

ON NATIONAL SELF-DETERMINATION

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This paper argues in favour of a conception of self-determination which involves the equal recognition of different national identities. It proceeds by, first, criticizing the dominant territorial (in contrast to national) conception of self-determination. It then addresses three main criticisms of a principle of national self-determination. These are (1) the argument from indeterminacy; (2) the argument from instability; (3) the problem of overlapping nationalities.

This paper argues in favour of a conception of self-determination which involves the *equal* recognition of different national identities. It argues that the claim of a nation to political self-expression should amount to a defensible right, equally possessed by all nations, and that this claim derives from the mere existence of a nation (and does not rest on past injustice or present discrimination).²

The paper is divided into two sections. Part one suggests various difficulties – in international law, political practice and philosophical coherence – with the dominant territorial (in contrast to national) conception of self-determination. It argues that international law is riddled with inconsistencies and is ethically unconvincing; that political practice based on this territorial conception of self-determination has failed to generate rules and mechanisms adequate for resolving national conflict; and that the philosophical underpinnings of the territorial conception are also problematic.

In part two, some of the main objections to a principle of national self-determination are considered. One of the reasons why the principle of

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self-determination has been conceptualized in territorial terms has been because of (perceived) problems surrounding a principle of *national* self-determination. The paper addresses three criticisms most commonly made of the principle of national self-determination. These are (1) the argument from indeterminacy; (2) the argument from instability; and (3) the problem of overlapping nationalities. I suggest a solution to the problem of indeterminacy, *viz*, the *claim that the idea of self-determination is indeterminate* in the sense that it does not tell us who the peoples are that are entitled to self-determination or the jurisdictional unit to which they are entitled.

In some cases, nations should be able to exercise their right to self-determination by seceding. However, for a variety of reasons, this might not be practical or appropriate. In addressing the third criticism of the idea of national self-determination, the paper explores imaginative ways in which the equal recognition of different national identities might be achieved in situations where secession is not a desirable or practical option.

SELF-DETERMINATION OF PEOPLES IN INTERNATIONAL LAW, PHILOSOPHY AND POLITICAL PRACTICE?

The terminology surrounding issues of nations, nationalism and states is both confused and confusing. Walker Connor has pointed out that writers in both international politics and in the popular media often use the terms 'nation' and 'state' interchangeably, as if they are synonyms.³ This practice is encouraged by the widespread use of the term 'nation state' which misleadingly suggests that the population of each state is comprised of a single nation. The term 'United Nations' is also misleading and for the same reason. It would be more accurate to call it 'The Assembly of Sovereign States'. In fact, most states are not nationally homogeneous – Japan, Iceland, Korea and a few others are exceptions – but are either comprised of co-existing national communities, i.e., historical communities on what they perceive to be their 'ancestral territory', or people from a variety of ethnic backgrounds who have immigrated to countries like Australia, Canada and the United States.⁴

In multi-nation states, the principle of self-determination of peoples can be politically charged. This principle was understood in the nineteenth century and in the period following World War I as national in form, and so the new states of Eastern Europe were created in 1918 from the ruins of the Austro-Hungarian, Turkish, German and Russian empires in accordance with the idea of *national* self-determination. But because this principle endangered the unity of many multi-national states, the 'people' in question have been conceived, since 1945, not as 'national' peoples, but as the inhabitants of pre-existing political states or colonies; and it was also interpreted as not entailing a right to secession.⁵

The incoherence and ethical contradictions surrounding the right (or principle) of self-determination in international law since 1945 has been extensively documented.⁶ The right to 'self-determination of peoples', endorsed in Article 1,

par. 2 and Article 55 of the United Nations Charter, is qualified by numerous other articles in the UN Charter affirming the sanctity of the principle of the territorial integrity of states and denying the right of the UN or its member states to intervene in the internal affairs of recognized states.⁷ For example, the 1970 UN Declaration regarding the right of secession makes it clear that the UN condemns 'any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country'.⁸ In 1970, UN Secretary General U Thant argued that the recognition of a state by the international community and its acceptance into the UN implied acceptance of its territorial integrity and sovereignty. He added, 'the United Nations' attitude is unequivocal. As an international organization, the United Nations has never accepted and does not accept and I do not believe it will ever accept the principle of secession of a part of its Member State.'⁹

Elaboration of the right to self-determination by a whole series of resolutions passed by sovereign states, concerned about the potentially destructive effect (for them) of this principle, makes it clear that the 'peoples' in question are not national groups, but, rather, peoples within territorial states; and it could only be invoked by people under colonial rule or people living under alien and racist regimes (Palestinians under Israeli occupation, blacks under apartheid in South Africa, respectively).¹⁰

However, this very narrow conception of the right to self-determination is inconsistent and ethically problematic. It is difficult to justify why the right to self-determination of peoples living under colonial rule can only be exercised *once* (to restore sovereignty to the people, who had been illegitimately deprived of it by the colonial power) but can never be used again.¹¹ This makes sense in terms of the political interests of sovereign states who are concerned about their territorial integrity, but certainly not to unhappy national groups inside these states who question the legitimacy of the states. Indeed, the moral idea justifying both democracy and decolonization is that political power should be in the hands of the people over whom it is exercised; and this provides some basis for condemning, for example, states dominated by a particular national group which exercises power and control over another national group. It might be politically correct to describe only Western powers controlling overseas territories as imperialists, but it is not factually correct: the term 'imperialism' can be coherently and persuasively applied to any attempt by one people to dominate politically another people, especially if the latter perceive the rule to be hostile to their national identity.¹²

Other inconsistencies flow from this very narrow interpretation of the principle of self-determination of peoples.¹³ Why, for example, should a *majority* suffering racist discrimination (blacks in South Africa under apartheid) be entitled to self-determination but not *minorities* in a state who are suffering under racist or discriminatory policies (a much more common phenomenon)? And why are Palestinians the only people living under 'alien' rule when there are many national groups which perceive the state as alien to them and hostile to their national identity?

The tendency in international law since 1945 to treat national and cultural identity as irrelevant is mirrored in political philosophy, which also abstracts from issues of national and cultural identity. John Rawls's influential *A Theory of Justice* is typical: he stipulates at the beginning that he is concerned with justice *within* a single society, or state, and leaves out of consideration the important question of justifying state boundaries, and hence all issues relating to membership.¹⁴ The *political* significance of cultural and especially national identity is ignored, because the argument appeals to a conception of fundamental *human* interests and then erects liberal rights and rules on that basis.

The dissolution of the former Soviet Union and former Yugoslavia, in particular, has given new urgency to the need to consider the appropriate relation of national identity to the state and international state system. The inconsistencies and ethical shortcomings of international law are not merely a theoretical or conceptual problem, but a pressing practical issue. In the former Soviet Union, the West supported Gorbachev, who had no democratic legitimacy and very little popular support, against popular democratically-elected national leaders, until it was apparent, on the ground, that the Soviet Union had collapsed. Similarly, the response of the international community to the dissolution of the former Yugoslavia was first to try to hold Yugoslavia together, thereby wasting valuable time in which they could have searched for a just settlement of these rival claims to national self-determination.

Faced with the collapse of these federations, the (belated) response of the international community – the UN and the EU, in particular – was to recognize the self-determination of peoples, defined in territorial terms, as members of specific republics, but not as national groups. Federations could disintegrate along the lines of their constituent units, but there was to be no re-consideration of borders, 'no secessions from secessions'.¹⁵ This was so, even though it was evident that many people living within the republican borders of the former Yugoslavia did not share this view.

The Badinter Arbitration Committee on the former Yugoslavia, set up by the EU, concluded that 'whatever the circumstances, the right to self-determination must not involve changes to existing frontiers at the time of independence'.¹⁶ Once secession was inevitable, or had occurred *de facto*, the international community reluctantly accepted it, but attempted to limit its 'damage' by applying a territorial understanding of 'peoples'. Indeed, the Badinter Arbitration Committee specifically mentioned concern about the 'stability of frontiers', even in a case (the former Yugoslavia) where the *external* frontier (of the former Yugoslavia) was not being disputed; and it justified its decision in terms of the principle of 'territorial integrity', which it described as 'this great principle of peace, indispensable to international stability'.¹⁷

Whatever one might think of the merits of this (and related) legal decision(s), it is now widely accepted that the international community's response in the Balkans was profoundly inadequate, at least in the sense that they did not have rules or procedural mechanisms adequate to achieve peace. The idea of national

self-determination has profound resonance across the globe – from Northern Ireland to Kashmir – and it is necessary to elaborate ways of dealing with the national dimension of these conflicts, so that a peaceful solution can be achieved.

The inadequacy of the *territorial* conception of peoples, which promises to extend civic equality and fair treatment to all members of the state, is apparent not only to the people who consider the formal extension of equality to them as insufficient, holding out instead for the political recognition of their identity,¹⁸ it is also becoming something of a commonplace in liberal political philosophy.¹⁹ There has been a flurry of recent work in this field arguing that the conceptions of state neutrality and formal equality of citizens, embedded in a territorial understanding of citizenship, are inadequate in dealing with issues of national and cultural identity. Tamir, in her book *Liberal Nationalism*, argues for the importance of a defensible nationalism, which, she claims, can be reconciled with the principles of liberalism. In his book *Multicultural Citizenship*, Kymlicka argues that the liberal commitment to equality and autonomy can be used to support a theory of special rights for national minorities. And Miller's *On Nationality* defends what he calls the 'nationality principle' on the grounds that ties between people are necessary to support a redistributive practice.

One common argument running throughout these otherwise very different works is that it is no longer tenable to reject the claims of nationalists out of hand on the grounds that nationalism is inherently divisive, parochial and unjustifiable. It is hypocritical for large states, with a secure national identity and political institutions expressive of that identity, to demonize the nationalism of smaller peoples, who aspire to make political claims on behalf of their own nations. In practice, most liberal polities are expressive of a particular cultural identity. France creates Frenchmen: it teaches French history and traditions, the French language; the United Kingdom teaches British history, the English language and so on. Indeed, almost all liberal states have a dominant culture and value system, from which some national minorities feel marginalized. The problem is not that these societies are insufficiently liberal and that a more fully liberal society would be neutral on issues of culture and nationality. As Kymlicka argues persuasively, it is not *possible* to be neutral on issues of relevance to national identity: the state must make some decisions on which language(s) should be used in government, the bureaucracy, the courts, and schools.²⁰

The increasing recognition, then, of the difficulties, both philosophical and practical, facing the territorial understanding of peoples, on which the prevailing idea of self-determination in international law is based, points to the need to reconsider whether the principle of *national* self-determination might not be an appropriate starting-point for the resolution of national conflicts. Specifically, a consistent and ethically principled approach to conflicting claims of national self-determination, based on the recognition of national identity, is necessary. In the next section, I will consider three objections to the idea of national self-

determination, for these objections inform the view that the idea of self-determination can only be understood in territorial terms, and not applied to national 'peoples'.

OBJECTIONS TO NATIONAL SELF-DETERMINATION

The indeterminacy problem

One of the most serious objections raised to the principle of national self-determination is that the concept, in itself, does not tell us who the peoples are that are entitled to self-determination or the jurisdictional unit that they are entitled to. Appealing to democratic criteria is not helpful, critics claim, because the idea that we should let the people decide is 'ridiculous because the people cannot decide until somebody decides who are the people'.²¹

The problem of indeterminacy is a serious criticism, which must be addressed if the principle of self-determination is going to be helpful in resolving national conflicts. Some of the difficulty arises, however, because of a misguided attempt to specify objective criteria for delimiting national identity. This quest is misguided, because there are good reasons to understand a 'nation' as *subjectively* defined. On this view, the term 'nation' refers to a group of people who identify themselves as belonging to a particular nation group, who are usually ensconced on a particular historical territory, and who have a sense of affinity to people sharing that identity. It is not necessary to specify which traits define a group seeking self-determination. As Philpott argues, 'Why need we try [to establish historical, linguistic or racial tests to delimit a seceding group]? If Lithuanians, Croatians, East Pakistanis or Tibetans express a desire for self-determination, we do not ask what characteristics make them Lithuanians, Croatians, East Pakistanis, or Tibetans. This is a matter for scholars of Slavic, Middle Eastern, and Asian cultures.'²² In practice, it is not difficult to discern which groups seek greater independence or autonomy. The main difficulty arises not from the subjective criterion but from cases where communities are intermingled and it seems that the self-determination of one group must be compromised to take into account the equally good claims of another group.

The subjective definition of national identity not only circumvents the problem of specifying objective criteria for identifying nations, but it also helps to point the way toward resolving the problem of specifying a jurisdictional unit. The jurisdictional unit in which a plebiscite is held is also essentially contested; as Barry has argued, in a case where the majority of people in an area want the boundaries of that area to be the boundaries of the state and a minority do not, the 'issue is in effect decided by the choice of the area of the plebiscite'.²³ In the case of Quebec, for example, a referendum on secession may yield different results if the jurisdictional unit is taken to be the whole of Canada, or the province of Quebec, or only part of the province of Quebec.²⁴

Just as it is unacceptable for one nation to determine whether another group is indeed a nation, so it is unacceptable for one nation to define as essential to its territory land on which resides people who do not conceive of themselves as

members of the nation in question. Thus, if a group did attempt to define its area of jurisdiction too broadly – *viz.*, it attempted to include territory and a people who do not conceive of themselves as belonging to that group – it would leave itself open to the possibility that the minority nation would hold its own referendum in its own self-defined area of jurisdiction. This follows from the view, advanced here, that national identity is subjectively-defined. Thus, this conception leaves open the possibility of recursive secession, as does Beran's theory, but with the important difference that Beran's theory is individualist, whereas this theory grants the right of self-determination to national groups,²⁵ and requires us to distinguish between a dissenter (a member of the seceding national group who, say, disagrees with the decision to secede) and a national minority (a member of a different national group).²⁶

The view sketched here, in which nationality is subjectively defined, and self-determination confined to areas which encapsulate territory where the national group resides, is justified in terms of liberal-democratic norms. It is consistent with the liberal emphasis on autonomy, for it places importance on people's own conceptions and identities.²⁷ Indeed, the requirement that the identification of a national group can only be by the people themselves can be conceptualized in terms of the idea of external preferences, a concept which was first expounded in liberal political philosophy by Ronald Dworkin. Dworkin argued that internal preferences – preferences over how one lives one's own life – are legitimate from a liberal standpoint, but that external preferences – preferences over how *others* live their lives – are unacceptable or illegitimate in liberal political philosophy.²⁸

It is consistent with democratic principles because it means that, as far as possible, the territory which the group claims encapsulates that group and does not illegitimately also encapsulate another group which does not conceive of itself as a member of the nation. This would mean, for example, that the native peoples in northern Quebec, who have a distinct history and culture, and who conceive of themselves as distinct nations, should *not* be included as Quebecois and that the appropriate jurisdictional unit for a plebiscite on this issue would recognize this fact, and not include native lands of northern Quebec.

One advantage of conceiving of national identities in subjective terms, and jurisdictional units in terms of the area on which the national group resides, is that it avoids the problem of contested definitions of what 'really' constitutes a nation. Identification of a national group by others (by people outside the group) is often used to *deny* particular national identities. Thus, Turkey has frequently referred to the Kurdish population in the south-east corner of Turkey, not as Kurds, but as 'mountain Turks'. In this way, Turkey denies their distinctive national identity, and so can ignore the political claims to self-determination which flow from this. Greek nationalists deny that Macedonians are a distinctive national group: they claim that the Macedonians in northern Greece are really Greeks; and Bulgarian nationalists claim that Macedonians in the former Yugoslavia are really Bulgarians.

It is implicit on this conception that *historic* ties to a place are insufficient to generate rights to control a territory. Appealing to historic links can legitimize claims to vast areas, and legitimize many different irredentist claims. In an absurd, but revealing, example, James A. Graff points out that 'one could press claims to all of the Levant, including the Holy Land and most of North Africa, in the name of the Greek Orthodox people, insisting on a "return" to territory that was the homeland for people of that faith community during centuries of Byzantine rule'.²⁹ Thus, the Greek nationalist claim to the mainly Slavic-speaking Macedonia in the former Yugoslavia would be deemed unacceptable on the principles I am outlining. Similarly, the Serb occupation of the Kosovo region, which has a 90% Albanian population, on historic grounds, is also unjust. Historic monuments and national sites can legitimate a *prima facie* case in favour of rights of *access* but not to control over the territory in which these national sites are located.

The argument from instability

Another concern that has been expressed about the principle of national self-determination is that its acceptance would be destabilizing for the international state system. Some of the concern focuses on the nature of nationalism itself; some on the destabilizing effects of a principle which, it is alleged, would licence a secessionist free-for-all and lead to the break-up of most of the world's states. The first kind of criticism focuses on the potentially aggrandizing and threatening nature of the nationalist mentality. Nationalists prefer their own nation over others (this would seem to be definitionally true); therefore, nationalists seek to advance the interests of their own nation at the expense of other nations. However, we should not assume (as many liberal cosmopolitans do)³⁰ that nationalism is irrational and therefore incapable of recognizing any limits on its demands or the similar feelings of other people.

The basic normative idea of national self-determination involves the (institutional) recognition of people's collective (national) identity through self-government, and this recognition as a nation is given by other nations. In other words, nationalism in itself is no more aggrandizing than individualism. It can, of course, take an aggrandizing form, just as the individual liberty principle can take an aggrandizing form. I might think that the exercise of *my* individual freedom is more important than anyone else's freedom, and I might seek whatever I want, without regard for the interests of others. But liberals recognize that the unrestrained pursuit of individual liberty would be destabilizing, and could only be secured at the expense of other people's liberty. The solution to this problem has been the equal liberty principle: each person can pursue his/her liberty *as long* as she respects the rights or legitimate interests of others. This is the essence of Mill's harm principle.

Similarly, nationalism does not need to take an aggrandizing form: indeed, the only stable, coherent legitimate nationalism is one which recognizes, not only the rights of one's own nation to self-determination (whatever form that

takes) but also the equal rights of other nations.³¹ This is a logical point, as well as a practical one: if feelings of communal identity, and aspirations to have political institutions which express that identity, are important to *me*, and justify my claims to self-determination, they might also be important to others who belong to a different nation, and also seek rights to self-determination. Indeed, this idea is central to most forms of nationalism: the basic idea is that of humanity belonging to a family of nations, and each nation having its own right to self-determination, and being recognized (institutionally) as a nation *by* other nations and operating *among* other nations.³² The requirement that nations are subjectively defined, and that the jurisdictional unit for a democratic plebiscite is confined to territory in which the national group resides, addresses the concern about the potentially aggrandizing nature of nationalism.

Moreover, it would seem that the equal political recognition of distinct nations might *facilitate* international cooperation and obedience to international norms. When insecure peoples face other insecure peoples, their identity uncertain, they may be led to adopt an aggressive and expansionist policy in order to secure their place in the community of nations. The hope is to make themselves economically and militarily viable, and this might be possible only with increased territory and population. To avoid this, it would seem prudent to include peoples in international organizations, not through denying their national identity but through *recognizing* it. Although the EU could be viewed primarily as an economic association of sovereign states, it does suggest that sometimes societies are prepared to give up some sovereignty, prepared to abide by international norms, if their own identity is secure and is recognized. In an international context of open markets and a common defence policy, it is possible for small nations, such as Luxembourg, to be 'viable'. In this way, international organizations can reduce the incentive of particular nations to be aggrandizing – reduce the incentive for nations to secure more territory and thereby enhance their economic and military viability. Not only can multilateral organizations reduce the need for increased territory but also acceptance into these international communities and recognition of national identity within these organizations is itself an incentive to behave according to accepted international norms.

A more serious charge against the principle of national self-determination is that the implementation of this principle would be potentially disastrous, leading to the break-up of many of the world's states. In his book *Nations and Nationalism*, Ernest Gellner argues that the principle of national self-determination is impractical because there are many potential nations but only room for a small number of political units.³³

Gellner's criterion for determining a 'potential nation' is language: he does not argue that each one of these linguistic groups now, or even at some future time, is likely to have nationalist aspirations. This hypothetical form of argument does not address the issue of the circumstances in which ethnic or linguistic groups become transformed into nations, or the possibility of the opposite trend

occurring, as when a linguistic group becomes assimilated or when a particular national identification encompasses more than one ethnic or linguistic group (as, for example, in Switzerland).

It is difficult to be certain what is meant by the idea that there is only 'room' for a small number of political units. If this refers to the fact that many national groups are not geographically concentrated, and so any claim to self-determination must take into account the equally good claims of another group, then this is an important consideration (which I deal with below). But part of the force of the objection may stem from a bias against small states. It is difficult to know *a priori* how small is too small. Many self-determining states that are small – Andorra, Liechtenstein and Singapore, to name a few – are doing quite well.³⁴ Obviously, size is a potentially relevant consideration: there are functions that a state must perform, such as maintain domestic order and provide basic goods and services, and self-determination which took the form of independent statehood would be inappropriate for a unit which could not perform the basic functions of a state.

Moreover, this consequentialist form of argument against the principle of national self-determination appeals mainly to the need for stability, and while this is an important practical and moral consideration, it is not an absolute value. It needs to be weighed against the problem of states ruling without the consent of the people, and denying legitimate feelings of communal identity. There is an important moral distinction between insisting on the inviolability of territorial boundaries against *external* aggression and insisting on them against the people themselves. Instead of treating the two together, it would surely make more sense to elaborate criteria according to which national self-determination might be justifiable, rather than treat internal national dissent as inherently bad because destabilizing. After all, freedom of speech and political dissent can be viewed as destabilizing; but that is not normally viewed as a good (legitimate) reason for suppressing them.

The model that I propose as a way of dealing with claims to national self-determination does have two safeguards which are designed to address concerns about the dynamic effects of recognizing the legitimacy of self-determination along national lines. First, on my conception, any claim to self-determination must be subject to a free and fair democratic referendum or plebiscite on this issue in order to establish consent. The basic idea which justifies democratic decision making within a political unit – that people are capable of making decisions about their political future – also justifies decisions on self-determination. If the unit is so small and resource-poor that the people it encompasses will be impoverished, then this is obviously a factor which must be considered by the people themselves in a vote. Second, the requirement that the jurisdictional unit cannot encapsulate geographically concentrated national minorities which do not wish to secede would be a considerable practical deterrent for many secessionist movements, which may be reluctant to recognize similar rights (to self-determination) for their own national minorities.

The problem of overlapping nationalities

Thus far I have been suggesting that the model regarding secession that the international community should be aiming to duplicate is similar in kind to the peaceful 1905 secession of Norway from Sweden. This was not justified on the grounds of past injustice or genocidal threat.³⁵ Growing Norwegian nationalism simply meant that Norwegians identified with each other and not with Swedes, they therefore sought their own political community.³⁶ Although Norwegians and Swedes now share many of the same liberal-democratic values and the two states have peaceful relations with each other, it is hard to think of a compelling argument why there should be one state in the region rather than two.

This brings me to the most serious problem with any claim to national self-determination. In cases where the national group is geographically concentrated, claims to self-determination (including a right to secession) may be quite straightforward. But this is not typical, because, frequently, two national communities are intermingled and the self-determination of one national group may threaten to compromise the self-determination of another national group.

Redrawing boundaries often does not solve the fundamental problem of majorities and minorities, because there is frequently no way of drawing boundaries which would result in a homogeneous political community. In some cases, although the majority-minority problem cannot always be completely overcome, the *extent* of minority dissatisfaction and the numbers of people who are dissatisfied can be reduced. Suppose, for example, that a present border arrangement leaves 60% of the population happy and 40% unhappy. It is not possible to make everyone happy, but redrawing the boundaries would make 85% happy and 15% unhappy. This is morally and practically relevant. While politicians dislike appealing to such utilitarian calculations, because they raise the spectre of 'sacrificing' some for the benefit of others, there is sometimes no alternative to counting numbers and trying to do the best one can (within the limits of legitimate action): sometimes no arrangement can satisfy everyone.

This is not a mere theoretical issue of morality: it is also an issue with important practical consequences for long-term stability. The aim behind the partition of Ireland in 1921 was not simply the separation of two rival groups into two homogeneous units. Such an aim would have been consistent with a principle of national self-determination. The 1921 settlement created the territory of Northern Ireland in such a way that (i) it guaranteed an in-built Protestant majority (assuming that Catholics did not out-reproduce Protestants); and (ii) it secured the maximum sustainable amount of territory for the province.³⁷ This partition arrangement resulted in a large Catholic minority – over a third of the entire population – in the province as a whole; and Catholic *majorities* in two of the six counties – Fermanagh and Tyrone – and almost all of the local government areas contiguous with the border.³⁸ This has meant, first, that the partitionist settlement was unjust, because the British state was aggrandizing, *viz.*, claiming two counties with majority Catholic (Irish nation-

alist) populations; and it has also meant – though this was not of course foreseen – that the entity, which contained a large, dissatisfied national minority, was unworkable. Indeed, it has been suggested that, had the province not contained the two nationalist counties, Fermanagh and Tyrone, the ‘Troubles’ would either have been easily contained or would not have occurred.³⁹ It seems obvious from this that the *size* of unhappy minorities is relevant to the practical issue of political stability. (This does not mean that a repartition of Northern Ireland is an attractive option, for reasons that I will outline below.)

The principle that I have advanced – that of giving *equal* recognition to different national identities – cannot be achieved by the partition of different national communities in cases where national groups are thoroughly mixed. But the subjective definition of a nation, and the definition of jurisdictional unit which I have outlined, enable us to identify these cases and attempt to achieve the equal recognition of different national identities through other means.

In the former Yugoslavia, for example, the secession of Slovenia was fairly straightforward: Slovenia was relatively homogeneous (about 90% Slovenian), and its 10% Serb minority was not geographically concentrated. It made sense, therefore, to accommodate this minority through a system of minority rights within an independent Slovenia.

In Bosnia-Herzegovina, by contrast, the situation was quite different. According to the 1991 census, Bosnia-Herzegovina comprised 44% Slav Muslim, 31% Serb, 17% Croat, and 5% Yugoslav (in practice, people in, or children of, mixed marriages). It had no dominant national group and no neat dividing line along which to fragment, because, with the exception of Croat-populated western Herzegovina, the different national groups were thoroughly mixed.⁴⁰ In Bosnia, then, there was no way of drawing boundaries which would have ‘solved’ the nationalities problem by separating antagonistic groups. Nevertheless, acceptance of the principle of (non-aggrandizing) national self-determination has important practical and moral policy implications for such a situation. Recognition of (1) the importance and legitimacy of national ties, combined with (2) the view that internal borders are not inviolable, but must have demonstrated democratic legitimacy, would have led the international community to develop a different policy with regard to Bosnia. The West would not have been eager to extend international recognition to a *civic* Bosnian state, in which all people have rights *as individuals*. The obvious route, following from acceptance of these two principles, would have been negotiations with all national groups to arrive at a solution which recognizes the *equal* right of all nationalities.

Moreover, the definition of national group and jurisdictional unit which I have outlined would have enabled us to identify whether or not a secessionist solution was appropriate. Any application of the principle of recursive secession (secession from a secession) in Bosnia-Herzegovina would not have resulted in a satisfactory settlement, but would have involved a patchwork of enclaves or pockets of sovereign units throughout the republic. Where the communities are

intermingled in this way, and the domino threat is genuine, different mechanisms for realizing the fundamental principle of giving equal recognition to national identities are necessary. One possible arrangement, among others, would have been a confederal state, in which the constituent elements are subject to a unifying treaty for certain purposes, but retain their individual sovereignty and international identity for other purposes.⁴¹ This would have enabled the Serb and Croat national groups to develop links with their co-nationals in Serbia and Croatia, without violating the equal right of the Bosnian Muslims to determine their own group's future.

Similarly, in Northern Ireland, a partitionist settlement is not optimal, because the existence of both communities in enclaves throughout the province, but particularly in Belfast, means that there is no way to solve the fundamental problem of majority and minority. Giving importance to national self-determination without domination requires imaginative solutions, which go beyond a purely 'internal' settlement. Specifically, the Anglo-Irish Agreement of 1985 points the way toward an internal power-sharing government combined with a joint role for the British and Irish governments in governing Northern Ireland which involves the dual recognition of national identities. In other words, it is through the *equal* recognition of the distinct national identities that nationally divided communities have the best hope of achieving lasting peace.⁴²

CONCLUSION

In this paper, I have argued in favour of a conception of national self-determination which involves the equal recognition of different national identities. I have offered reasons why a territorial conception of self-determination is inadequate, and have attempted to counter three arguments which are commonly made against the principle of national self-determination.

First, I have argued that the concept of national self-determination is not indeterminate: a subjective understanding of nationality combined with a conception of jurisdictional unit based on consent specify both who the people are and the territory to which they are entitled.

Second, I have considered the argument that the principle of national self-determination is inherently divisive and destabilizing to the international state system. I have not dismissed the latter concern, but I have suggested that political instability is sometimes caused by the *failure* to accommodate national identities, and that the international community can play an important role in encouraging the development of non-aggrandizing forms of nationalism.

Finally, I have argued that national self-determination cannot always take the form of independent statehood in situations where one national group's right to self-determination would hinder or adversely affect another group's equally good right to self-determination. I have suggested that the subjective understanding of nation and jurisdictional unit help to specify precisely those situations in which more imaginative constitutional arrangements, based on the *equal* recognition of different national identities, are necessary.

NOTES

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2. This is in contrast to A. Buchanan's argument in *Secession: the Morality of Political Divorce from Fort Sumter to Lithuania and Quebec*. (Boulder CO, Westview, 1991). Buchanan dismisses the idea of national self-determination, arguing instead that the strongest justificatory argument for secession is when liberal precepts of justice have been violated.
3. W. Connor, *Ethnonationalism: the Quest for Understanding* (Princeton NJ, Princeton University Press, 1994), ch. 4.
4. This distinction is explored in W. Kymlicka, *Multicultural Citizenship* (Oxford, Clarendon, 1995).
5. A. Heraclides, *The Self-determination of Minorities in International Politics* (London, Frank Cass, 1991), pp. 21–2.
6. See R. Emerson, 'Self-determination', *American Journal of International Law*, 65 (1971), 464–6; R. Higgins, *Problems and Progress: International Law and How We Use It* (Oxford, Clarendon, 1994); A. Heraclides, 'Secession, self-determination and nonintervention: in quest of a normative symbiosis', *Journal of International Affairs*, 45 (1992), 399–420; B. O'Leary, 'Determining our selves; on the norm of national self-determination', Paper Presented to the International Political Science Association, Berlin, Germany (August, 1994).
7. See Emerson, 'Self-determination', p. 463.
8. Quoted in Heraclides, *The Self-determination of Minorities in International Politics*, p. 21.
9. This was in the context of the attempted secession by Biafra of Nigeria. Quoted in Emerson, 'Self-determination', p. 464.
10. A. Michalska, 'Rights of Peoples to Self-determination in International Law' in W. Twining (ed.), *Issues of Self-determination* (Aberdeen, Aberdeen University Press, 1991), p. 80; D. Horowitz 'Self-determination; philosophy, politics and law' (unpublished paper), pp. 27–8.
11. This point is made by O'Leary, 'Determining our selves', p. 3.
12. Most theories of imperialism are Marxist and are linked by Marxists to capitalism. However many people have called the Soviet rule over non-Russian nationalities 'Russian imperialism' and emphasized the continuity between Tsarist and Communist nationalities policies. See H. Seton Watson, *Nations and States: an Enquiry into the Origins of Nations and the Politics of Nationalism* (London, Methuen, 1977), pp. 77–87, 188–91.
13. These arguments are also found in O'Leary, 'Determining our selves', pp. 1–3; Horowitz, 'Self-determination', pp. 27–34.
14. J. Rawls, *A Theory of Justice* (Oxford, Oxford University Press, 1971), p. 4.
15. Horowitz, 'Self-determination', p. 15.
16. A. Pellet, 'The opinions of the Badinter Arbitration Committee: a second breath for the self-determination of peoples', *European Journal of International Law*, 3 (1992), 184.
17. Pellet, 'The opinions of the Badinter Arbitration Committee', p. 180.
18. Some examples are: Quebecois in Canada, native peoples in Quebec, Catholics in Northern Ireland, Croats and Serbs in Bosnia-Herzegovina.
19. Y. Tamir, *Liberal Nationalism* (Princeton NJ, Princeton University Press, 1993); Kymlicka, *Multicultural Citizenship*; D. Miller, *On Nationality* (Oxford, Clarendon, 1995); C. Taylor, *Multiculturalism and the Politics of Recognition* (Princeton NJ, Princeton University Press, 1992).

20. For a more elaborate discussion of this, see Kymlicka's *Multicultural Citizenship*, pp. 4–6.
21. I. Jennings, *The Approach to Self-Government* (Cambridge, Cambridge University Press, 1956), p. 56.
22. D. Philpott, 'In defense of self-determination', *Ethics*, 105 (1995), p. 365.
23. B. Barry, 'Self-Government Revisited' in *Democracy and Power* (Oxford, Clarendon, 1991), p. 162.
24. Natives in Quebec (Cree, Inuit, Montagnais and Mohawks) claim that they too are nations and so entitled to self-determination; that they never gave up rights to their territories; and that the future of their lands should be decided by their own referendum on the issue.
25. H. Beran, 'A liberal theory of secession', *Political Studies*, 32 (1984), 21–31.
26. The requirement that decisions be binding even on those who disagree is not itself controversial, as all democratic decisions do this. The differential treatment of dissidents and minorities follows from the recognition of the importance (to many people) of national identity.
27. The connection between a choice or consent theory of national self-determination and liberalism has been well-documented. See Beran, 'A liberal theory of secession'; C. Wellman, 'A defense of secession and political self-determination', *Philosophy & Public Affairs*, 24 (1995), 142–71; Philpott, 'In defence of self-determination'; D. Gauthier, 'Breaking up: an essay on secession', *Canadian Journal of Philosophy*, 24 (1994), 357–72; K. Neilsen, 'Secession: the case of Quebec', *Journal of Applied Philosophy*, 10 (1993), 29–43.
28. R. Dworkin first elaborated these concepts in order to rule out racist preferences. See R. Dworkin, *Taking Rights Seriously* (Cambridge MA, Harvard University Press, 1977), pp. 233–4.
29. J. Graff, 'Human Rights, Peoples, and Self-determination' in J. Baker (ed.), *Group Rights* (Toronto, University of Toronto Press, 1994), p. 211.
30. This view is sometimes expressed by liberal philosophers and theorists. J. Dunn describes national attachments and national identities as 'the starkest political shame of the twentieth century, the deepest, most intractable and yet most unanticipated blot on the political history of the world since the year 1900'. See J. Dunn, *Western Political Theory in the Face of the Future* (Cambridge, Cambridge University Press, 1979), p. 59. Michael Ignatieff's popular exploration of national conflict from a liberal perspective is organized according to a fundamental dichotomy between liberal cosmopolitanism, with which Ignatieff identifies, and nationalism, which he variously represents as tending toward violence, authoritarianism and a primitive Hobbesian state of nature. M. Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (Harmondsworth, Penguin, 1993), pp. 5, 6, 16.
31. See B. Barry, 'Nationalism' in D. Miller, J. Coleman, W. Connolly and A. Ryan (eds), *The Blackwell Encyclopaedia of Political Thought* (Oxford, Basil Blackwell, 1987), pp. 352–5.
32. The importance of recognition is persuasively discussed by Taylor, *Multiculturalism and the Politics of Recognition*, pp. 40–4, 58–61.
33. E. Gellner, *Nations and Nationalism* (Ithaca NY, Cornell University Press, 1983), p. 2.
34. This point is made by Philpott, 'In defense of self-determination', p. 366.
35. A Buchanan adopts stringent liberal (justice-related) criteria for permitting secession.
36. See R. Lindgren, *Norway-Sweden: Union, Disunion and Scandinavian Integration* (Princeton NJ, Princeton University Press, 1959), especially pp. 49–51.
37. J. McGarry and B. O'Leary, 'Northern Ireland's Options: a Framework and Analysis' in McGarry and B. O'Leary (eds), *The Future of Northern Ireland* (Oxford, Clarendon, 1990), pp. 270–3.
38. McGarry and O'Leary, 'Northern Ireland's Options'.

39. Liam Kennedy, 'Repartition' in McGarry and O'Leary, *The Future of Northern Ireland*, pp. 143–6.
40. C. Bennett, *Yugoslavia's Bloody Collapse; Causes, Course and Consequences* (New York, New York University Press, 1995), p. 53.
41. For a discussion of these options, see D. Elazar, *Federalism and the Way to Peace* (Queen's University (Kingston, Ontario), Institute of Intergovernmental Affairs, 1994).
42. See the excellent book by J. McGarry and B. O'Leary, *Explaining Northern Ireland* (Oxford, Blackwell, 1995).