

# **THE DEVILS IN DEVOLUTION**

**A Lecture by Donald L. Horowitz**

## **Abstract**

Reluctance to devolve authority to states in a federation or autonomous regions in unitary states typically derives from a desire not to empower political opponents or potential secessionists. In most cases, these are misplaced concerns. Authority devolved early in a conflict generally does not have such adverse effects. Yet there are other reasons to be cautious, at least in ethnically heterogeneous regions, where many dysfunctions of devolution can be found. Among the devils lurking in devolution are severe, often deadly, and protracted conflicts over which ethnic group will dominate the devolved region and benefit from its endowments, and which will not.

After identifying the misplaced apprehensions of central governments concerning devolution, this lecture will explain the sources of conflict in ethnically heterogeneous regions and their life-and-death consequences. These often reside in constitutions that speak with forked tongues about guarantees of equality in the face of grants of superior claims awarded to certain groups, or in mistaken constitutional interpretations, or in processes of adjudication that are inadequate to detect discrimination that violates constitutional provisions.

The lecture explores the ways in which constitutional provisions designed with good intentions can nevertheless produce ethnic discrimination that has profoundly negative effects on life chances for disfavored categories of citizens. And even when no such conflicting provisions are present, we can sometimes observe judicial misapplications of the law that wreak equally detrimental consequences upon aggrieved groups of citizens. In a half dozen Asian and African countries with powers devolved to ethnically heterogeneous units, judiciaries can find themselves unable to protect their citizens, because courts face insuperable obstacles or fail to use powers they actually have. Only in one of the latter cases were courts able to correct an egregiously discriminatory legal doctrine, but that correction came after a dozen years of interpretive error.