

# CONTENTS

Preface: The National and International Faces of Federalism	ix
Chapter I: Self-determination of Peoples as United Nations Principle. Historical Roots and Contemporary International Law/Municipal (Constitutional) Law Antinomies	1
A. Historical Origins of the Self-determination Principle	1
B. Self-determination as International Law and Municipal (Constitutional) Law principle	8
Chapter II: Emergence of States in Classical International Law	15
A. The doctrine of Recognition in its Declaratory and Constitutive Variants. Declaratory and Constitutive Theories of Recognition	15
B. British practice: Russian Revolution Cases	17
C. British practice: the Ethiopian War and Spanish Civil War cases	18
D. Post-World War II: Yalta, Potsdam and the Cold War	22
E. Post-decolonization Succession States	23
F. Latin American practice: The Estrada Doctrine	24
G. British practice: The Declaratory Policy of Recognition	25
H. The Balkans. Dilemmas and Contradictions in Contemporary State Policies on Recognition	27
I. European Community Guidelines on Recognition. (1991)	32
J. Opinions of the Badinter Commission (1991-1992)	33
Chapter III: The United Nations Charter and Admission of States, and also their Exclusion	
A. Admission to functionally-based or regionally-based International Organizations	49



Chapter IV: The United Nations Charter Principle of Territorial Integrity of States. The <i>Uti Possidetis</i> Doctrine as Element in State Succession	53
A. The <i>uti possidetis</i> doctrine	54
Chapter V: Federalism and Constitutional Pluralism as Self-Determination options for Plural-ethnic States. The Different Faces of Federalism in Comparative Constitutional Law	61
A. Self-determination and Self-government for Indigenous. Aboriginal peoples	63
B. Classical, Anglo-Saxon Federalism and the <i>Deux Nations</i> (Compact) Theory of Federalism	66
C. Dilemmas and Contradictions within Classical. Juridical Federalism	68
D. Federalism and the New Pluralism: Re-defining the Constitutional Game and the Players	71
E. Pragmatic Accommodations: The Trial-and-error of Classical Federalism	74
F. New Thinking on Federalism: New Plural-constitutional Options	79
G. United Nations Initiatives for Federal Solutions for the Former Yugoslavia	83
Chapter VI: Law and Politics and the Dialectical Unfolding of the Self-Determination Principle	87
A. The role of the Legal Advisor	88
B. Résumé: New Thinking on Recognition and State Succession	91
Chapter VII: <i>Excursus</i> . Failed States: The Trial-and-error of Contemporary Exercises in Constitution-making and Nation-building	95
A. Yugoslavia: political implosion of uni-national, multi-cultural state	95
B. Palestine: Self-determination and State Succession dilemmas for the former British Mandated territory	98
C. Iraq: Dance of the Green Table: The legacy of Sykes and Picot	104
D. "Quebecois" as "Nation" within Canada	107
1. Need for prior representative (multilateral) international consensus	111
2. Importance of Timing to success or failure	112

3. Local political-legal élite: incorporation into government for defeated countries	116
4. “Reception” of foreign constitutional-governmental institutions and processes: limits and possibilities	118
5. Constitution-making and Nation-building: opportunities and pitfalls	121
Note on the Author	127
Author’s Publications	129
Index	131