

National Self-Determination and Justice in Multinational States

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Chapter 5

The Modified Right to Self-Determination¹

Most individuals never choose the political communities they belong to. Their accidental endowment with membership at birth develops over years of social conditioning into a full-fledged national identity. That individuals are habituated into being a part of some group or collective agent does not diminish the importance of their membership to the individuals, however. As I discussed in Chapter 2, membership in national groups can be considered a matter of non-arbitrary individual preference. Such a preference ought to be considered regardless of whether changing membership from one political community to another is difficult enough to make it unreasonable to require it under normal circumstances. An individual preference for membership in a certain group would retain its importance even if individuals were perfectly capable of switching membership but perceived such a change to be undesirable. What if minority members want to retain their national identity, which they perceive as shaping their lives in meaningful ways, but do not want to be included in the larger political community of the host state? Under what circumstances is it justifiable to respect their preference? Can we limit their freedom by rejecting their choice not to associate with the larger community and demanding that they remain within its borders?

It is customary to think that the governments of legitimate states are entitled to act in certain ways. These governments are understood as representing certain collective agents and treated as if they were acting on behalf of such agents. This attitude is justified on the basis of the ideal of legitimacy, which suggests that states ought to derive their power from the people whom they protect and govern. The idea of global justice within a world order based on states requires us to formulate some guidelines for appropriate relationships between governments and minorities in their territory. In this and the next chapter, I provide a set of guidelines for the regulation of self-determination claims in multinational states that allow us to determine under what circumstances the international community can reasonably place a demand on substate groups to remain within the borders of their host multinational states and to adhere to rules of behavior consistent with the terms of their inclusion in these states.

In Chapter 2, I established that self-determination is an important good for a particular type of group agent that warrants, in a world with more than one community of this kind, the assignment of a primary moral right to groups organized around this good. In Chapter 3, I defined nationhood as political culture with

which individual members self-identify and which is related to the limits of primary political communities and their relations to other such communities. Thus, a nation can be considered to be a group agent constructed through the engagement of a set of individuals with a political culture of self-determination. When a group qualifies as a nation, it satisfies a necessary condition for the possession of the moral right to self-determination, but this does not mean that the national group ought to enjoy the right. As Jeremy Waldron points out, rights imply limits on the harms and losses individuals and groups can reasonably be expected to put up with.² In this chapter, I argue that the violation of a group's right to self-determination is an unjustifiable loss for the group that should not be imposed on it, provided that (1) the ideal of self-determination is not understood as the unconditional acquisition of independent statehood and (2) the formulation of the right includes safeguards against enjoying the benefits of self-determination in a way that harms other groups or non-member or member individuals. The right can be granted to a group if its aspirations (and corresponding sets of constitutive beliefs) are satisfied in a way that is consistent with the realization of self-determination as a universal moral right equal for all national groups. It remains to formulate the moral right to self-determination in a form acceptable for this purpose; that is aim of this chapter, in which I introduce a modified right to self-determination.

First, I provide additional arguments that justify granting national groups their entitlement to self-determination in several contexts. I then present the modified right to self-determination, which grants all groups—state-endowed and non-state alike—equal moral status with respect to self-determination. Finally, I show that the introduction of the modified right to self-determination would preserve the territorial integrity of multinational states better than alternative proposals that ground the criterion of legitimacy for multinational states only in respect for human rights, and, second, that the modified right provides for an acceptable theory of international relations.

National Groups' Entitlement to Self-Determination

I discussed the entitlement of national groups to self-determination from the point of view of collective agency in Chapter 2. The moral right to self-determination at the group level is based on collective agents' interest in full personhood and freedom; it provides conditions for discursive control that define limitations that groups can impose on the freedom of one another as equals. If a group is prevented from controlling its membership and the limits of its political space, it is harmed, because it cannot properly actualize its agency. Moral rights protect important goods; in the case of collective agents organized around self-determination, the enjoyment of their constitutive shared good satisfies their basic interest in sustaining themselves through equal freedom with other similar agents.³

In the first part of this section, I argue that the failure to accommodate national groups' self-determination claims violates minority individuals' autonomy and the

equality of their citizenship in the larger state as compared with the members of the majority. I also provide an argument based on Rawls's original position to defend that equal treatment of substate national self-determination is just. The second part of the section looks at pragmatic arguments.

Moral Arguments

It is generally understood that a moral right implies a good, interest, or some other aspect of the well-being of its holders that justifies imposing a duty on others to protect this aspect of well-being.⁴ I demonstrated in Chapter 2 that the right to self-determination is a primary, not a derivative, group right. This means not only that it is a right to a shared (collective) good but also that the right is not derived from the individual members' enjoyment of the shared good: it exists at the level of the group agent. Here, I am going place the ideal of self-determination in the context of citizenship in multinational states. I will justify the right of national groups to self-determination by approaching self-determination as a good from the perspective of a group member who is also a citizen of a larger multinational state. Before I begin with arguments based upon the individual interest in equal treatment by a multinational state, it should be noted that in Chapter 2 I also ranked the exercise of human rights over the primary moral group right to self-determination, so that non-compliance with the standard of human rights results in the limitation of the enjoyment (or the denial) of the collective right.

Equal citizenship presupposes that all persons ought to have the same fundamental status as equal participants in the most important political decisions made in their societies—what Buchanan calls “a right to democracy.”⁵ However, what constitutes *their* political societies? Government power raises moral issues of legitimacy and requires us to explain under what conditions the members of a group of people would treat the government as *their own* political authority—as the authority they consider morally justified to rule them.

National membership, by defining limits of membership in primary political communities, determines the conditions under which the individual interest to be governed on the basis of dependent reasons can be satisfied. National identity offers a vantage point for evaluating and forming attitudes toward any political power exercised over a group. Thus, national membership is an important good for individuals.⁶ The existence of this good depends on the ability of a group to maintain its identity internally and in relation to outside individuals and groups.

Choices Regarding Which Minority Rights to Protect

As I discussed in earlier chapters, the European Framework Convention for the Protection of National Minorities lays a foundation for the protection of the individual members of national minorities against discrimination and for the maintenance of

their national identity via a set of cultural, linguistic, and religious rights. I also argued that co-nationals who control the religious, linguistic, and cultural aspects of their lives still may not control their national identity.⁷ When a choice is made concerning what minority rights to protect, one may argue for preference to be given to cultural, linguistic, and religious rights over self-determination because language and culture may appear to be primary, while political culture is more of a matter of choice: it may seem to be much easier for an individual to become a member of another primary political community than to adopt the culture of another group.⁸ Hence, this line of argument goes, it is much less justified to deny individuals equal recognition as members of a linguistic, religious, or cultural community than as members of a political one. But members of a minority may prefer the culture, religion, and language of the larger nation to their own as simply more convenient: the members of the minority may wish, for example, for their children to be educated in the dominant culture's schools because they are readily accessible and foster socially valuable linguistic skills. In a sense, their children are "born into" the culture and language of the majority because of the availability of the majority's cultural goods. Minority rights to culture, religion, and language are nonetheless considered fundamental, because it is recognized that existing alongside a majority community puts pressure on smaller groups and dominates the minority individual's choices. To ensure the freedom of choice for all citizens, the minority must viably be able to choose to exist in their own language and culture. Provided this is accomplished, should a minority citizen decide to switch to the majority language or culture, her choice would not be forced. The ease with which an individual can immerse herself in a different milieu and the convenience of this transfer does not truly determine the value of the individual identity the milieu can provide. If the self-determining status of a national group is not recognized, all group members will be pressured to pursue assimilation into the larger state's political community, a forced choice that violates their members' autonomy. In this case, even though a minority member may be capable of joining the majority's political culture or immigrating, what is important is that she would not perceive either of these outcomes to have been the result of her free choice, since the choice she wished to make was interfered with. As I discussed in Chapter 2, individual preferences concerning national membership are not arbitrary.

One may object that limiting individuals' options concerning what political communities to belong to does not *unjustifiably* restrict their autonomy. Any requirement to obey the law, after all, restricts individuals' autonomy: being legally required to drive on the designated side of the street limits our options and forces us to be in a particular relation to drivers going in the opposite direction. If a person prefers to drive on the side opposite the one required by the law, the elimination of this option restricts her autonomy, but not in the same way as would the demand that she change her national allegiance, because the latter prioritizes and ranks some group memberships over others. As I demonstrate below, this violates individuals' equal status as citizens. Moreover, if it is possible to organize multinational states so as to satisfy their substate groups' aspirations for self-determination—and the goal of

this book is to demonstrate that it is possible—then limiting individual autonomy so as to give state-endowed collective national agents precedence over those without states is not justifiable.

If such minority rights as language and religion are considered fundamental, then membership in a national political culture should be given the same importance. For individuals, having a say in determining the fate of the communities that they and their fellow nationals believe they share is as important as speaking their language or maintaining their religious practices or cultural habits, and it is unjustifiable to protect the latter but not the former.

As I explained in Chapter 2, it is often considered sufficiently fair treatment to grant national minorities varying degrees of self-government within their host states. Self-government allows a group to make laws for itself only within the parameters of a given political status. Rights to self-government, then, do not allow group members to determine their relations within the larger society to the extent necessary to protect their equal say in the most important political decisions in the state. If, to begin with, the members of a group do not have a say about their membership in the state, they are governed, on the balance, by the members of the larger community. To maintain their group membership and to have effective agency over time, they need to control the parameters of their inclusion in the multinational state and be granted input regarding the boundaries of their community and its relation to others. Thus, to have control over its membership in a multinational state, a national group needs to have a say in *whether* and *on what terms* to belong to the state and in *who* can belong to the community. For example, Quebec has control over immigration into the province, for example, but not over the terms of its membership in Canada as a national group rather than a province. Quebec's citizens do not have a say in whether they should belong to Canada, for there are no legal norms to regulate the political outcome of a referendum on belonging that could ensure that a negative outcome would be complied with. Chechnya, whose future is determined by the Russian Federation as a part of Russia's political future, would become self-determining within the federation's territory if the following conditions for the inclusion of its political community obtained: (1) it is in Russia voluntarily (that is, it can be determined by reasonable means that the people of Chechnya prefer to remain part of Russia, even if this preference is contingent upon the fulfillment of some claims put forward by them to the federal state), and (2) there is a guarantee that Chechnya's people will have a say in issues vital to the existence of their political community. Thus, it is important for the members of a national group to see that the political institutions connected to the determination of their future political status express the group's perception of its collective agency as a type of political community endowed with the power to control its membership in the state. Since national membership is an important preference of individuals and is tied to the self-definition of individuals as group members, supporting the effective agency of their group supports the individual good of national belonging. Substate self-determination affords the required type of control over co-nationals' political future that self-government does not.

Equal Citizenship in Multinational States

Even if we need to respect citizens equally concerning their national belonging, however, it may be that we can deprive each citizen of some but not all features pertaining to their group membership while still treating them equally. Why not politically assimilate national minorities by denying them substate self-determination but also change the political culture of the majority by making the majority learn minority languages or incorporating some minority cultural practices in the majority culture, for instance? The demand of assimilation not only unjustifiably reduces a minority individual's choices and thus her autonomy, as I discussed above, it also treats the individuals from minorities unjustly in relation to majority individuals. Although everyone's national identity is a descriptive fact when it is considered as one among other characteristics of an individual in isolation, national identity acquires a moral dimension when it characterizes *relations* among persons (both individual and collective). The members of the minority and the majority would have to give up preferences that are not equivalent. The minority individual would relinquish a preference to be governed by what she perceives as her own political community in order to join another such community. This would prevent her from politically associating with other citizens in the way she prefers to. The majority citizen would spend time learning another culture's language or acquaint herself with the culture or even give up some income to support the corresponding government policies. This would not prevent her, however, from politically associating with the citizens of her choice. Even if this assimilation created equal conditions for the minority individual's inclusion in the larger state, it would do so at the price of unjust treatment. In addition, if an individual cannot remain a member of her own national community but instead is forced to assimilate into another, she must also by extension redefine the terms of her membership in the larger state, which would otherwise be mediated by her membership in her own political culture. A minority member would have to undergo a change of membership and forge a new allegiance to another community; members of the majority would not need to do the same. Finally, there is a strong chance that the minority member will not be fully accepted after her change in membership, while she will have lost the protection of her political community. Her incomplete assimilation will prevent the intended equality of citizenship it was introduced to achieve. Thus, a state respects the rights of its citizens only if it creates conditions of equal political membership for all of them. Individuals do not want to be governed by a political culture that is not their own—a culture that originates from beyond what they define as their political community. If a person's national community must give up the self-determination that the majority is allowed to exercise, and if she is forced to seek her primary political community within the larger state, she has not received respect equal to that granted to other citizens, because her interest in leading her life within the political community of her choice has not been respected equally to the equivalent interest of majority individuals.⁹ Unless minority members choose to assimilate, equal respect for the national belonging of all citizens requires at a minimum the maintenance of the national minority's control over its political future within the state.

At the group level, the right to self-determination of the majority is advanced (and the corresponding preference of its members is satisfied), while that of the minority is sacrificed (and a similar preference of the minority members is ignored). One may say that this sacrifice is a small price to pay for peace among national groups. Not allowing national groups to effectively exercise collective agency, however, causes the deterioration of this agency and makes it more likely that self-determination will be realized in a destructive way. Besides, if the boundaries of multinational states are preserved for prudential reasons and not because they define political communities in the best possible way, safeguarding the internal organization of political communities within such states is all the more vital to give meaning to individual membership in the larger state. Hence, viable national communities need to be preserved in order to protect the equality of citizenship in a multinational state.

One may suggest that in the case of potential political cultures, the collective agency of the minority nation is not actualized, and, for this reason, truly belonging to the minority nation is not a real option. In the case of oppressed minorities, such an argument might conclude, the choice (autonomy) and the "equality of citizenship" arguments do not work. However, individual members of the group hold a set of beliefs about membership and attitudes toward the political culture of the dominating nation that certainly provides a framework for choice at the individual level. Even in a negative potential political culture, holding an attitude of non-acceptance of the political culture of the majority and *not* developing dispositions to behave based directly on officially promoted sets of beliefs is a choice that many minority members make. It is of course true that a group can mobilize according to a number of different scenarios; this does not mean, however, that the rules for the arrangement of multinational states ought to restrict the options for group mobilization in the hope that individuals who envisioned actualizing their group agency in a forbidden way will eventually become habituated to the result, even if it was not their preferred choice. A better set of norms can accommodate a number of developments, allowing individuals to choose group membership according to their preferences and even to change groups. For example, if some individuals from an irredenta perceive themselves to form a linguistic community and others perceive themselves to form a national community, in the end it is up to the members to organize one way or the other, but barring one of the options at the outset restricts individual choices. Moreover, those whose preferences are not satisfied are more likely to accept the outcome if both mobilization options are allowed. As I discuss in the next chapter, norms that are open to the changeability of identity and can accommodate all types of group mobilization make peaceful transitions to actualized political cultures more likely.

The Rawlsian Argument

Another argument supporting the conclusion that the self-determination claims of all groups should be given equal recognition is based on a modified version of the "original position"—Rawls's device modeling the conditions of fair agreement.¹⁰ Here is an outline of this argument: The parties in the original position select basic norms of justice from a list. They do not know whom they represent and hence how

the outcomes of their decisions will affect them; therefore, they are likely to decide on the outcome most likely to be acceptable to all.¹¹ Since in matters of basic political justice citizens are equal in all relevant respects¹² and their national identity is relevant in describing the limits and the meaning of “society” and the corresponding meaning of “cooperation,” representatives of national groups would be included in the original position. Next, we add a norm of equal treatment for national groups to one of the principles of justice on the list from which the parties choose. Although it would be unfair for a national group to expect everyone else to accept a basic structure favoring the group, it is fair to appeal to the importance to individuals of beliefs about membership in what they perceive as their own political communities in order to endorse norms that equally favor all such groups in a multinational state. This makes it likely that the principle of justice, including, among other things, the equal treatment of national groups, would be chosen from the list by the representatives in the original position.¹³

This argument based on Rawls’s original position is meant to demonstrate that if the minority national group’s self-determination is not respected, the terms of membership in the larger state for the members of the minority are not just. I do not argue that respect for individual rights implies respect for group rights. I discussed why groups cannot be protected solely on the basis of respect for individual rights in Chapter 2. Allen Buchanan states that authority is legitimate when it is morally justified in the attempt to make, apply, and enforce general rules within a jurisdiction,¹⁴ he grounds his criterion of minimal justice for states in respect for individual human rights alone, and he does not connect the realization of national self-determination claims to the legitimacy of multinational states.¹⁵ I agree that legitimacy and justice are connected, but I disagree that the meaning of just authority as it applies to multinational states can be captured on the basis of respect for the individual rights of citizens alone. Political institutions of a multinational state that do not promote the self-determination of national minorities in the state’s territory are not legitimate in the eyes of national minorities’ members: these individuals associate legitimate authority with what they consider to be their own political communities. If we argue that the presence of an authority is beneficial, regardless of whether it reflects individuals’ sense of the limits of legitimate political power, why would a state authority that did not acknowledge a national group’s claim to self-determination be morally justified to rule the group? Its authority would be only as legitimate as the national group’s government or the government of a state with randomly drawn boundaries. The legitimacy of political power is largely based on its support by a political community whose self-determination this power promotes, and it cannot be considered in isolation from the constitution of the corresponding group agent.

Pragmatic Arguments

One pragmatic consideration I have just mentioned is that a prohibition on the exercise of self-determination—provided the prohibited group has a corresponding

political culture—frequently leads to the group's adoption of militant mobilization strategies in order to attain self-determination, which are detrimental to the group's and others' existence. In the face of unfulfilled hopes of national self-determination, it is not productive to insist that these hopes should be abandoned or changed for the sake of universal peace: the group agent's constitution simply cannot be changed without the group's participation.

While I have established that self-determination is an important shared good for a particular type of agent, the right to define the boundary of a political community meaningful to its members can also be supported pragmatically, as follows: Self-determination is highly valued in the international system, but its allocation is limited and unequal. Claims to self-determination are so commonly and persistently advanced that some solution other than an outright prohibition on the exercise of the right to self-determination must be found. If the regulation of relations concerning self-determination is not conceived of merely as damage control, it should be based on a background principle that specifies the mutual standing of the parties advancing self-determination claims. A critic might say that we can make decisions for such regulation on a case-by-case basis rather than by defining the status of non-state groups in advance, but this approach would be a compromise, the logical result of failure to establish a unified principle. Even in each particular decision procedure, some principle would define the status of the parties with respect to one another, if only for the purpose of that decision. If it is possible to establish such a principle, compromise will not be necessary. In this chapter, I argue that there is at least one principle—equality with respect to self-determination—that can be employed in most political decisions to define the status of national groups. Hence, even if the reason for the regulation of self-determination claims is purely pragmatic, such regulation requires an underlying moral principle—a universal principle describing the proper standing of all parties in relation to one another—and thus defines legitimate reasons for the agents' imposing limitations upon one another's behavior within this context.

Addressing self-determination claims is pragmatically useful also in the context of transitional and oppressive societies. We need to deal with groups of individuals that organize around the shared good of self-determination, even if we are not sure whether they are mistaken concerning the claims they are entitled to advance. If they are mistaken, it is probably the case that their mobilization as a collective agent is impeded: they may be unsure about the beliefs of all other members of their collective due to restrictions on public expression of their identity, or they may not have appropriate access to procedures for decision making and goal setting of the type required of a collective agent. Outright refusal to consider them as national groups plays into their mythology and encourages their mobilization, whereas providing tools for the proper actualization and democratization of their political community may help to assuage unwarranted claims. Once it is clear what all members conceive as their shared good, some group agents may come to realize that the identity expressed in their potential political culture does not correspond to their shared goals. We cannot know whether they are wrong unless their political culture acquires proper expression. The answer to the conundrum posed by

potential political cultures is to let the corresponding agents actualize while limiting their behavior in a way that is efficient in controlling aggressive and destabilizing behaviors. Thus, for groups whose identity is stable enough to be sociologically distinct, we need to have norms to regulate their claims and corresponding behaviors.

Substate groups are capable of setting goals and acting in accordance with them if they possess some form of collective reasoning, even if it is partial and constrained. Unlike physically identifiable individual agents, collective agents are less tangible, especially if they possess no (or very limited) institutions of self-government and have little access to the public sphere, but in conflict situations many have proven to be destructive and uncontrollable. Such a group's claims cannot be done away with by means of simple prohibitions. Nations are groups that perceive themselves as political agents and operate on this basis, whatever tools of effective agency they have (and the fewer they have, the harder it often is to verify and civilize their national expression). Their self-understanding does not immediately entitle them to a right supporting this understanding, but treating them in such a way as to deny their self-understanding is not helpful if their cooperation is needed. Failing to provide them with fair conditions for inclusion in their host states or a legal framework that allows them to engage in negotiations on the terms acceptable to all parties encourages them to resort to illicit means to redress their grievances. As I mentioned in Chapter 2, acknowledging that the exercise of self-determination constitutes an important aspect of the well-being of national groups associated with the actualization and proper functioning of their group agency should convince us to grant them the right to self-determination *only if* we assume that national groups ought to be allowed to continue to exist. In the pragmatic context, however, it seems that the existence of national groups is a fact of the present international system that needs to be dealt with. It is unproductive not to provide national groups with the conditions of freedom that can allow them to function as a group agent in accordance with the members' shared intentions. It may be objected that substate national groups will actualize *because of* the rules I am advocating, but in this case, no harm would be done, because a controlled transition to nationhood would replace militant and destabilizing responses to the potentially frustrating refusal to attend to their claims.

In Chapter 3, I defined nations and explained why the presence of a political culture associated with self-determination with which members self-identify is a sufficient criterion for treating a group as a national group. The corresponding right to self-determination ensures that national groups are free in relation to other such agents. Members of national groups in oppressive and transitional societies often lack the effective capacity to exercise their agency, and I discussed a strategy for approaching such societies in the previous chapter. This strategy requires a formulation of the right to self-determination that promotes the proper actualization of group agents in both democratic and transitional or oppressive societies. I will now define and defend this right.

The Modified Right to Self-Determination

The Formulation of the Right

The current international system, which is based on statehood, places practical restrictions upon the implementation of the right to self-determination. Self-determination, however, does not require statehood but instead requires the proper actualization of a group's corresponding collective agency. We would not have to deny the exercise of the right to self-determination to national groups altogether if we eliminated the undue emphasis on the connection between statehood and nationhood and severed the link between the exercise of the right to self-determination and the acquisition of independent statehood.

The political and legal implementation of a principled moral relationship among various national groups, while distinguishing between self-determination and statehood, cannot ignore the status of states in the international system. At present, it is states that have the required institutional support to effect the change required by the moral principles that I advance for determining the status of substate groups. Relying on states to implement the equality of self-determination but making a state's entitlement to territorial integrity conditional upon its respect for the self-determination of substate groups increases the chance that state boundaries would not be changed too easily without the consent of all substate national units and before the proper standing of all corresponding groups within a state is defined and assured. Thus, the first step toward the ideal of equal self-determination is to establish that substate national groups ought to be equally treated within their host states. In this case, secession would no longer be a threat because the norms that require nations' equal status also require their proper behavior toward other groups, and unilateral secession is not a permitted behavior. The regulation of secession, therefore, falls under the regulation of substate national relations informed by the norm of equality of self-determination. Secession in cases of vast abuses of human rights—a present practice of the international community—will continue to check the abusive behavior of state authorities, while the norm of equality I propose will add to the set of circumstances under which legitimate secession is allowed, as I explain below.

Thus, we can retain the general meaning of "self-determination" as a group's control over its own political future but redefine the idea of self-determination as it applies to state institutions. This can be done if the basic organizational principles of multinational states and the basic principles for conflict resolution recognize, first, that self-determination does not require statehood, and, second, that all national groups deserve equal status with respect to self-determination by virtue of what they are.

These two elements define the modified right to self-determination, which states that all national groups have an equal right to self-determination provided that the realization of self-determination does not require the acquisition of independent statehood. A claim to self-determination advanced by a substate group be first and

foremost a claim to equality within the boundaries of its host multinational state. Hence, national groups should be given an opportunity equal to those of other members of their host multinational states to determine their future political status within these states. The right to secede (or the right to independent statehood), then, results only from a host state's continuous noncompliance with the equality principle or from the mutual decision of all the national groups in a state after their equality has been achieved. The equality of status of national groups provides conditions of inclusion in a viable multinational state or, when this is impossible, a basis for negotiation among state-endowed and non-state national groups in conflict situations.

Substate groups may engage in a number of interactions with the host state that are beneficial to them, like economic cooperation or sharing in the maintenance of the military, but they are proper members of their host states only if they have been offered and accepted fair conditions of inclusion. The institutional arrangements of a multinational state need to include provisions assuring that the state cannot encroach upon a national group's power to control its political future. Such provisions could include but do not need to be limited to the following: The group is formally recognized as a national group in the constitution of the state. It has not only representatives in the central government, who are elected on a proportional basis, but also a number of seats in a higher chamber of the government or in a special nationalities council that represents national groups equally, with the questions that can be decided by each chamber divided between them. It has a significant power over changes to the state's constitution, such as a veto over any change that affects the group's vital interests. Ideally, the terms of its participation in state-level institutions, such as the legislature, the courts, or the civil service, should define areas of exclusive and shared competence to delineate the boundaries of the group's political power.¹⁶ As long as the division of powers is negotiated among all affected parties and accepted voluntarily, an institutional scheme reflecting this division is adequate for the equal recognition of national groups' self-determination within the territory of a multinational state.

Different groups will seek different rights and institutional provisions to promote their particular interests. The degree of control a national group has over citizenship, foreign policy and trade, defense, customs, the budget, natural resources, education, and so forth should be negotiated in each case. A group may have exclusive control over its natural resources, for example, or it may share control with the state. The outcome of negotiations over degrees of control is valid only if it is acceptable to the group that has a *prima facie* claim to the resources, but the group may have to honor the contributions made by other groups or by the state to the development of those resources.¹⁷ While different groups can hold and yield different powers—a national group may even opt to have only a set of cultural rights—their self-determination claims are respected as long as any political power they yield is relinquished voluntarily and can in principle be restored.¹⁸ Although having the constitutionally or internationally recognized right to secede is linked to self-determination, it has significant qualifications and restrictions in the modified right and cannot be straightforwardly considered a safeguard of the group's self-determination.

If different groups in a multinational state have different powers, in what sense is their status equal? The requirement of equality protects their freedom as agents

in a negative way by defining what cannot be denied to them. The application of the modified right to the arrangement of multinational states results in a number of mutual restrictions the members can place upon one another. In this sense, the modified right, as a general right of its subjects to be equally free, translates into a corresponding special right within each multinational state that allows the state's members to require of one another compliance with the voluntarily accepted rules of inclusion. The agents can interfere with one another's freedom due to the special relationship created by their joint membership, but the limits of this interference are determined by the principle of equality that underlies the general right. In the current international system, for example, equal sovereignty among states is merely formal, with no regard to their political role in international relations. Their formal equality, however, defines what ought not to be denied to any state actor under normal circumstances—its territorial integrity, for example—irrespective of its size. Similarly, the modified right determines what cannot be done to national groups, regardless of their size. It requires that no national group be deprived of its ability to negotiate the powers it needs to relate to other groups in the state. And if all other means fail, it grants national groups the right to secede. Thus, the modified right protects national groups from being interfered with by others who wish to control their future.

It may still be said that national groups in multinational states, even if they enjoy the modified right to self-determination, are worse off than those that presently have a state of their own. The current international order both grants a more privileged standing to groups with states and excludes most substate groups from the acquisition of this presently attractive status. But under the modified right, statehood does not carry with it a higher standing with respect to self-determination and is not singled out as the most attractive option for achieving self-determination. The modified right does not require equal statehood for all, but rather equal self-determining status. Self-determination is never unconditional: even state-endowed groups possess it only in relation to other such groups within a given territory. They mutually limit their capacity to self-determination based on the recognition of every state's equal entitlement. The European Union, for example, imposes many limitations on its members' powers, but the member states remain self-determining, because they join voluntarily and can maintain their self-determining status in relation to others. According to the draft treaty establishing a constitution for Europe, the union respects their equality before the constitution and their national identities.¹⁹ The member states can challenge any decisions of the union they deem unjust or restrictive of their ability to control their separate political futures.²⁰ They can also submit proposals for the amendment of the treaty, and there is a procedure for its amendment. Finally, the member states have the right of exit.²¹ Their diminished control over items traditionally understood as necessary for state sovereignty does not indicate the diminution of their self-determination. Similarly, the national groups' diminished control in a multinational state, does not preclude them from exercising self-determination limited only by the equal right of other self-determining groups.

A national group from a multinational state may seem to have less of a chance of entering into relationships with national groups outside of the state it belongs to

than does a nation with its own state. A substate national group will relate to others via its state, which represents all groups within its territory equally, but is this mediated relationship an adequate substitute for direct contact, unrestrained by the terms of inclusion in the host multinational state? Let's begin to answer this question by remembering that there is nothing in the modified right itself that proscribes a group's direct contact with other national groups. Moreover, in the reality of international relations, as I have pointed out, even state-owning national groups' relations with others are mediated by their membership in regional structures and international organizations. The mediation of relationships with others by other national groups within one's state does not need to prevent groups from engaging in direct contact with communities outside of the state. Their equal self-determining status also increases the likelihood of the sort of willing cooperation within a multinational state that would allow groups to negotiate their privileges with others, including international relations, and result in a degree of discretion being permitted to the groups comparable to that of state-owning groups presently incorporated into regional structures or other kinds of alliances.

The changes to the international moral norms implied by the modified right will be in line with what Daniel Philpott terms the present status of the "constitution of international society." By the constitution of international society, he means a set of norms mutually agreed upon by polities who are the members of the society that define the holders of authority and their prerogatives and specify who constitutes legitimate polities, the rules for becoming one of these polities, and their basic prerogatives.²² The most recent changes to the constitution of international society include global membership in it and the loss of state sovereignty in cases of states' violations of human rights (due to these states' subjection to outside enforcement of human rights standards). He also points out that within the European Union the states are no longer sovereign in the areas specified by EU law.²³

The modified right provides a framework for the realization of two important ends. First, self-determination achieved in accordance with the right becomes a constructive rather than a destructive project. The goals of national groups change from competing for a state to cooperating within a state. Second, the modified right limits the aggressive behaviors of those groups that do not respect the rights of others. Means of satisfying self-determination claims that aim to diminish the self-determination of others, even if incidentally, are not compatible with the right, because they undermine the expected equality of status among national groups. The modified right does not allow state and non-state groups to enjoy their freedom at each others' expense.

The modified right aims at safeguarding the territorial integrity of states for more than purely pragmatic reasons. First, it advocates the self-determination of substate groups with limited sovereignty not only because independent statehood for all groups is not practicable but also because a system that links nationhood and statehood is historically contingent and unjust. The modified right sets up a norm of legitimacy that defines the moral circumstances under which a state can retain its right to territorial integrity: Only legitimate states have a moral right to territorial integrity. A legitimate multinational state treats its citizens equally. It cannot

treat them equally if it ignores their national identities. Therefore, unless a state respects national identities of its citizens, it does not have a moral right to territorial integrity.²⁴

One may object that although the modified right to self-determination is very important, it is secondary in importance to the right to territorial integrity that is an integral part of international law. It is presently customarily recognized, however, that illegitimate states do not have the right to territorial integrity—their borders can be crossed, for example, to establish a peacekeeping operation, or they can be blocked in the imposition of sanctions. I have been arguing that the legitimacy of multinational states depends not only on their respect for their citizens' human rights but also on their respect for national groups' self-determination rights within their territory. If the territorial integrity of states depends on whether they are legitimate in the light of international moral norms, multinational states would need, among other things, to comply with the modified right to self-determination to continue enjoying their right to territorial integrity.

It remains to be seen, of course, whether self-determination will retain its value in the eyes of national communities if it is not associated with independent statehood. There are reasons for thinking that it will, for not only is self-determination a constitutive shared good for national group agents, but, in the world with more than one political community, it also represents an important element of freedom for such communities. If the modified right is implemented and self-determination loses its present value associated with state sovereignty, national groups may still want to pursue statehood for reasons other than the realization of their self-determination claims. The modified right ensures, however, that their quest to acquire statehood will not be justifiable on the basis of their rightful claim to self-determination. I will explain how to address claims to statehood in cases like this below.

The modified right defines a framework for the other-regarding behavior of different national groups that requires a background guarantee of the mutual standing of all sides and aims at a more equitable distribution of power among them. The international institutional arrangements that would result from its implementation will be more just, because by treating similar groups similarly with respect to their entitlements, they will reflect the moral equality of different national groups outlined in the UN Charter. They will be also more stable, because they will aim at safeguarding the territorial integrity of multinational states through addressing competing self-determination claims within their territory.

Territorial Integrity

All things being equal, an approach to reforming international legal norms is likely to be more viable if it conforms with the right of states to territorial integrity: it is more likely that the norms advanced by the approach will be accepted by existing states, which perceive territorial integrity as supporting their vital interests. Besides, it is prudential to obey the principle of territorial integrity when possible, since the disintegration of states could significantly disrupt the functioning of

political communities within their borders. I will elaborate in this section on why the modified right does not undermine—but, on the contrary, facilitates—the exercise of the right of states to territorial integrity, which is one of the fundamental principles of international law. I will compare the approach to territorial integrity of multinational states based solely on human rights to the nations approach I propose based, in addition to the norm of respect for human rights, on the modified right to self-determination, which does not require secession and aims at preserving multinational states.

Allen Buchanan argues that territorial integrity protects the self-determination of political communities by safeguarding control over the territory they occupy, furthers the most basic morally legitimate interests of the individuals and groups that states are empowered to serve, and gives individuals and groups an incentive to invest themselves sincerely and cooperatively in the existing political process. I will consider in turn under what circumstances each of his points supports the protection of territorial integrity.

First, the territorial integrity of a multinational state does not safeguard national groups' control over territory if they do not have proper institutions for the exercise of this control in the first place. To evaluate various autonomy arrangements, we need to clarify whether the existing or proposed terms of power sharing with the state satisfy the general norms of fair treatment. Buchanan does not consider groups' entitlements in determining the terms of organization for multinational states, and he ties the exercise of the right to secession to a number of situations in which the requirement of remedial justice applies, one of which is the restoration of broken autonomy arrangements. Without a broader normative framework specifying what norms should guide the fair treatment of substate national groups, we cannot evaluate whether a broken autonomy arrangement was just in the first place and on what conditions it ought to be restored.

The Kurds are a case in point: it was a problem that their autonomy was threatened by Saddam Hussein, but on the basis of Buchanan's model it is not clear what they were entitled to and whether their initial autonomy arrangement was just. We need to weigh the options available to minorities, including the restoration of their autonomy, secession, and the formation of an independent state with other minority groups bordering them (which is a possibility in the case of the Kurds) against a normative perspective that helps us evaluate the justifiability of each option from the point of view of fairness. Putting a stamp of approval on existing autonomy arrangements does not create such a perspective. The territorial integrity of the host state enhances the self-determination of national groups in its territory only if these national groups are capable of participating meaningfully in the political sphere and are given the opportunity to do so by having access to power structures more or less equal to those of the other groups in the state. Thus, we need to supplement Buchanan's statement about the benefits of preserving territorial integrity with an explanation of what constitutes the normative basis for groups' interaction within a state.

The inclusion of the right to self-determination in the norms for interaction of group agents assists in the creation of a constructive framework for conflict reso-

lution. This cannot be achieved by a set of restrictions on the actions of national groups that does not take their legitimate interests into account. My approach both supports the well-being of political communities aspiring to self-determination and defends the territorial integrity of states that support the equality of national self-determination in their territory along with human rights. This conforms with the norm of legitimacy for states that I put forward, which requires a state to respect both human rights and the self-determination claims of substate groups in order to be considered legitimate.

Turning to Buchanan's second point, if a multinational state does not respect the self-determination claims of its substate groups, the stability provided by the preservation of such a state's territorial integrity will always be partial, because it will be accompanied by the presence of dissatisfied minorities who see no prospect of their unequal status changing, and the presence of such political communities is known to destabilize their host states and lead to conflicts. The objection that stability, even if slanted, may still be important for individuals' well-being can be met by pointing out that persistently denying individuals respect as members of a national political community interferes with their life choices and thus decreases their liberty and well-being while compromising the conditions of their membership in the larger community.

Finally, regarding Buchanan's third point, territorial integrity promotes the cooperation of national minorities if they can envision the fulfillment of their expectations within the state. Locking national minorities into a multinational state without satisfying their demands for respect of their group identity does not inspire them to participate in the political life of the state, while the lack of proper institutions for the actualization of this identity eliminates means of participation acceptable to the minority. If minorities are securely locked in, the majority has no motive to participate in a dialogue with them about self-determination or to opt for a change that would imply some power sharing, since it can avoid doing this while still respecting human rights. Hence, the political process could exclude minorities while providing means for the full participation of the majority. The principle of territorial integrity promotes cooperation among national groups only if it is accompanied by a norm of legitimacy that includes not only human rights but also equality of self-determination for national groups. Such a norm gives minorities more incentive to cooperate, because it does not associate states with nations, and it encourages the revision of international law to support the equality of national groups' self-determination within multinational states. It gives the majority more incentive to cooperate, because if the majority's behavior does not allow the state to achieve the status of being minimally just, the minority will have a legitimate claim to separate.

Thus, the approach to self-determination I advance supports the conclusion that none of the benefits of territorial integrity Buchanan lists can be achieved if the arrangement of a multinational state does not respect, in addition to human rights, the equality of national groups on its territory. In failing to specify whether protection of territorial integrity applies to states dominated by majorities that do not violate human rights but perceive the state as their own and wish to have the state border intact, the human rights approach ignores an important question that needs to

be answered.²⁵ The human rights approach advances a limited ideal of legitimacy, which falls short when applied to multinational states because it ignores the moral status of groups and its importance for equal citizenship. My approach demands that territorial integrity should be enjoyed by those states that are shared by a number of national groups under a just arrangement, which should provide equal respect for the groups' self-determination, along with respect for individual rights.

A theory that makes the preservation of territorial integrity contingent upon respect for human rights alone is consistent with upholding the territorial integrity of states that are inherently unstable—states with one leading nation in which other national groups' claims to self-determination are disregarded and the majority is privileged by default. This approach does not seem to offer national groups much more than the existing international principles with respect to self-determination. The current interpretation of the right to self-determination allows secession by occupied national groups. Those states that systematically perpetrate human rights abuses are punished by international sanctions.²⁶ These are right solutions, but they cover only extreme cases. My approach aims at regulating relations among national groups systematically, rather than providing solutions only for extreme cases. Being inclusive of all national groups and protecting their basic interests, it minimizes incentives for substate groups to mobilize aggressively and thus promotes territorial integrity by offering the background principles for long-term stability.

Answering Objections

The major objections to a project like mine have to do with a concern that the modified right might create more problems than it solves: it might give national groups unreasonable expectations and hand them a justification for destructive behavior by legitimizing their claims to self-determination. I believe that the modified right would curb rather than encourage destructive behaviors. The introduction of the modified right is an effort to reconcile the two major principles presently influencing international relations: self-determination and territorial integrity. Distributing international status according to the universal legal right to self-determination is destabilizing only if self-determination is associated with statehood, as it is currently. Since the modified right does not consider statehood to be a necessary condition for self-determination, it protects the self-determination of national groups and stimulates their cooperation while preserving the territorial integrity of multinational states. Territorial integrity is a morally important principle only if it protects, or at least does not interfere with, the well-being of all those governed by the authority that is entitled to the preservation of the boundaries of the territory under its control. By providing a normative ground for the resolution of conflicts between stateless and state-endowed groups, the modified right would reduce the destabilizing effects of agitation by stateless national groups whose aim is to acquire international status equal to that of state-endowed groups.

It may be said that non-state groups, if their claims to self-determination are endorsed, will try to gain even more power by acquiring a state of their own. In the end, providing them with equal status may encourage destructive behaviors. The modified right, however, permits dealing with any type of secessionist claim only after the equality of standing of all national member groups is assured, and only with their consent. Under these circumstances, a national group can put forward its request and try to achieve its goals through peaceful negotiations that respect the requirements of distributive justice and the rights of other groups on the territory of the host state. If a substate group's members want to be recognized as a self-determining people, they have an opportunity to satisfy this demand: they receive a guarantee of equal self-determination within the state and of a right to secede either if their status is not persistently respected or by mutual agreement with other national groups. If it is a state that the group is after and it decides to secede unilaterally, disregarding all the regulations in place for the procedure, this destructive and unreasonable behavior can be justifiably punished. To resolve the conflict, the group's illegal behavior would be suppressed, but the group should still be guaranteed equal self-determining status within a multinational framework. National groups in this situation might justify some of their actions as acts of self-defense, a right now given to any state actor. It would not be possible, however, for them to claim—as they can now—either that the very existence of their community was in peril due to the international community's failure to recognize their rights or that they did not have legitimate means available to them of solving their problem.

The modified right can be said to have a reverse: that a group that is not being treated by its state as if it has the right may employ extreme means, such as terrorism, to get the entitlement specified by the right. Such a national group, however, may have a right to secede under the modified right, and thus to change its situation using lawful means. In order to establish its right to secede, the group has to show that the state it belongs to does not provide for the equal recognition of its self-determination. The group also has to show that it has not rejected reasonable suggestions put forward by the host state or refused to participate in negotiations with that state.²⁷ The host state can defend its entitlement to territorial integrity by showing that it respects both the self-determination of national groups on its territory and the human rights of their members, or at least that it has made reasonable efforts to initiate a process of change in this direction. It is necessary that special international agencies, possibly courts, be established to deal with self-determination claims. What would need to be shown in such courts in order for a group's claim to the right to secede to be dismissed is that equal participation is in principle available for the national group: that the group enjoys reasonable equality within the state's borders and has an opportunity to question and contest the state's decisions, while the state has demonstrated its willingness to change. Thus, relationships among national groups are better understood in the context of a long-term political process guided by the norm of equality, not as a one-time, drastic settling of accounts. That the modified right allows for secession in some circumstances provides the best motivation for host states to respect the national groups within

their borders. Admittedly, some states may gamble, using force to suppress national minorities, but in doing so they will be violating the modified right.

Irredentist groups present a special case of claims to change borders. They can appeal to the idea of nationhood as political culture associated with the meaningful limits of political authority and claim that such a culture exists across the borders of their host states and that the territories separated by the borders ought to be permitted to join to satisfy the corresponding national group's right to self-determination. Hence, it may appear that although the modified right can deal with the claims of substate groups that are primarily localized within the borders of a multinational state by providing means to achieve equal self-determination within it, the right cannot help to resolve conflicts that may erupt over secession initiated by irredentist groups to reunite their national group. Nevertheless, if an irredentist part of a multinational state was acquired through occupation, that part of the state can legitimately secede. If not, giving the members of such a group equal status within their multinational state tests their commitment to secede and join the remainder state. If they qualify as a nation (that is, if they possess the required kind of political culture with which their members identify), it may be the case that in the end they will not define their self-determination project as one of unification with their remainder state, as was the case in Moldova. If an irredentist group does not qualify as a nation without the remainder state, the problem ought to be solved between the remainder state and the host state. But it is not immediately clear how, given the geographical border separating them, it can be established with certainty that the irredenta and its remainder state share the same political culture and thus are really members of the same nation. In any case, the irredentist group itself does not have a claim and a right to secede according to the modified right, and its relationship with the host state should be regulated and negotiated in the same way as are the state's relationships with other national groups in its territory. An international court would be a good place to resolve any disputes, and the existing regional structures would be helpful in providing institutional support for any cross-border arrangements.²⁸

Kymlicka argues that a state may consider that granting its minorities special rights including self-governing rights is ill-conceived if these minorities also have kin groups that are majorities in neighboring states with whom the host state has poor relations. "...In most parts of the world minority groups are still seen as a fifth column, likely to be working for a neighbouring enemy. This is particularly a concern where the minority is related to a neighbouring state by ethnicity or religion, or, where minority is found on both sides of an international boundary, so that the neighbouring state claims the right to intervene to protect 'its' minority." In this case, relations between states and minorities are seen, "not as a matter of normal democratic politics to be negotiated and debated, but as a matter of national security, in which the state has to limit the normal democratic process in order to protect its very existence."²⁹ This "securitization" of minority rights presents obstacles for internationalizing these rights.

It is not clear, however, why giving minority rights to irredentist groups would endanger the state more than refusing to grant them such rights. When the latter policy is adopted, the neighboring enemy state has an excuse to interfere and the

minority group is more likely to envision its future in the neighboring state. Since there is no chance that it will be properly accommodated in the host state, nothing attaches the minority to the state. The minority might think it more prudent to secede than to demand suitable terms of inclusion in the host state. Depending on the group's circumstances, its members may even give up demanding their rights peacefully and use militant tactics to advance their claims. Moreover, by denying rights to the minority, the state may appear to be settling a score with its neighbors; for, it may appear to be punishing those of the enemy group who are within the state's reach. It is hard to see what would motivate the minority or the neighboring state to hold back in their actions against the host state. It should be pretty clear that an uncompromising rejection of the modified right has the destabilizing effect of mobilizing minorities in ways potentially dangerous to the host state. Providing minorities with rights creates a framework of rules and limitations within which all parties are more likely to interact peacefully.

It may be said that a state that has a strategic or economic interest in the territory that its minority occupies may be willing to pay the high price of keeping the territory under control. The outcome of the acceptance of the modified right is that the state can still keep the territory, but in a more cost-efficient manner. And in case of secession according to the rules specified by the modified right, the state will negotiate the terms of secession acceptable to it, including economic compensation. It is likely that the cost of keeping the territory by force is much higher than the cost of economic cooperation in either of these scenarios. The modified right to self-determination makes both minorities and their host state better off and to accept it is a pragmatic and prudent move for a multinational state.

The modified right also takes away the incentive for minorities to seize power illegally and then demand the recognition of their *de facto* self-determining status, an historically common move noted by Kymlicka.³⁰ The inclusion of group entitlements in the constitutional arrangement of a state prevents such group actions by guiding the exercise of a national group's effective agency in the enjoyment of its self-determination in the host multinational state. The issue of the balance of power between a majority, minorities sharing territory with it and the neighboring kin-state is complicated, but it is not likely that it will be resolved through securitization and denial of minority rights.

Including the requirements of justice toward national communities within multinational states as a subject of international legal regulation might seem likely to require a degree of involvement that the international community is not able to provide. Establishing the norms of acceptable international behavior concerning national groups would be helpful in and of itself, however, for the following reasons: A state that violates the norms of fair treatment of minorities in its territory would cross the threshold of legitimacy in the international system and stop being a member in good standing. This alone could motivate some international actors to comply with the rules. The very existence of a just international norm can influence agents' behavior and assure their compliance; international agents normally want to be members in good standing, or at least to behave so as to not formally violate major norms.

Moreover, international intervention could take an indirect approach through the imposition of sanctions on a violator state, the suspension of important relations with this state, or the denial of some privileges previously afforded to it as a member in good standing. If a national group agitates after being given equal status within its host multinational state (or after the state has embarked on the process of change leading to the granting of such a status to the group), the state can justifiably penalize the group for its actions. In this case, extra international intervention is not required. I will argue that the norm of equality is not only just but also that it can be maintained by the subjects of the modified right in the next chapter, in which I deal with the practical impact of the modified right on international peace and consider how it ought to be implemented.

The modified right permits universal membership in a community of self-determining groups by redefining the institutional expression of the idea of self-determination. Hence, it can in principle be legalized. Recognition of the modified right would fill the void in international law created by the present lack of a proper regulation of relations among national groups and between states and national groups. It would reduce the split between the absolute entitlement of state actors to self-determination and the disentanglement of non-state actors to this same right. Although my approach does not provide a perfect resolution to the problem of the justice and stability of multinational states, it is an improvement over the status quo for both state-endowed and stateless nations: The modified right helps to improve the position of stateless groups with respect to power distribution in multinational states, and it is more just from their perspective than the status quo. It also improves the situation of state-endowed nations, because it helps make multinational states more stable. It is very likely that a group that was granted proper status within a multinational state would not want to secede. More often than not, it would be profitable for such a group to be together with other groups in a strong viable state rather than to strike out on its own, especially from an economic point of view.³¹ Besides, even from the majority perspective, making a multinational state more just is a goal worth pursuing in and of itself.

I will say more about different ways to realize the norm of equality and discuss the probable effects of the introduction of the modified right to self-determination on the behavior of substate groups and their relations with their state-endowed counterparts in the next chapter.

Notes

1. An earlier version of the discussion of the consequences of the introduction of the modified right (now presented in parts of this chapter and of Chapter 6) was published in Anna Moltchanova, "Stateless national groups, international justice, and asymmetrical warfare," *The Journal of Political Philosophy*, 13(2), June 2005, 194–215, publisher: Wiley and Sons Ltd.
2. Jeremy Waldron, "Rights and Majorities: Rousseau Revisited," in *Liberal Rights: Collected Papers 1981–1991*, p. 400.
3. An authority external to a people and their political community can govern them legitimately on a temporary basis when it is an interim authority created and put in place for a period of transition.

4. According to Joseph Raz, a person may be said to have a right if and only if some aspect of his well-being (some interest of his) is sufficiently important in itself to justify holding other person or persons to be under a duty. See *The Morality of Freedom*, p. 166.
5. The notion that “equal consideration requires that all persons have the same fundamental status, as equal participants, in the most important decisions made in their societies” is defended by Allen Buchanan in his discussion of a human right to democracy. See *Justice, Legitimacy, and Self-Determination*, p. 143.
6. Moore argues that respecting collective autonomy is of moral importance. Institutional recognition of national identity is important for members’ sense of identity and gives expression to their political aspirations. See *The Ethics of Nationalism*, p. 176.
7. This is so in part because a national group may be multicultural or multilingual, and different national groups may share the same language and culture.
8. Will Kymlicka persuasively argues that national assimilation is hard and, even on the utilitarian scale, is not a sacrifice we can require minorities to make, unless they choose its willingly. Immigrants, for example, willingly choose a different national culture and hence forfeit the option to remain in their initial culture; they can justifiably be expected to assimilate. Will Kymlicka, *Multicultural Citizenship*, Chapter 5.
9. Will Kymlicka demonstrates that minority rights can enlarge the freedom of individuals because cultural membership, including membership in a national, or “societal,” culture, is a necessary condition for individual freedom. See *Multicultural Citizenship*, pp. 83–84. He also defends the distinction between immigrant and national minorities in chapter 5.
10. For a discussion of the original position in the context of multinational states, see Daniel Weinstock, “On Some Advantages of Constitutionalizing the Right to Secede,” *Journal of Political Philosophy* 9, no. 2 (2001).
11. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), pp. 17–22.
12. John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Belknap Press/Harvard University Press, 2001), p. 18.
13. In his *Law of Peoples*, John Rawls proposes two original positions. The first is conducted within liberal states, and the second has as its parties representatives of peoples. In the second original position, the representatives do not choose among options from the list, they just approve of the set of the principles of justice that Rawls suggests. Rawls considers peoples as conceiving themselves to be equal and free. He extends international discourse to liberal and decent hierarchical peoples. I apply the technique of original position within a state, not internationally. See *The Law of Peoples* (Cambridge, MA: Harvard University Press, 2001), p. 34.
14. Buchanan, *Justice, Legitimacy, and Self-Determination*, p. 187.
15. *Ibid.*, p. 335.
16. Those individuals living in the territory of a national minority who consider themselves members of the majority are represented by the majority. It is precisely because all groups are self-determining within a state that all individuals can consider the state as their own. The “minority majority” can perhaps have a seat in the legislative assembly of the majority nation.
17. In 1996, for example, 64% of Tatars and 41% of Russians in Tatarstan thought that the republic should have exclusive control over its natural resources, while 23 percent of Tatars and 44% of Russians considered joint control by Tatarstan and the Russian Federation to be the right choice. Given the ethnic composition of the republic, there was popular support for the state’s exclusive control, but there was also some room for the government of Tatarstan to negotiate shared control based on the minority mandate and the interest of the group in being included in the Russian Federation. See L. M. Drobizheva, ed., *Asymmetrichnaja federatsia: vzgliad iz tsentra, respublik i oblastei. Kniga 2, 2-e izdanie* [*Asymmetrical Federation: A View from the Center, Republics and Districts*], book 2, 2nd edition (Moscow: Institut etnologii i antropologii RAN, 2000), p. 195.
18. A good account of “decentralization strategies” is offered by John McGarry in “Orphans of Secession: National Pluralism in Secessionist Regions and Post-Secession States,” in

- National Self-Determination and Secession*, ed. M. Moore (Oxford: Oxford University Press, 1998), p. 226.
19. Article I-5.1 of the draft Treaty establishing a Constitution for Europe (CIG 86/04).
 20. The European Parliament, the European Council, and the European Court of Justice provide forums for this.
 21. Article I-59 of the draft Treaty establishing a Constitution for Europe (CIG 86/04).
 22. Daniel Philpott, "Westphalia, Authority, and International Society," *Political Studies* (1999), XLVII: 566–589, p. 567.
 23. *Ibid.*, p. 578.
 24. Allen Buchanan complements his theory of secession with the notion of recognitional legitimacy, which pronounces that only those states that are minimally just can be recognized as legitimate. The concept of recognitional legitimacy, therefore, is employed by Buchanan to judge whether an entity under consideration satisfies the criteria for being a member in good standing in the international legal system. The minimal requirement of justice that Buchanan introduces is respect for human rights by the state domestically and internationally. According to Buchanan, territorial integrity is a morally progressive principle of international relations if it is assigned to states that satisfy the criterion of recognitional legitimacy. Thus, minimally just states are entitled to territorial integrity, and national groups do not have a right to secede from such states; the only reasons Buchanan allows for secession are gross violations of human rights and unjust occupation. See "Recognitional Legitimacy and the State System," pp. 48, 55.
 25. Majorities often engage in power-based rhetoric that presupposes that they perceive the whole of the territory as theirs. A good example is a question asked in Russia—"How can the Chechens want to take a part of Russia away?"—or Georgia's considering Abkhazia and Serbia considering Kosovo as their inalienable territory.
 26. Buchanan offers examples of the international response to the treatment of Kurds and human rights abuses in South Africa under apartheid to demonstrate how his theory should work.
 27. On the international adjudicative process, see David Copp, "International Law and Morality in the Theory of Secession," *Journal of Ethics* 2 (1998): 219–245.
 28. John McGarry raises the problem of national pluralism in secessionist regions or newly formed states and points out that such states "are often as heterogeneous as their predecessors, as likely to abuse minorities, and, subsequently, as prone to conflict." See "Orphans of Secession," p. 215. I believe that my system provides a good answer to the "Russian doll" problem of secession by attempting to concentrate on the regulation of relations among national groups in multinational states to make these states more just and less unstable. As far as groups other than national minorities are concerned, they typically do not advance self-determination claims and are not included in my approach. Their rights are covered under the widely accepted rights of national minorities and may be protected on that basis. Moreover, it is often easier to control the implementation of these kinds of rights in smaller states, for they are more easily influenced by the international community.
 29. Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* (Oxford: Oxford University Press, 2007), p. 119.
 30. *Ibid.*, p. 237.
 31. For a discussion of this point, see Will Kymlicka, "Minority Nationalism and Multination Federalism," in *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (Oxford: Oxford University Press: 2001), pp. 91–119. Kymlicka acknowledges that multinational federations will face secessionist movements. But he thinks that a well-designed multinational federation provides a framework for negotiating differences and, consequently, gives national groups good reasons to reject secession. Multinational federations have a weak kind of national unity, Kymlicka argues, that is different from that which unination states often possess. But because federalism is often the only way of accommodating national differences, multinational federations have proven themselves to be surprisingly resilient.