canada, the Reference declared a unilateral secession of Quebec from Canada illegal, under both Canadian constitutional law and international law. It, however, imposed an obligation on the rest of Canada to negotiate the terms by which Quebec would accede to independence if a clear majority, faced with a clear question, votes in favor of secession. Although the Court has left the outcome of the negotiation to the political sphere, it has ruled that secession must comply with the underlying basic principles of Canadian constitutional law, namely, the rule of law, federalism, democracy, and the protection of minorities.

The two chapters that follow the concise and yet comprehensive introduction deal with the ruling itself. To be precise, in the first chapter, Errol Mendes deals with the merits of the ruling. The chapter explains how the Canadian Supreme Court regarded the act of secession both as a legal and political act and provided a response that combines law and politics, making the Reference the ultimate "legal framework for a legitimate secession process" (p. 28). The author does not limit himself to discussing the Reference but also explains the impact of the Reference on other jurisdictions, perhaps doing some of the work that should have been left to the authors of the other chapters. This is a chapter that is obviously written by an author who had personal experience with the events surrounding the referendum. That allows readers to have insight into the emotionally charged nature of the situation.

The next chapter by Gaudreault-DesBiens does not really focus on the ruling itself but rather on the issues that arose as a result of the ruling. In this regard, one may question the decision of the author to include a discussion of "the Scottish referendum process," given that there is a chapter dedicated to doing just that. Yet, the fact that the discussion is about the influence of the Scottish experience on Quebec and not vice versa suggests that the inclusion of that discussion is not problematic. Perhaps, given the constitutional law angle of the book, one may question whether it was necessary to include the extremely interesting and well formulated discussion on "the woes of Quebec nationalism." That discussion has little to do with the objective of the volume, namely, to lay out the Reference's contribution to a comparative law of secession. There is no doubt, however, that it is in line with the chapter's aim "to draw attention to the main legal and political hurdles that the secessionist movement in Quebec currently faces" (p. 63).

Following these two chapters, the volume features a series of country studies to discuss the impact of the Reference. The chapter on the Spanish experience clearly shows how the Reference is sought as a guide in the absence of a clear legal framework governing secession. The desire "to apply to Spain the Canadian solution" (p. 76) led to the flourishing of publication on secession in Canada in the Spanish language as well as "translation or publication of texts by noted Canadian authors" (p. 77). The Reference is also mentioned in a manifesto signed by more than 200 legal scholars. Interestingly, the Reference is invoked by Catalan nationalists as much as by the Spanish nationalists. The open-ended nature of the Reference has made it possible for Spanish politicians that fall at different points on the political spectrum to use the same decision to support their conflicting positions. Both engage in what the author calls "partial reading," invoking the Reference when it suits their agenda, underscoring some aspects "while setting aside or omitting others" (p. 72). The fact that the Reference is invoked "to gain legitimacy for one's own position on the secessionist crisis by appealing to the Canadian case as argument of authority" (p.72) shows the unique standing of the Reference in the comparative law of secession.

The chapter on Sri Lanka reveals one of the clear cases where the Reference was explicitly mentioned. The Supreme Court of that country, in *Chandrasoma v. Senathiraja*, endorsed the

position that there is no unilateral right to secession; although, based on the framework established in the Reference, it recognized the right of the Tamil people to exercise the right to self-determination in a form of internal autonomy. The same chapter, however, reveals how ineffective a legal transplant can be when the exporting and importing countries present diverse contexts. In Sri Lanka where "the legal constitution" is subordinate to "the political constitution," the decision of the Supreme Court to accept "the Tamil claim to peoplehood for the purposes of the international law of self-determination was unlikely to receive support from the political actors" (p. 139). In fact, the author believes that "a quiet burial in the dusty annals of the Supreme Court's case law is the most likely fate of this otherwise praise-worthy judgement" (p. 156).

The inclusion of Ethiopia in a book that examines the influence of the Reference may seem inapt given that Ethiopia constitutionalized the right to secession few years before the Canadian Supreme Court delivered the Reference. Yet it was a very good decision, and to some extent unavoidable, to include Ethiopia as it gives us the opportunity to reflect on how some of the important decisions made in the Reference can be translated into reality. For example, although the Reference held that there must be a clear majority voting in favor of secession, Quebec and the federal government disagreed over what a clear majority means. The Ethiopian Constitution, which provides for the procedure under which an ethnic community may secede from the federation, states that the demand for secession must only secure a simple majority vote in a referendum. The chapter could have asked if this meets the "clear majority" requirement. It is also difficult to conclude, as the chapter does, that the Ethiopian Constitution provides for a unilateral secession when it subjects the completion of the act of secession to the division of assets between the federal government and the new state, which would unavoidably involve negotiations. Given that the central ruling of the Reference is its rejection of the legality of a unilateral secession of Quebec from Canada, it would have been appropriate for the chapter on Ethiopia to discuss, in much more detail and in a comparative perspective, whether the Ethiopian Constitution provides for a unilateral or negotiated secession.

The book also includes a chapter on secessionist tendencies and state response in Italy, providing a valuable addition to the literature on secession as it introduces cases that are not well known outside Europe. The Constituional Court of Italy held an attempt to organize a secessionist referendum in the Region of Veneto to be "inherently incompatible" with the "unity and indivisibility of the Republic" (p. 201). Although the chapter reveals that the Italian Constituional Court has given a radically different response to a secessionist claim, it indicates that the decision is not without any parallels with the Reference. It notes a similar reliance on "fundamental principles . . . to shape the political sphere," including in the resolutions of questions pertaining to "the unity and survival of the State" (p. 202). This is about the use and impact of what the Canadian Supreme Court referred to as "the underlying principles animating the whole constitution" (p. 202).

The chapter that gives us the "sceptical notes from the European peripheries" is important not so much because it enlightens us about the influence of the Reference on European experiences but because of its focused and erudite engagement with the Reference itself. It focuses on the contributions of the Reference on the debates surrounding remedial secession and the thorny issue of clarity, with respect to both the wording of the referendum question and the majority required to signify clear expression of the will of the people on the question of secession. It does so using "examples drawn from the East and West of Europe's Southern periphery" (p. 211).

The edited volume does not limit the discussion on the influence of the Reference to domestic laws and pronouncements of domestic courts. It also moves to the arena of international law. Crema's chapter illustrates the unique position that the Reference has taken in international law. A decision by a domestic court on a matter of international law has "become a classic of

international legal literature" (p. 90). This is evident from the fact that the decision appears as a reference to the international position on self-determination, where "one would expect to see a case taken from an international tribunal" (p. 90). The Reference is often invoked and relied upon by states that make a submission to the International Court of Justice (ICJ), as was the case with those that intervened in the proceedings of the Kosovo Advisory Opinion (ICJ). Perhaps what is not clear or discussed in the chapter is whether the Reference has also influenced those presiding over international and regional tribunals, including the ICJ.

The last three chapters of the book do not look at the influence of the Reference on other jurisdictions. The first two grapple with the issues raised and arguments advanced in the Reference, providing insights from the perspectives of political theory and law, respectively. That is also why it is odd that these chapters are placed at the end of the book. Perhaps they should have followed the first two chapters that focus on the Reference itself.

For a book that does not have a concluding chapter, the last chapter does just that by providing a comprehensive overview of the laws pertaining to secession that has been adopted in the last twenty years. As the editors noted, the comparative overview reveals "the legacy of the Quebec secession reference has been remarkably influential and has permeated, implicitly or explicitly, several legal systems, especially through the activity of their top courts" (p. 7). The chapter provides useful insights into the limits of the often less legally regulated referendum as a legitimate and proper "means to channel secession claims" (p. 274).

To claim that the Canadian Reference has become a worldwide reference might be an exaggeration. But this valuable contribution by Giacomo Delledonne and Giuseppe Martinico convincingly demonstrates that the legacies of the Reference reverberate across the globe. More importantly, they have directed our focus to the much-neglected comparative law of secession, inviting constitutional lawyers to grapple with how constitutional democracies should respond to secessionist claims. That is also where the legacy of this volume lies. Given the winds of secession that are blowing in many parts of the world, the law of secession should be at the forefront of the research agenda of at least some constitutional lawyers.

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Josephine De Jaegere. *Judicial Review and Strategic Behaviour: An Empirical Case Law Analysis of the Belgian Constitutional Court*. Intersentia, 2019. Pp. 365. £99.00. ISBN: 9781780686943.

As its title reveals, this is a book on judicial review. However, it is unlike any other book on judicial review, for two reasons. First, it has a very limited scope: it only considers the Belgian Constitutional Court (my long-term relationship with this court is most probably the reason I was solicited to write this review). But before you stop reading at this point, here is the more important reason. The book has a most original approach to judicial review: it is not primarily based on traditional normative scholarship but on an empirical study of the judgments rendered by the mentioned court. This approach is of universal interest.

The empirical approach, as a research method, implies an evaluation of evidence on the factors determining the outcome of judicial decisions. For this purpose, the author built an extensive database on the case law of the Belgian Constitutional Court, including all 3145 cases