

# UC San Diego

## UC San Diego Electronic Theses and Dissertations

### Title

A Cosmopolitan Theory of Secession

### Permalink

<https://escholarship.org/uc/item/5zj709sb>

### Author

Weltman, Daniel

### Publication Date

2018

Peer reviewed|Thesis/dissertation

UNIVERSITY OF CALIFORNIA SAN DIEGO

A Cosmopolitan Theory of Secession

A dissertation submitted in partial satisfaction of the  
requirements for the degree of Doctor of Philosophy

in

Philosophy

by

Daniel B. Weltman

Committee in Charge

Professor Richard Arneson, Chair  
Professor Saba Bazargan-Forward  
Professor David Brink  
Professor Philip Roeder  
Professor David Wiens

2018



The Dissertation of Daniel B. Weltman is approved, and it is acceptable in quality and form for publication on microfilm and electronically:

---

---

---

---

---

---

---

---

Chair

University of California San Diego

2018

## TABLE OF CONTENTS

Signature Page .....	iii
Table of Contents .....	iv
Vita.....	vi
Abstract of the Dissertation .....	vii
1. Introduction.....	1
1.1 A Right to Secede Defined .....	4
1.2 Better from a Cosmopolitan Point of View Defined .....	34
1.3 Summary of the Paper.....	56
1.4 Framing the Project.....	63
1.5 Some Terms and Definitions .....	67
2. Remedial Theories of Secession .....	72
2.1 Buchanan’s Methodological Critique .....	72
2.2 Remedial Theories and Intuitions .....	88
3. Self-Determination and Secession .....	110
3.1.1 Why the Right to Political Self-Determination? .....	110
3.1.2 Self-Determination Defined.....	111
3.1.3 Fairly Simple Facts about Associationism and Self-Determination.....	122
3.1.4 Citing Associationists on Self-Determination .....	125
3.1.5 Why Ascriptivists Also Need Political Self-Determination .....	129
3.2 Self-Determination is not a Strong Right.....	132
3.2.1 Who is the Self? .....	134
3.2.1.1 Remedial Theories .....	135

3.2.1.2 Ascriptivists .....	137
3.2.1.3 Associationists .....	153
3.3 Which Selves Matter? .....	161
3.3.1 Inter-Self Conflicts.....	162
3.3.2 Intra-Self Conflicts.....	180
3.4 The Marriage Analogy .....	184
3.5 Begging Questions in Political Philosophy.....	201
3.6 Against Gauthier’s Defense of Self-Determination .....	206
3.7 Associationists and Self-Determination.....	224
4. Positive Arguments for my Theory.....	231
4.1 Wariness About Group Rights .....	231
4.2 This is How to Conceive of Cosmopolitanism .....	246
4.3 Empirical Facts and Political Philosophy .....	255
4.3.1 Inviolable Rights.....	256
4.3.2 Incorporating Injustice .....	264
4.3.3 Reflective Equilibrium.....	272
4.4 Unfeasibility.....	276
5. Biting Bullets .....	285
5.1 Colonialism.....	286
5.2 Annexation .....	291
6. Conclusion .....	295
References.....	296

## VITA

- 2007 Bachelor of Arts, Washington University in St. Louis
- 2018 Doctor of Philosophy, University of California San Diego

Abstract of the Dissertation

A Cosmopolitan Theory of Secession

by

Daniel B. Weltman

Doctor of Philosophy in Philosophy

University of California San Diego, 2018

Professor Richard Arneson, Chair

I defend a cosmopolitan theory of the right to secede according to which a group has a right to secede only if it is better from a cosmopolitan point of view. I defend the theory by arguing that the right to political self-determination is not strong enough to support the other main theories of secession on offer, and by arguing that there are a number of advantages to approaching the right to secede in this deflationary way, especially given the commitments of cosmopolitanism in political philosophy more generally.



## 1. Introduction

In this paper I aim to offer a theory of secession. Secession is the process by which some group of people leaves one or more existing states, taking territory with them, in order to form a new state or join another existing state. The main goal of this project is to put forth what I think is the correct approach to the normative question “what are the circumstances under which a group has a moral right to secede?” This is a project that has been addressed by other political philosophers, most notably Alan Buchanan (1991) in his book *Secession* and Christopher Heath Wellman (2005) in his book *A Theory of Secession*. They and others have proposed theories of secession, and I aim to explain why my theory, which is that a group has a moral right to secede only if this would be better from a cosmopolitan point of view, might be a better way to think about the question.

My theory primarily relies on one underlying thought, which is that a proper understanding of the strength of the right to political self-determination will lead us to adopt my theory of secession rather than any other (section 3). Two other main aspects of my theory are a methodological argument about how political philosophy ought to approach the question of secession (section 2.1), and an argument about group rights generally which aims to show that in political philosophy, we ought not to worry about balancing rights against each other in ways that we might otherwise find unacceptable (section 4.1).

This paper also has a broader aim, which is to highlight the implications of denying a robust group right to political self-determination. This aim is broader because I think cosmopolitanism, broadly conceived, which is one of the most compelling approaches to liberal political philosophy, does not take seriously enough the implications of a rejection of group rights to political self-determination. Although many liberal cosmopolitan projects are

committed, implicitly or explicitly, to a denial of a robust right to political self-determination of the kind that would otherwise lend support to (for instance) Wellman's approach to secession, few examine the implications of this commitment (section 4.2 contains the main elaboration of this point).

In making the implications of this commitment clear for the case of secession, I hope to add to and enrich our understanding of liberalism and cosmopolitanism. My preferred kind of liberal cosmopolitanism is one that adopts my rejection of group rights to political self-determination, but it may be that, upon examining the implications this has for secession, one might instead decide that an approach like Wellman's is a more sensible kind of liberalism. This would be progress, I think, insofar as many liberals oppose Wellman on a number of issues (like immigration and secession) without, I think, quite realizing which further commitments this implies (section 5 discusses some of these commitments).

Another way to understand this project would be as an explanation of reasons to abandon liberal cosmopolitanism altogether. Faced with both the implications of liberal cosmopolitanism without strong group rights to political self-determination, which is my preference, and liberalism plus strong group rights to political self-determination, which is the kind favored by Wellman, a reader might come to reject both, which would be good news for opponents of cosmopolitanism, like communitarians. This is not the route I prefer, but in what follows, I will make no particular effort to make cosmopolitanism in general sound more appealing than communitarianism or any of its other opponents. Thus, this whole paper may be read as an extensive *reductio ad absurdum* against cosmopolitanism, although I do not take it to be one.

There is a fourth option, beyond agreeing with me, Wellman, or the opponents of cosmopolitanism. This would be to adopt some kind of middle ground with respect to group rights to political self-determination strong enough to avoid whatever weaknesses one takes my theory to have and also weak enough to avoid whatever weaknesses that one thinks are present in Wellman. Because this is not my preferred option, I will not explore what this might look like, either with respect to secession or more generally. Applying a moderate group right to political self-determination to the question of secession will result in a different theory than mine, and I will spend the majority of this paper discussing my theory, rather than whatever alternative theories one might have, apart from those theories that others have already proposed.

As noted above, my theory is an approach to the question “what are the circumstances under which a group has a moral right to secede?” My answer, and the central thesis of this paper, is that *a group has a moral right to secede if and only if secession would result in a world that is better from a cosmopolitan point of view.* There are two unclear phrases in this thesis. The first is the idea of ‘a moral right to secede.’ The second is ‘better from a cosmopolitan point of view.’ I will explain what I mean by these two terms, and then I will provide an outline of the rest of the paper, which comprises the argument in favor of the thesis.

Thus there are two extensive discussions of methodology and the project’s framing, immediately below (sections 1.1 and 1.2), which occur before a summary of the larger argument and the project as a whole (section 1.3), because it is necessary to explain exactly what is being argued for before summarizing what the argument will be.

## 1.1 A Right to Secede Defined

First, what does it mean to say a group has the moral right to secede?<sup>1</sup> To answer this question, I will first introduce some basic concepts used in the discussion of rights.

I understand rights to be made up of “Hohfeldian incidents” - “elements” comprising privileges, claims, powers, and immunities (Wenar 2011) (Hohfeld 1978). These are four kinds of rights an agent can have.

If an agent has a *power*, the agent can alter the Hohfeldian incidents that apply to the agent or to some other agent (Hohfeld 1978, 50). If I am the director on a movie set, I have the power to delegate control over the set to my assistant director while I take a break to tend to my carrot garden. In this case, I have altered my assistant director’s powers by adding a power. The power I have added is the power the director has, which consists of modifying the Hohfeldian incidents of the actors and the crew - their powers, claims, privileges, and immunities.

A *claim* exists when an agent or agents have a duty to another agent to undertake some action (Hohfeld 1978, 38). The claim right is held by the agent to whom the duty is owed. Thus if I have a claim against Val that Val stand in the correct position in front of the movie camera and say the correct lines, Val has a duty to me to stand in the correct position and say the correct lines. If I have a claim against Val, Adrien, and the rest of my actors that they show up to work, then Val, Adrien, and the rest of the actors have a duty to me to show up to work.

---

<sup>1</sup> From now on, I will write ‘the right to secede,’ leaving ‘moral’ out, but unless I specify otherwise, I am always talking about moral rights, as opposed to legal rights or any other kind of rights.

An agent has a *privilege* to X if the agent has no duty to not X (Hohfeld 1978, 38-9). Thus I have a privilege to let my carrot garden die if I have no duty not to let the garden die.<sup>2</sup> Privileges are also known as *liberties*.

An agent has an *immunity* against another agent or agents if these other agents cannot alter the first agent's Hohfeldian incidents (Hohfeld 1978, 60). I have an immunity against my actors and my crew (on the movie set, at least) with respect to most things because they cannot, for instance, take away my power to alter their Hohfeldian incidents, or my claims against the actors that they show up to work, and so on. I do not have this immunity against the executive of my movie studio, because the executive can alter my powers by relieving me of duty, and so forth.

With this architecture in place, I can explain what I mean by the phrase 'right to secede.' In generic terms, a group has a right to secede when it has the following three powers:<sup>3</sup>

1. The power to bring it about that this group has a claim against other groups and individuals that these other groups and individuals not interfere with the group's creation of a state in the territory in question.<sup>4</sup>
2. The power to bring it about that this group has a claim against other groups that these other groups treat the group's newly formed state in the same manner in which these other groups are obligated to treat any other state.

---

<sup>2</sup> This would imply nobody has a claim against me that I keep the carrots alive. For instance, I have not promised anyone that I will keep these carrots alive.

<sup>3</sup> This analysis is taken (with some modifications) from Copp 1998, 226-7.

<sup>4</sup> Because the actions of individuals are rarely relevant to the question of secession, I will from this point on address groups rather than groups and individuals. I do not think this changes anything of substance in what follows.

3. The power to bring it about that this group has a claim against other groups that they not annex the group's new state.

For the purposes of making this clearer, I will introduce an example with a limited number of groups, each of which has a name, so that we can keep track of them. Take a world with four groups of people: the Montagues, the Capulets, the Hatfields, and the McCoys. The Montagues and the Capulets are both together in a single state. The Hatfields have their own state, and the McCoys have their own state. The Montagues have a right to secede when they have the following three powers:

1. The power to bring it about that the Montagues have a claim against the Capulets, the Hatfields, and the McCoys that these other groups not interfere with the creation of a state in the territory in question.

2. The power to bring it about that the Montagues have a claim against the Capulets, the Hatfields, and the McCoys that these groups treat the newly-formed Montague state in the same manner in which they are obligated to treat other states (like the states run by each other).

3. The power to bring it about that the Montagues have a claim against the Capulets, the Hatfields, and the McCoys that they not annex the Montague state.

We could give a more detailed analysis of any or all of the three powers. For instance, the first power, which is the power to bring it about that the secessionists have a claim against others that these others do not interfere with the creation of a state in the territory in question, is a power that implies the existence of many other powers, like the power to set up a legal system governing the territory, the power to enforce said legal system, and so on, because creating a state involves creating an entity with these sorts of powers. This is why Anna Stilz

calls secession an example of “metajurisdictional powers,” or “powers over powers” which “confer authority on certain agents to decide who has powers to make primary rules over which pieces of territory” (Stilz 2009, 196). Thus an exhaustively detailed account of the right to secede would not just limit itself to saying that the secessionists can bring it about that they have a claim against interference with the creation of a state: it would also explain what it means to create a state, and in doing so explicate an entire theory of the state akin to Christopher Morris’s *An Essay on the Modern State* (Morris 1998). That is beyond the scope of this project. Any understanding of the state that matches the definition given above, which defines the state as a territorially delimited political organization governed by a single sovereign government, will serve for this theory of secession.

There are twelve main questions that might be raised by this approach:

1. If there are more groups beyond these four, then, if the Montagues have a right to secede, do they have the power to bring about claims against all the other groups, or just against the groups that have their own states? For instance, if there is a fifth group, the Guermanteses, the members of which live in the various other states rather than their own state, do the Montagues have the power to bring about these various claims against the Guermanteses?
2. Is the third power necessary, or is it covered by the second power? In other words, wouldn’t the annexation of other states be an action which the Capulets, Hatfields, and McCoys are already obligated to refrain from undertaking, which would mean it is ruled out by the second power?
3. How is “the territory in question” determined? Who decides on it? Can the Montagues grab as much as they want?

4. How does this technical language apply in practice - how strong is the right, when does it apply, and so on?
5. Does this analysis imply that to have a right to secede, a group needs some degree of strength or ability, because the right consists of the possession of various powers?
6. Does this analysis accord with how other approaches to secession understand the term 'right to secede'?
7. Regardless of how others understand the use of 'right,' oughtn't we use it to describe something that is always or almost always decisive and of overriding concern?
8. Again regardless of how others understand the use of 'right,' might it not make more sense to think of a right to secede as something like a *prima facie* or *pro tanto* right as opposed to an overriding or all things considered right?
9. Should the right to secede also include a privilege to secede?
10. What does it mean to say that a group has a right, as opposed to an individual?
11. Doesn't the locution 'a right to X,' where X is some action, commit us to a certain Hohfeldian analysis of X which rules out any leeway in terms of reconstructing what it is to have a right to secede?
12. Don't rights need to be in principle enforceable and doesn't this right run afoul of that requirement?

I will address these twelve questions in sequence.



The first question is whether the right to secede consists of the power to bring about claims against states, or against all groups, including groups that do not have their own state. Can the Montagues bring about claims against the Guermanteses, who do not have their own state? For practical purposes, it might be enough just to say that certainly the Montagues must have the power to bring about claims against states, and we can stay neutral on the question of other groups, because in the real world, it is states that are seceded from, states that recognize and support other states, and states that refrain from annexing other states. It would be better to have a definite answer to this question, however, and it's not even clear that leaving it unanswered would be acceptable from a practical point of view. The actions of non-state actors like the Islamic State of Iraq and the Levant (ISIL or ISIS) in Iraq and Syria suggest that a group that wants to secede has more to worry about than other states.

Moreover, if we hold that the secessionists have the power to bring about claims against all other groups, we don't admit anything too radical. These other groups are simply on the hook for not blocking the creation or the continued operation of the state. It is hard to imagine why it would be legitimate for a non-state group to interfere with secession in a case where it would not be legitimate for a state to do so. In cases where it *would* be legitimate for a group to interfere, perhaps because they are a going to be a minority in the newly-created state and they are reasonably sure they will be mistreated, then I think the proper response is that there is no right to secede in this case.<sup>5</sup>

---

<sup>5</sup> Of course, whether a group does or does not have a right to secede is the central question of this paper, so at this point we are neutral on the issue. The point is just that *whatever one's answer to the question*, if the new state is going to persecute minorities or otherwise do something that would make it legitimate for a non-state group to interfere with the new state, then there is likely not going to be a right to secede. Perhaps some theories of secession would disagree, but if one can plausibly argue that the new state can legitimately secede even if it is going to persecute minorities, then hopefully one can also explain why the secessionists actually do have a power to bring about claims against the minority group. In other words, the theory must defend the claim that, if the Montagues can secede even if they are going to do something bad, then they can bring about claims against the Guermanteses (who are, let us say, the potential victims of this bad thing) that the Guermanteses not

The second question is whether the third power, which is the power to bring it about that the Montagues have a claim against annexation with respect to the other groups, is redundant in light of the second power, which is the power to bring it about that the Montagues have a claim against the other groups that the other groups treat the Montagues in the same manner that the other groups are obligated to treat any state. Wouldn't the obligations that the Capulets, Hatfields, and McCoys have towards each other include a duty not to annex them? Would this not then imply that they have a duty not to annex the newly seceded Montague state? Copp seems inclined to agree, because his formulation only has two powers.<sup>6</sup> However, my formulation makes sense if we think that sometimes a state may not have a duty to refrain from annexing another state. This may sound implausible, but it is a position I am committed to given my arguments below, and I therefore need the third power. Those who think states always have a duty to refrain from annexing other states can simply ignore the third power as redundant, which should not cause any problems.

The third question is what is meant by the phrase "the territory in question" in the description of the first power. How is this territory determined? This is a question that can be pushed to the side at this point. The determination of which territory is at stake is very important in terms of figuring out how secession works and whether it is justified, but no

---

interfere, however implausible this might sound. (Indeed, my theory of secession, unlike most others, leaves it at least logically possible for the Montagues to have a right to secede and thus to bring about claims against the Guermanteses, the Capulets, and so on even if the Montagues are going to do something bad to the Guermanteses.)

<sup>6</sup> It's a little more complicated than this. Copp actually lists three powers that he says constitute a right to secede, and then says "a group with these two powers would be able somehow to bring it about that it has the relevant claims" (Copp 1998, 226). Presumably the third and last power Copp mentions, which is the power to generate claims against others interfering with the new state's governance, is meant to be one aspect of the second power, which is the power to generate claims against others that they treat the new state the same as they are obligated to treat any other state. The confusion arises from Copp's description of the second power as a single power rather than a set of powers, despite immediately listing another power which presumably is just one of the set of powers represented by the second criterion. Each power generates multiple claims, but Copp likely thinks that powers can also beget other powers, despite not explicitly saying this.

matter which process we pick or how much we might disagree about it, everyone can agree that once the territory is determined in the correct fashion (whatever that may be), then a group has a right to secede only if it has the power to bring it about that it has claims against other groups not to interfere with the creation of a state on the territory in question. If somehow the group does *not* have this power, and it *can't* produce these claims, then we would not think the group has a right to secede. Presumably our theory of secession, and its attendant theory of territory, will “deliver,” so to speak: if the theory tells us secession is okay, and that there is a right to secede, one of the conditions on this will be that the group will have this power. A purported theory of secession which claims to explain when a group may secede but which does not imply that the group has this power would be a very sorry theory indeed. It would be like a theory of contracts which tells us that one party to the contract has no claim against the other party that the latter party follow the contract. That is hardly a theory of contracts. Theories of contracts may disagree about *why* each party has the power to bring about these claims on each other, but they all agree that this power is partially (or even totally) constitutive of a contract. Similarly, the first power with respect to secession is necessary if we want to say that the group in question has a right to secede, even if we disagree about *why* the group has this first power, why this power has the scope it does, when it is the case that groups have this power, and so on. Crucially for the question at hand, “and so on” includes “which territory is the territory that is being taken?” We can disagree on which territory a seceding group gets to take without disagreeing about what the right to secede entails, given the correct determination of the territory in question.

The fourth question is a request for clarification and exposition. All of this intricate Hohfeldian talk is all well and good, but what do these claims and powers mean in more

concrete terms? What they mean is this. If the Montagues have a right to secede, then others are obligated not to interfere with the Montagues if they create a state on the territory in question. Others are obligated to treat the Montague state like any other state (by, for instance, giving them a seat in the UN) and are obligated not to annex the Montague state. This is straightforward enough. What is more important is what these powers (and, more generally, the right to secede) do *not* imply. They do *not* imply that the obligations in question are overriding. For instance, the obligation to treat the Montague state just like any other state may perhaps be overridden if it would lead to some catastrophe. These powers *also* do not imply that the obligations in question are *not* overriding. That is, a right to secede may be a right *all things considered* to form and run one's state without outside interference. Whether the right to secede is a strong, fundamental right (by virtue of generating very strong obligations) or a weaker right (because the obligations it generates can easily be overridden) is a question about which various theories may disagree. Generally, theories of secession hold that the right to secede is strong, but probably not *always* overriding. An immense catastrophe may militate against respecting the Montagues' right to secede, for instance. This may be unsatisfying. Shouldn't our theory of secession answer the question once and for all, rather than simply saying that groups with a right to secede can generate obligations and hope it all works out for the best?

There are two responses. First, we *could* have a theory of secession like that. As noted above, these three powers don't rule out the possibility that, once our theory decides that a group has a right to secede, this right is overriding (or basically overriding). Second, of all the theories on offer, the one I defend below is at least as conclusive as other theories with respect

to whether the right to secede is a robust one. This will become clear once the theory itself is elaborated. So my theory is no worse off than any other theory of secession on this question.

The fifth question worries about the use of “power” here. What if, we might ask, the Montagues can’t do *anything* to bring about these claims against the Capulets in particular, or anyone, really? What if the Capulets have been oppressing the Montagues so much that all the Montagues can do is try to get through the day without succumbing to hunger, disease, or exposure? The answer is that we have to keep in mind that this entire discussion is talking about the *moral* right to secede. The powers, claims, and so on (as Hohfeldian incidents of this moral right to secede) are all *moral* powers and so on. To have the *moral* power to bring about a claim against some agent is just to have the power to make it the case that this agent has a moral duty towards you. This implies nothing about whether the agent cares. The talk of power is only to indicate that the Montagues have a choice in the matter: they don’t *have to* bring these claims into existence. They can still have a right to secede even if they don’t use it. If they do choose to secede, they *will* bring these claims into existence, but if they don’t secede, they can still have the power to do so (and thus the right to secede) despite not having the claims against the other groups (because they have chosen not to secede yet).

The sixth question is whether this analysis of what it means to have the right to secede accords with other theories of secession. If my conception of what the right to secede comprises differs from that endorsed by other theories of secession, there is going to be at best a lot of confusion over terms, and at worst a lot of talking past each other. There will be putative disagreements that are in actuality just reflections of different definitions. The task of answering this question is complicated by the many theories of secession that exist, and by their lack of precise specifications of what they take the right to secede to be. I will examine

the three most popular and archetypal theories of secession - Buchanan's, Wellman's, and Margalit and Raz's - and demonstrate how their understanding of the right to secede matches up with mine. I will also examine Copp's account, because it is from his account that I take the main features of my definition, and examining Copp will help make the general virtues of this approach clear. With the aid of these four analyses, I hope it will be clear both that my account of the right to secede can work for the main theories that we are interested in, and that any adjustments on the margins that need to be done to fit other theories of secession in with this account of the right to secede will be minimal.

First up is Buchanan's theory of secession, and more specifically his understanding of a right to secede. In Buchanan's words, "to say that there is a moral right to secede is to say at least two things: (1) that it *is morally permissible* for those who have this right *to secede*, and (2) that others are *morally obligated not to interfere* with their seceding" (Buchanan 1991, 27). This accords quite well with my account. The first part of Buchanan's right, the moral permissibility of secession on the part of those groups that have the right to secede, means that these groups have the three powers. To have the power is to be morally permitted to secede. The second part of Buchanan's right matches up with the claims that the groups can generate. To confirm that Buchanan's understanding of the right to secede matches mine, we can turn to two more extensive passages in which he elaborates what he means:

To have a moral right to something is to have an especially strong moral power or moral authority, the implication being that the obligation of others not to interfere with one's doing that to which one has a right is a very weighty obligation. In particular, this obligation may not be overridden merely on the grounds that doing so would maximize social welfare. Thus to assert that there is a moral right to secede is to imply that preserving the right to secede without interference is an extremely high moral priority, that this liberty warrants special protection, and that this protection should not be compromised for the

sake of competing interests, except, perhaps, in very extreme circumstances.  
(Buchanan 1991, 27)

Some may endorse a richer or stronger concept of a right, according to which a genuine moral right includes features in addition to those two stated above. But for our purposes it will not be necessary to settle these disputes. My main concern is to show that under certain conditions secession is *morally justified* and that forcible resistance to it would be *morally unjustified*. Those who endorse a richer or stronger notion of a right can easily translate my subsequent references to a moral right to secede into the language of moral justification without losing anything of great importance. (Buchanan 1991, 27-8)

These quotes show that his understanding of the right to secede is captured by my account. As the second quote in particular shows, Buchanan does not commit himself to *exactly* what the right means in terms of strength, the overriding force of the obligations, and so on, but he knows that a right to secede *does* generate obligations of the kind described above. The leeway Buchanan provides to those who “endorse a stronger or richer notion of a right” highlights the fact that we ought not to demand exacting precision or crystal clarity from our conception of the right to secede. So long as we know what *kind* of powers and claims the right comprises, we know what we are talking about, even if we are still unclear on the strength or importance of these powers and claims, and how to balance these claims against competing obligations, and so forth. Getting clear on these issues is a matter to be worked out in substantive argumentation for and against the specific theories in question. In general we might follow Aristotle’s advice to “look for precision in each class of things just so far as the nature of the subject admits” (Aristotle 1984, 1730 / *NE* 1094b 24-5).

Wellman is less specific about the precise structure of the right. What is clear is that he conceives of the right as emerging from respect for a group’s autonomy, just like the right for a person to marry plausibly emerges from our respect for that person’s autonomy:

At first blush, it would not seem terribly difficult to construct a compelling argument in defense of unlimited, unilateral rights to secede: One need only appeal to the right to freedom of association. Think, for instance, of how we regard marital and religious self-determination. Freedom of association is paramount in marital relations; we insist that a marriage should take place only between consenting partners. I may not be forced against my will to marry anyone, and I likewise have no right to force an unwilling partner to marry me. Not only do we have the right to determine whom we would like to marry, each of us has the discretion to decide whether or not to marry at all, and those of us who are married have the right to unilateral divorce. In short, any law requiring us to marry by a certain age, specifying whom we may or may not marry, or prohibiting divorce would impermissibly restrict our freedom of association... If I have a right to choose my marital and religious partners, why may I not also choose my political partners? (Wellman 2005a, 6)

In addition to the analogy with marriage, Wellman straightforwardly argues that the value of political self-determination for groups is what gives rise to a right to secede:

The bottom line is that, if one values self-determination, then one has good reasons to conclude that people have a right to determine their political boundaries. (Wellman 2005a, 2)

I propose that all separatist groups that can adequately perform the requisite political functions... have a primary right to secede. The central point is that, even if the benefits of political stability are important enough to outweigh conflicting claims to freedom of association, self-determination remains valuable and should be accommodated in those cases in which doing so does not conflict with the procurement of those political benefits. (Wellman 2005a, 3)

If you value self-determination, then you should endorse secessionist rights. (Wellman 2005a, 38)

This explains the path that Wellman thinks one must take to arrive at the right, but leaves it up to the reader to figure out precisely what the right consists of. Given this vagueness, the best option is to determine whether Wellman can adopt my account or whether anything he says commits him to a right to secede that looks different, somehow, than the three powers elaborated above. The answer, I think, is that there is nothing barring Wellman



from understanding the right to secede as the possession of the three powers. The three powers give the group that holds them a right to exercise political self-determination should they so choose, so if we are worried about capturing the value of political self-determination, there is nothing wrong with us endorsing the three powers account of the right to secede. What is important for Wellman is that the correct groups have the right to secede - he takes it more or less as a given that the right to secede is a clear enough notion. With no reason to meddle with this assumption of clarity, we can move on.

Margalit and Raz are similarly vague about the precise specification of the right. In their words:

To be complete, a discussion of a right must examine both its grounds and its consequences. This paper is concerned mostly with the grounds for the right of self-determination. It asks the question: Who has the right and under what conditions is it to be exercised? It does not go into the question of the consequences of the right beyond the assumption, already stated, that it is a right that a territory be a self-governing state. (Margalit and Raz 1990, 441)

One might be tempted just to end here. If Margalit and Raz are fine with leaving the content of the right largely underspecified, and if the three powers get us what Margalit and Raz say is the one condition they want, which is that the right “is a right that a territory be a self-governing state,” then this is what we want. As before, though, it would behoove us to at least check other areas where Margalit and Raz discuss the right to make sure that everything they say accords with the three powers conception of the right to secede:

A group’s right to self-determination is its right to determine that a territory be self-governing, regardless of whether the case for self-government, based on its benefits, is established or not. In other words, the right to self-determination answers the question ‘who is to decide?’, not ‘what is the best decision?’. In exercising the right, the group should act responsibly in light of all the considerations we mentioned so far. It should, in particular, consider not only the interests of its members but those of others who may be affected by its decision. But if it has the right to decide, its decision is binding even if it is

wrong, even if the case for self-government is not made (Margalit and Raz 1990, 454).

It may appear that the idea expressed above conflicts with the three powers account of the right to secede. This is because the three powers account is a moralized one - the powers are moral powers to generate moral claims - and Margalit and Raz explicitly say that the right is a right to choose to secede even if the moral case has in actuality not been made and even if the case can't be made. That is, even if the group does *not* actually have the three powers to generate the various claims against other groups, Margalit and Raz say that they *still* have the *right* to secede, because a *right* to do something entails being able to do it even if this is the wrong choice. However, the three powers account captures this notion of the right to secede. Even though the powers and the claim rights they can generate are moralized, they are only moralized in the sense that there is some moral justification for the fact that the group has these powers and can generate these claims, like for instance the moral justification Margalit and Raz provide, which is based on the importance of national groups and the practical value for these groups that having a state gives rise to. The three powers account of the right to secede does not mean that on balance, it must necessarily be morally praiseworthy to use these powers to generate the claims.<sup>7</sup>

Analogously, think of the right to property, and specifically a case where Val, Adrien, and I are in conflict with respect to a carrot cake. A right to possess the carrot cake entails claims against others eating the cake, an immunity against others altering one's claims, and the power to transfer or discard one's claims (by selling or abandoning the cake). These are

---

<sup>7</sup> It also does not imply the opposite. It is perfectly consistent with the three powers view that the correct theory of secession, when it holds that a group has a right to secede, *also* implies that it would always be morally praiseworthy to secede, or even that there is a duty to secede when one has a right to secede. This is a substantive issue, not one that we should decide by fiat in our definition of what it means to have the right to secede.

moralized notions - I have the moral power to transfer my claim even if in the actual world Adrien has stolen my cake and thus robbed me of the chance to sell it to Val. Even though these are moralized notions of powers, claims, and so on, they do not imply that whoever has a right to the cake is morally praiseworthy no matter what the right holder chooses to do with the right. The cake, let us say, belongs to Val, because Val was the one who baked it. Just like the right to self-determination, on Margalit and Raz's view, is the right to decide whether to secede, the right to ownership of a cake, in this analogy, is the right to decide whether to eat it. Val should think carefully about whether it is morally praiseworthy to eat the cake, and "act responsibly in light of all the considerations" that are relevant. It may be that Val ought to share the cake with Adrien and I because we are starving, and Samaritan duties of aid provide us with claims against Val, claims that are of overriding importance compared to Val's ownership rights. But no matter what Val chooses to do, Val has a right to own the cake, and thus as far as rights to the cake are concerned, Val can do whatever Val wishes within the scope of these rights, even if Adrien and I starve while Val eats the cake.

Or, less drastically, perhaps duties of charity imply that it would be praiseworthy but not obligatory for Val to share. In either case, we don't say that Val therefore does not own the cake, or even that we ought to prevent Val from acting on the right to eat the cake on the basis of this ownership. On the whole, of course, Val ought to share. But Val still has a right to eat the cake, with all the powers, claims, and immunities that this entails (although they may be outweighed, and hopefully Val will realize this rather than exercising the right to eat the cake).

So Margalit and Raz can happily accept that a right to secession entails the three powers listed above even though they think that this may sometimes let groups secede when

they ought not to, because the three powers only entail that morally the group has a right to secede. They don't entail that there are no other moral considerations at play or that the claims generated by the three powers are or are not overriding. Margalit and Raz will have a very different account of when a group has a right to secede than, for instance, Wellman, because Wellman thinks the moral permissibility of the secession largely decides the question of whether a group has the right to secede, whereas Margalit and Raz think that entirely separate moral considerations decide the questions of whether a group has the right to secede, but both can endorse the three powers view of the right to secede.

Finally, Copp, from whom I have drawn the three powers account, with some modifications. Copp says that “the *right of secession* consists of a pair of moral powers together with a moral liberty. Claim-rights can be overridden, just as the corresponding obligations can be overridden... the right to secede can be overridden. It is not ‘absolute’” (Copp 1998, 226). It is clear, then, where Copp stands on the question of overridingness. This is soon followed by his powers plus liberty account of the right to secede, which, as noted above in footnote 6 on page 10, seems to have three powers rather than the promised two. Another quotation will highlight this:

A group with the right to secede from a state would have the following moral powers with respect to that state and with respect to the relevant portion of the state's territory. First, it would have the power to bring it about that it has a claim against the state, as well as against other states, that they not interfere with its forming a new state in the territory in question. And second, it would have the power to bring it about that it has a claim against all of these other states that they deal with and otherwise treat the state it forms in the territory in the way they are obligated to deal with and treat any state. Most important, it would have the power to bring it about that it has the claim that they not interfere with the new state's governing in that territory. A group with these two powers would be able somehow to bring it about that it has the relevant claims. Given the underlying principles of democracy, I believe that a democratic vote by the members of the group in favor of secession would bring

this about. A group with the right to secede must presumably have the liberty to conduct such a vote. That is, it must be the case that, barring a special contractual situation, it violates no claim and does no wrong in conducting such a vote, and that it has a claim against the state that has been governing it, as well as against all other states, that they not interfere (other things being equal) with its conducting such a vote. In summary, a group that has the right to secede in a given territory has moral control over the issue of its secession. A group has the right to secede just in case it has the power to bring it about that it has the claim-right to create a state that will have jurisdiction in the territory, and it has the liberty to conduct a plebiscite that could give it this claim-right. (Copp 1998, 226-7)

There are two key differences from my three powers account. First, as noted above, the third power in Copp is somehow, probably, in his eyes, simply a redescription of the second power, whereas in my account there is an actual third power.<sup>8</sup> Second, Copp includes the liberty in his account, because he thinks it is only via democratic vote that a group of people could legitimately come to have the other powers, and thus for it to be the case that a group has the right to secede, it must have the right to undertake the first step, which is conducting the plebiscite. Thus if one were worried about a conflict between Copp's account and my three powers account, one would look to these two differences.

As I argued above, the first difference is largely unimportant. The second difference is also minor. If Copp is right about the importance of democracy, then the three powers account is perhaps missing something. Everyone else, though, is also missing something, at least to the extent that they do not think a proper democratic vote must be held for there to be a right to secede. Buchanan, for instance, has a substantive theory of secession which holds that groups have a right to secede if they have been mistreated or if this is necessary to preserve a culture in the face of state action that threatens it - there is no need to vote on the secession.

---

<sup>8</sup> Although, as was also noted above, there would be little substantive difference to my account if one agreed with Copp that my third power is redundant because it is implied by the second.

For Copp to hold that the right to secede requires, as one part of it, a plebiscite (even more particularly, a plebiscite that the group is at liberty to hold) is to beg the question against other theories of secession. This is not a very egregious example of begging the question, because the considerations Copp adduces in favor of thinking that this liberty must obtain for there to be a right to secede also work as substantive arguments about which groups have the right to secede. Thus he can happily move the plebiscite requirement from the definition of what it is to have the right into the account of who it is that gets the right. Rather than saying a right to secede entails a right to hold a plebiscite on secession, he can say that the right to secede belongs only to those groups which also have a right to hold a plebiscite on secession. For the same reasons, Buchanan (and I, and others) can leave Copp's liberty out of the definition of what it is to have a right to secede.

Similar exercises can be undertaken for other theories of secession. The general point, I hope, is clear: the three powers account does not beg questions about what substantive theory of secession we should endorse, and it does not fail to capture the notion of a right to secede that is used in the various theories of secession.

The seventh question is whether, regardless of how *other* theories use the word 'right' when they discuss a right to secede, we ought to think of rights as strong enough to override (or almost always override) other considerations, except perhaps competing rights.<sup>9</sup> If other accounts do not use the term in a way that implies that it is always overriding, one would simply note this difference when discussing the other theories. The advantage to this would be that it accords with one common way to think about rights, as in Dworkin's conception of rights as trumps (Dworkin 1984). As stated above, the three powers account of the right to

---

<sup>9</sup> This suggestion was first made to me by Eric Brown.

secede does not decide this question. It does claim that there are situations in which a group has a right to secede, but aside from explaining this in a more detailed manner in terms of powers and claims, it does not elaborate on what a 'right' is: are rights always overriding? There are two responses to this question. The first is that I think the three powers account can remain undecided on this question. Any given theory of secession must decide whether the right it discusses (whether it is the three powers account or any other account of the right) is, in the end, overriding, but I do not think it is necessary to commit to an answer simply in order to explain what one means most basically by the statement that we are discussing a right to secede. Some may find this answer dissatisfying, though. The second response would be to simply accept that the correct way to understand the term 'right' is as something that is at least fairly strong. Take for instance Buchanan's view:

The assertion that there is a moral right to secession should be understood as a kind of shorthand for the longer... claim that there are sound moral reasons, and reasons enough, for not interfering with secession (under those conditions), even if interfering would serve other interests. A further implication is that the case against interfering is so strong that certain sorts of countervailing reasons, such as the fact that interfering would produce greater utility overall, that normally can count as conclusive reasons for interfering in other contexts, do not suffice to justify interference here. [...] Now there may be some who view this understanding of what it is to assert a right to be so deflationary that they prefer to eliminate talk about rights entirely and replace it with more modest claims about what the moral priorities are. I have no fundamental objection to this sentiment... I would not protest too loudly if those who abhor the notion of a right wish to translate my first thesis into the claim that, at least under certain circumstances, there are such exceptionally weighty reasons in favor of not interfering with secession that considerations that normally would justify interference, such as the promotion of overall utility, do not suffice; or that the interest in seceding ought to be accorded a certain privileged status; or that we ought to recognize the choice to secede as having an especially powerful moral authority and act accordingly; or, more simply, that (under certain conditions) certain reasons that secessionists offer to justify their actions ought to be regarded as sufficient reasons, and certain

reasons for opposing their actions that normally would count as sufficient reasons for interfering with others' actions ought not to be regarded as sufficient in these cases. (Buchanan 1991, 151-2)

If we accept that the three powers view must commit to some elaborated view of the term 'right' and that the correct view is the strong sense, then I am in agreement with Buchanan with respect to the best way to cash out this strong notion of a 'right' to secede. An interlocutor who raises the seventh question about the strength of a 'right,' though, might push for something stronger. One might wonder how Buchanan's gloss of 'right' is compatible with a strong reading of the three powers account of the right to secede, which very clearly and specifically sets out the exact sorts of Hohfeldian powers and claims that exist when there is a right to secede. How can the talk about rights be this precise and yet also be conducive to a deflationary reading where the notion of 'rights' disappears completely? The answer is twofold.

First, the Hohfeldian description is only a way of making the vague concept of a right more precise by bringing out exactly how it functions. Hohfeld's conceptual framework is helpful not because a redescription of a right in Hohfeldian terms changes our understanding of it. Instead, claims, powers, and so on just help us explain what we mean. If what we mean by the notion of a right to secede is something that can be described without 'rights' talk, this does not imply that it cannot be discussed in another way, namely, the Hohfeldian way, any more than the fact that we can describe a tomato as a vegetable or a fruit prevents us from being more precise about what we mean in each case. Thus there is no reason to think that something like Buchanan's conception of a 'right' can't be encompassed by the three powers account.



The second response is that a Hohfeldian description of a right does not add or alter the normative content of the right. Moving from talk of a ‘right’ to secede to a talk of ‘powers’ to create ‘claims’ against others doesn’t change what it actually means to have a right to secede, as I have shown above (assuming the redescription captures our original usage, which is what I have been aiming to show). Hohfeldian terms do not commit us to what is probably the strongest thesis, namely, that rights are fundamental moral properties irreducible to others or that they cannot ever be overridden except perhaps in cases where they conflict with other equally strong rights. Equally, however, *they do not rule out this very strong thesis*. The Hohfeldian terms simply make the structure of the right, whatever its power or its justification, clearer. The claims and powers in the three powers account of the right to secede are as powerful as the more generic term ‘right’ is, and if Buchanan is correct that the term ‘right’ is as loose as he says it is, the three powers account simply describes claims that can sometimes be overridden. If something even stronger is correct, some deontological account of the right to secede that doesn’t admit even of the looseness Buchanan sanctions, then the three powers describes claims that are either immune to override or are at least not to be overridden except in cases where this is necessary to avoid catastrophic results.<sup>10</sup> Thus, although it may be implausible to think of the right to secede (and of many group political rights) as something that is almost always overriding, the three powers account can handle this kind of view. That it does not *require* this view just means that the justification for or against this view of the right must occur later on in the argument, past the point at which we have decided what a ‘right’ to secede means in the most basic sense.

---

<sup>10</sup> Wellman discusses this question in “The Paradox of Group Autonomy” (Wellman 2005b, 269-71), and in his book (Wellman 2005a, 38-58).

The eighth question is from the other end of the spectrum: wouldn't it make sense to commit, in our definition of the 'right' to secede, to a view according to which the right is a *pro tanto* or *prima facie* right? Indeed, this might be a better way of reading Buchanan's claims above, and everyone else's claims about the 'right' to secede, since almost everyone agrees that the right can at least *sometimes* be overridden if other considerations are important enough. Margalit and Raz, for instance, argue that "the right to self-determination," and thus the right to secede if the nation so desires, "is neither absolute nor unconditional," and that "those who may benefit from self-government cannot insist on it at all costs. Their interests have to be considered along those of others" (Margalit and Raz 1990, 461). "On the other hand," they add, "the interests of members of an encompassing group... are among the most vital human interests," satisfaction of which "is justified even at considerable costs to others" (Margalit and Raz 1990, 461). Thus the right to self-determination (and secession) seems to be a very strong *pro tanto* or *prima facie* right. Why not conceive of the 'right' to secede in these terms?

The answer is, as might be expected, the same as the one given above in response to the seventh question. If this is the right way to conceive of the 'right' to secede, this is fine, but this is a conclusion that we can reach by way of the substantive argument given in support of our theory of secession. This is, in fact, how Margalit and Raz go about it - the points summarized above are "two conclusions" which "emerge from discussion" of the various arguments they adduce, rather than methodological assumptions adopted at the outset for the purposes of framing the debate (Margalit and Raz 1990, 461). We ought not to decide on the strength of the right to secede absent the various considerations that would lead us to endorse the right. Margalit and Raz clearly think that the considerations they raise are ones that justify

endorsement of a *prima facie* or *pro tanto* right and not an all-things-considered right. Others may think that they have considerations which justify an all-things-considered right. This can be decided on a case by case basis, by examining the considerations each theory adduces in its argument and drawing conclusions about the strength of the right on the basis of the importance of these considerations and other considerations about what it means to endorse a right in this context. This is an analysis that will be undertaken below in the substantive argument for my thesis.

The ninth question is whether a right to secede ought to include a privilege to secede, or the power to bring it about that the group has a privilege to secede. This would entail that, in exercising its right to secession, the group would violate no duties. Effectively, this is the question of whether one can have a right to do wrong, or as Jeremy Waldron puts it, “do moral rights contain moral privileges” (Waldron 1981, 24)?<sup>11</sup> In clarifying that question, Waldron draws a distinction between wrongdoing that violates a right, like murder, and wrongdoing that does not, like failing to donate enough to charity (Waldron 1981, 24-5). We might think that the first kind of wrongdoing is necessarily impermissible in the sense that one cannot have a right to violate a right. If this is true, then rights contain privileges, because if I have a right to commit some sort of wrongdoing, it cannot be a wrongdoing that violates a right, and therefore because my wrongdoing violates no rights, my right to do wrong entails (among other things) a privilege to do that wrong. If, however, one can have a right not just to commit a wrongdoing that violates no right but also a right to violate a right, then in the latter case, one would have a right to do wrong, but the right would not contain a privilege to do

---

<sup>11</sup> Note that this is different from asking whether the right is an all-things-considered right or a *prima facie* or *pro tanto* right: I might have an all-things-considered right to do something that violates the rights of others, or a *prima facie* right to do something that does not violate anyone’s rights but which is nevertheless outweighed. Waldron (1981, 25-8) makes this point clear.

wrong, because whoever is suffering the rights violation would have a claim against my action, which implies that I do not have a privilege to undertake the action.

If we include a privilege to secede in our analysis of what it means for there to be a right to secede, this would eliminate the possibility that a right to secede could ever be a right to commit the first sort of wrongdoing, the sort that violates a right. It would still leave open the possibility that a right to secession constitutes a right to commit a wrongdoing that does not violate anyone's rights.

I have not included a privilege to secede in my analysis of the right to secede. This is for two reasons. First, I think this better captures what some theorists mean when they say that a group has a right to secede. It is at least more ecumenical to leave the possibility open. I have in mind specifically Margalit and Raz, who draw a distinction between the question "what should be done?" and the question "who should decide?" and who answer the second question without attempting to answer the first (Margalit and Raz 1990, 455). The first question, if it were answered by a theory of secession, would tell us whether secession is something that a group ought morally to do, and presumably it is the case that one ought not to do the wrong thing, even if one has the right to do the wrong thing. So, Margalit and Raz leave it open that a theory of secession might come down one way on the "what should be done?" question even though its answer to the "who should decide?" question tells us that a group can legitimately decide to secede in violation of "what should be done." It is not clear if answering "what should be done?" with "do not secede" entails that secession would (or at least might) violate rights by seceding. It seems to me quite possible that this is what Margalit and Raz could mean. Waldron himself thinks that rights talk is meaningless if rights do not at least often grant the right-holder the space to do something that is not morally obligatory or

morally indifferent (Waldron 1981, 31-7). It is this feature of rights that Margalit and Raz seize upon to explain why nations ought to have a right to secede even if this is not the morally correct decision. So to capture their theory, at least, I think we ought not to stipulate that a right to secede entails that one commits no rights violations when one secedes.

The second reason I have left the privilege out of the analysis is that I am not sure the difference between including it and not including it is a large one. Much of the work of a substantive theory of secession is devoted to trying to show, as Margalit and Raz try to show, that the right in question is important enough to legitimate secession even if it is wrong in some sense to secede, perhaps because secession violates various other rights; or, alternatively, a substantive theory of secession will spend much of its time explaining why secession is not wrong, at least in the cases in which a group has a right to secede, such that secession does not violate any rights. I think the difference between the two approaches is terminological more than substantive. Any theory of secession that commits itself to the presence or absence of a privilege to secede as a component of the right to secede will do so on the basis of substantive moral argumentation.<sup>12</sup> Just as, above, in the answer to the eighth question, we saw that whether the right to secede is all-things-considered or not is a substantive question that any given theory of secession will address, the question of whether a right to secession is a right to do something wrong (if it is a relevant question to ask at all) is one that will be answered by our substantive theory of secession.

The tenth question is asking what it means for a group to have a right, because, as I have described it, the right to secede is a right held by a group, as opposed to a right held by an individual. There are two reasons not to go into great depth in answering this question. The

---

<sup>12</sup> This is similar to the point David Enoch makes when he claims that whether or not a right entails a privilege is a substantive moral question rather than a conceptual one (Enoch 2002).

first reason is the thorniness of the problem. What groups *are*, ontologically speaking, is fraught. What it would be for groups, whatever they are, to have rights, is thus also fraught. If anything, it is more fraught. As Leslie Green puts it, “venturing down that path may mire us in the swamps of ontology and mereology... These questions are, to say the least, difficult. In many cases we do not even have an adequate sense of what would count as an answer” (Green 1991, 324). The more one commits oneself to any given response to fraught issues, the more one’s response is itself fraught. So one would hope to be as ecumenical as possible with respect to this question by staying out of the debate to the greatest degree possible.

The second reason not to go into great depth is that theories of secession do not go into great depth. One clear desideratum of my account of the right to secede is that it capture what the various theories of secession mean by a right to secede. If these theories do not commit themselves to some kind of account of what precisely it is for a group to have a right, the potential for leaving some of them behind by committing to a specific account of group rights is one to keep in mind. If one is skeptical about the possibility of group rights at all, then one will think that an account of what it is to have a group right to secede is nonsense. If there is no reply to this worry, then theories of secession are of course in trouble. But, if there is any kind of reply to the worry, I don’t think the details of this reply will alter my account of what it is to have a group right to secede, because I have left it as open as possible with respect to what group rights are. All I have outlined is which sorts of group rights exist if there is a group right to secede.

This is similar to the approach taken by, for instance, Margaret Moore, who commits to a view of group rights according to which “when rights are violated, we say that the right-bearer has been wronged,” and “while the interest can be identified as an interest that

individuals have, this interest is inextricably linked to their participation in collectives, and in groups. The right-holder in the case of territory [and thus secession] is that of a collective agent” (Moore 2015, 14). We might be even more ecumenical by saying that even that there are many right-holders, namely, each individual in the group, although each individual’s exercise of the right is limited in a way such that it can only be exercised in a way concomitant with the same exercise of the right by the other individuals in the group, or most others, or something similar. We might think that holding a vote, for instance, would be an easy way of singling out whether each individual’s right to secede is actually being exercised in a way such that these individuals have brought about the various claims against others that constitute secession. Alternatively like Moore we might say that the group itself holds the right. These details are not crucial, so long as some way of making sense of a group right is available to us.

The eleventh question is whether a Hohfeldian analysis of rights already comes along with a way of analyzing the locution ‘a right to X’ such that a right to secede would have to be something other than what I have said it is. David Enoch highlights two attempts to analyze ‘a right to X’ in Hohfeldian terms that lock down the contents of the right such that it entails either “a claim for noninterference” or “a conjunction of a privilege to  $\phi$  and a claim for non-interference in  $\phi$ -ing” (Enoch uses ‘ $\phi$ ’ where I use ‘X’) (Enoch 2002, 369). These two analyses are from Matthew Kramer and H.L.A. Hart, respectively (Kramer 1998) (Hart 1973). The simple reply to this question is that there is no univocal analysis of ‘a right to X’ that commits us to cashing out the right to secede in more limited terms. This is the reply that Enoch gives: he sees “no reason to believe that all instances of a right to  $\phi$  have any uniform Hohfeldian understanding (perhaps this is why Hohfeld himself didn’t attempt an analysis of a

right to  $\phi$ ). When we talk of a right to  $\phi$ , we attribute a cluster right, and the exact components of that cluster right vary with context. Sometimes all that is involved in a right to  $\phi$  is a claim for noninterference; sometimes a privilege to  $\phi$  is also involved; sometimes a privilege not to  $\phi$  is likewise involved; different powers and immunities may also be involved in some – but not other – rights to  $\phi$ . And perhaps some instances of a right to  $\phi$  involve one or more of the privileges, but no claim at all” (Enoch 2002, 371). I think this is plausible for any given right to X, but even if we reject Enoch’s claim for rights to X in the case of individual rights, we can still accept it for group rights, or at the very least for group rights at the scale of a right to secede. Unlike individual rights, which we might think are somewhat easily derivable from something about an individual (perhaps a fundamental dignity or a kind of inviolability or something similar), political rights at the level of a right to secede are plausibly seen as arising from various sources, like: a combination of the rights of many different individuals; *sui generis* sources that aren’t as unified and straightforward as the source of individual rights; or secondary considerations, like the importance of using rights talk to illuminate certain principles even if fundamentally there isn’t something special about rights. This last possibility, for instance, is what was countenanced by Buchanan above in his discussion of how one might conceive of a right to secede in terms that eliminate the idea of a “right” at all.

If, however, one rejects both Enoch’s reasoning about rights generally and my brief points about the nature of political rights, I would here defer to what I say later on in my substantive argument for my theory of secession. Below, I argue that there are reasons to be chary about the endorsement of group rights for various reasons, and these reasons also suggest that group rights are not like individual rights in a way that might make us think that a univocal way of cashing out individual rights commits us to the same univocal way of cashing



out the right to secede. Because these arguments below are more controversial than the claim that there can be more than one way to understand what it means to have a right to X, especially where X is secession or some other group right as opposed to an individual right, someone who is not convinced by this first claim might plausibly reject the later claims too. If this is the case, then to accommodate this viewpoint, my theory of secession would have to change so that the right to secede includes a claim for noninterference on the part of the group with the right to secede, or the claim plus a privilege to secede. *Pace* parts of my response above to question nine, one could simply add these into my analysis of a right to secede without substantially changing any of the arguments that follow. So, ultimately there is not much to worry about with this eleventh question (although other theories of secession would likely have to alter themselves to accommodate an answer to this question that contravenes me and Enoch on this point).

The twelfth question is whether, because a right must be in principle enforceable, the right to secession here is not correctly conceived. In principle enforceability as a condition on what a right can be is endorsed by, for instance, Jan Narveson, who says that “when we talk of rights we are, or at any rate I am, here talking of coercively enforceable rights” (Narveson 1991, 337). If a right must be enforceable to be a right, we might wonder whether the right to secede as I have conceived it is enforceable. Who is going to enforce it, and how? The answer to this question is quite simple. In principle enforceability is not a very high hurdle to clear. The United Nations could raise an army and enforce this right to secede, at least in principle. (In practice there would be a number of difficulties with this plan.) It’s not inconceivable that some sort of force protects a group’s right to secession by threatening violence if other groups don’t allow the seceding group to form its own state, treat the new state in the way they are

obligated to treat other states, and refrain from annexing the new state. Even when “available enforcement procedures are hopelessly inadequate to defend your right against its actual sources of threat in the circumstances,” this “doesn’t mean you don’t have it,” as Narveson puts it (Narveson 1991, 344). Moreover, it is not clear whether in principle enforceability is a necessary component of any right. Robert Nozick, for instance, argues that enforceability is not a necessary component of a right for a number of reasons, like the in principle distinction between enforcement and the right in question, and the fact that we could imagine promising to undertake an action only after getting the promisee to agree not to force you to do the action (Nozick 1974, 90-5). As with the eleventh question, there is not much to worry about with this twelfth question.

### **1.2 Better from a Cosmopolitan Point of View Defined**

The theory of secession I defend below is that that a group has a right to secede if and only if secession would result in a world that is better from a cosmopolitan point of view. The first question this raises, which has now been answered, is what it means to have a right to secede. The second question, which I will now answer, is what “better from a cosmopolitan point of view” means. In brief, it means that, whatever our conception of cosmopolitanism is, we look to it to evaluate the state of affairs that would result from the secession in question if it occurs and the state of affairs that would result if the secession in question does not occur. We then judge these states of affairs on the basis of what our cosmopolitan theory tells us is good or bad, just or unjust, desirable and not desirable, and so on. If and only if secession would lead to the better state of affairs, then the group has a right to secede. If secession would lead to a worse state of affairs, the group does not have a right to secede. This is wildly

underspecified absent some more precise conception of cosmopolitanism to fill in. My aim is to be as ecumenical as possible. However, my theory of secession does rule out *some* kinds of cosmopolitanism, with *some* kinds of commitments.<sup>13</sup> The hope is that it does not rule out *many* kinds of cosmopolitanism, and specifically that it does not rule out whatever account of cosmopolitanism that the reader thinks is most plausible, having read through the argument. To the extent there is any clash between the reader's conception of cosmopolitanism and what I argue for here, the hope is that my arguments show why it would make sense to agree with me about what cosmopolitanism must consist of.<sup>14</sup>

By "cosmopolitanism," I mean a commitment both to the existence of moral duties to all human beings - what Miller (Miller 2007, 24) and Kleingeld and Brown (Kleingeld and Brown 2013) call "moral cosmopolitanism" - and to a suite of political proposals ranging from stronger duties of international distributive justice to a world state, the justification of which is derived from moral cosmopolitanism - what Kleingeld and Brown call "political cosmopolitanism," what Miller calls "strong cosmopolitanism," and what Samuel Scheffler calls "cosmopolitanism about justice" (Miller 2007, 28; Scheffler 1999, 256).

Cosmopolitanism understood in this sense often brings along at least *prima facie* commitments to open borders and very strong duties to international distributive justice, but it need not. This is purposefully broad. The main reason I invoke cosmopolitanism is to rule out skepticism about justice, relativism about justice of the sort that would make it impossible to

---

<sup>13</sup> Altman and Wellman's conception of cosmopolitanism, for instance, is ruled out, because it rests on what I argue is an implausibly strong conception of the right to political self-determination. See Altman and Wellman chapter 6 endnote 2 (Altman and Wellman 2009, 212).

<sup>14</sup> As noted above, one of the main instances of this is the question of how much weight to give to the right to political self-determination: it may be the case that the reader's conception of cosmopolitanism, which at first might recoil from my denial of the strength of the right, can be brought around to my position by highlighting the implications of rejecting my view. This particular issue will be further illuminated below when I frame the project in the context of the wider debate between cosmopolitans of various stripes and non-cosmopolitans, like communitarians.

theorize about the morality of secession outside the context of the society considering secession, and other approaches that obviate the need to ask or answer the question in the first place.

By these lights, much modern political theory and practically all liberal political theory is cosmopolitan at least in a broad sense, although as I noted above, my argument aims to show that some versions of cosmopolitanism are unattractive because of the results they give us when they endorse a strong view of political self-determination. In addition to being unattractive for the reasons I will note, cosmopolitan views that endorse a strong right to political self-determination err on the side of not counting as cosmopolitanism in the sense of political cosmopolitanism or strong cosmopolitanism, because these sorts of views, in light of their endorsement of self-determination, often argue that there are no strong duties of international distributive justice, duties to form a world state, or anything like this. Freiman and Hidalgo go so far as to claim that any view which rules out open immigration is not even liberal, let alone cosmopolitan (Freiman and Hidalgo 2016). Whether they thus technically count as cosmopolitanism or not is largely immaterial. The point is just that they will be ruled out as candidate cosmopolitanisms, if they are indeed forms of cosmopolitanism, whereas my goal is to be ecumenical about which of the remaining forms of cosmopolitanism is the correct one.

To aid in the explication of the theory, and to allow the reader to remain neutral on the question and evaluate the theory without committing, even contingently, to any specific views, I will throughout advert to five different conceptions of cosmopolitanism. Periodically I will show the ways that these conceptions agree or disagree given my theory of secession, highlight why my arguments are amenable to these theories and why opposition to my

arguments is not a fruitful route for these views, and so on. This will serve to more clearly illuminate how my proposed theory works and why I think liberal cosmopolitans at least need to take seriously a view like this as one possible implication of common cosmopolitan commitments.

Onora O'Neill's Kantian conception of cosmopolitanism stresses the importance of figuring out how to set up institutions which can increase the degree to which everyone's freedom is respected. Because the "very abstract principles of justice do not guide action with any precision" and because it isn't "possible to achieve a flawless realization of justice under human conditions," there are situations, particularly on the scale of global justice, where we must "recognize this reality" and then work on coming up with "interlocking political and economic institutions... which jointly provide an extensive and effective set of guarantees of external freedom" (O'Neill 2000, 139). States can be (and likely are) justified because "alternative, non-state institutions - for example, anarchic or feudal structures - secure even less respect for external freedom" than states (O'Neill 2000, 139). This, then, is the justification not just for states, but for specific states. That is, just as we pick states as one of the main institutions that we must set up in order to do as best we can when it comes to securing the external freedom of all, we can ask *which* states we ought to establish, recognize, support, and so on. This is the question that secession raises: ought there to be two states where before there was one, or ought there to be states with different borders than those that currently exist?

So, to apply O'Neill's criteria with my account of secession, we would examine whether having two states in this instance (via secession) would guarantee external freedoms of everybody (within and without the states) better than the single existing state. If the answer

is yes, then we have a reason for preferring the two states under O'Neill's conception of cosmopolitanism, and thus also a reason for thinking that the group in question has a right to secede (if my account of secession is correct). If the opposite is the case, then we would not say there is any right to secede. A right to secede may easily be a duty to secede, on O'Neill's view, because if we can establish better institutions, then perhaps we ought to do so. The right to secede would not necessarily imply a duty, though, because secession may entail costs to the seceding group that are great enough to outweigh the duty they would have to create beneficial institutions (a duty that we would all have).

Notice that despite the theory's Kantian roots, O'Neill is unconcerned with speaking in terms of balancing, tradeoffs, and compromises: we are worried not just about injustice that "can be prevented" but also injustice that can be "minimized," and because we can't achieve perfect justice, we should worry about avoiding institutions that "secure even less respect for external freedom" rather than just picking the perfect institutions which secure *all* of our external freedoms (O'Neill 2000, 139). This helps highlight an important point, which is that, despite the potential connotations of my locution "better from a cosmopolitan point of view," my proposed theory is not an inherently consequentialist or utilitarian one. We could imagine an even stricter Kantian according to which no group would have a right to secede unless this violated *zero* rights. Something like Nozick's strict libertarianism might be like this: on Nozick's theory, one cannot violate the rights of others. If, like Kant and unlike Nozick, we think we have a duty to establish states so as to secure justice for everyone, but, like Nozick, we think that establishing states is justified only insofar as this violates *nobody's* rights, then we would have a very strict theory of secession that would fit into my framework (and not

into any of the other theories of secession). Thus there is nothing inherently consequentialist or utilitarian about my way of looking at things.

Simon Caney offers a cosmopolitan conception of global justice which provides a comprehensive series of answers to various questions centered around our duties of justice to people beyond our borders, including duties of economic redistributive justice, when it is permissible to fight a war, including a war fought in order to wage humanitarian intervention, and, most relevantly to the question of secession, what sorts of political structures and political borders are justifiable. Caney's thorough argument addresses a wide variety of considerations and is supported by myriad justifications, but in its most basic form, he argues that our conception of borders and political organizations should be driven by both "the *rights-based* and *instrumental* cosmopolitan approaches," which "provide support for a multi-level system of governance in which supra-state authorities monitor the conduct of states (and powerful economic and social institutions) and seek to ensure their compliance with cosmopolitan ideals of justice" (Caney 2005, 182). The rights-based approach relies on the value of democracy, and the instrumental approach is the simple thought that the institutions "that best further cosmopolitan ideals" are the ones that are justifiable (Caney 2005, 159).<sup>15</sup> One of the main thrusts of Caney's approach is that he wants to compass options for political organizations beyond just states: it may in fact be the case that political organizations other than traditional, independent, sovereign states, like a world state, the European Union, or similar supra-state organizations, may be required by cosmopolitanism.

---

<sup>15</sup> This "instrumental approach" to cosmopolitanism is the basis of my theory of secession in its more basic form. In other words, if Caney thought the way to figure out what cosmopolitanism requires of institutional design were to stop with just the instrumental approach, this would trivially entail my theory of secession. My theory of secession is also compatible with Caney's claim that rights-based cosmopolitan considerations should answer questions like the question of secession, although for independent reasons I think this rights-based approach may not be a convincing way of thinking about cosmopolitanism.

The two key concrete results that come from this are that it is necessary to create these alternative political organizations, and that there can often be reasons for national cultures to have a right to create their own political organizations (by, for instance, seceding), not because there is any intrinsic right to political self-determination held by nations but rather because this can often lead to greater well-being for people (Caney 2005, 182). These two results make it clear, at least on a basic level, how my theory of secession would answer the question of secession in any given instance. If the group that wishes to secede is going to create or support the sorts of political organizations that advance cosmopolitan goals, and especially if the group is a nation and for this reason would likely enjoy more well-being in its own political organization, then there would be a right to secede. Otherwise, there would not. The states that groups would be allowed to create via secession according to Caney's theory would have to be states that are subordinate to overarching political organizations, or at least they would have to be states that would be more amenable to this subordination or more likely to bring about the existence of these organizations.

We can get more detailed than this by examining Caney's theory in more depth: for instance, his two justifications for his preferred political institutions give us information about the circumstances under which secession would be justified according to my theory. The rights-based approach to cosmopolitanism says that "persons have a democratic right to be able to affect those aspects of the socio-economic-political systems in which they live that impact *on their ability to exercise their rights*," so secessionists who aim to create a state that will better achieve this than the existing state will have a right to secede on my theory (Caney 2005, 158).<sup>16</sup> Similar conclusions could be drawn from the various other arguments Caney

---

<sup>16</sup> Notice that it would not be necessary for *the new state that is created* to be the one in which people are better able to affect the socio-economic-political systems that they are subject to. Perhaps, somehow, the new state



gives. The basic point is clear, though: if we marry my account of secession to Caney's account of cosmopolitanism, secession that moves us in the direction of institutions that Caney believes are required by cosmopolitanism is secession that a group has a right to undertake. Absent this justification, the group has no right to secede. This highlights how my theory of secession can lead to fairly strict results according to some theories of cosmopolitanism: it may be the case that, if we adopt Caney's approach, a group has a right to secede only if it is seceding to create or join a world government to which the new state will be subordinate.

Charles Beitz advances one of the most influential conceptions of cosmopolitanism in his book *Political Theory and International Relations*, which expands the domestic application of the Rawlsian contractualist methodology, with its machinery of the veil of ignorance and the original position, to the question of how international institutions ought to be structured (Beitz 1979). On this basis he argues that individuals have duties of distributive justice to more than just fellow citizens: if the Rawlsian contractualist picture is correct, then there are global duties of distributive justice analogous to (and in many ways as stringent as) the duties of distributive justice within the state. Beitz, as one of the most straightforward cosmopolitans, actually endorses a theory of secession similar (if not identical) to the one I argue for here, albeit only very briefly and without examining many of its implications. He says that "claims of a right to self-determination," which include the right to secede and form

---

would be *worse* along these lines for its own citizens, but somehow, the effect of secession would, for citizens in some state other than the newly-created one, be positive along these very lines, so much so that this would make secession a net good. We could imagine, for instance, an insular, non-democratic minority seceding from a democratic state, leaving the remaining democratic citizens better off in terms of being able to exercise their rights, at the cost of the members of the new non-democratic state.

one's own state, "are properly understood as assertions that the granting of independence would help reduce social injustice in the [seceding group]" (Beitz 1979, 104).<sup>17</sup>

The clear difference between this formulation and my theory of secession is that the way Beitz puts it suggests that the only relevant considerations are the effects of secession on the secessionists when it comes to justice, rather than the effects of secession on every potentially affected party. It is not clear to me whether Beitz's considered view is indeed that the permissibility of secession ought to be determined only by looking at its effects on the secessionists, or whether he is being imprecise in making it seem like this is the position he endorses. We might expect that in most of the cases of secession, the group that wishes to secede is a group that wishes this largely because it has suffered injustices at the hands of the state it wishes to secede from. Thus, it is a fairly reasonable assumption, most of the time, to expect that secession is not going to making things worse from a distributive justice perspective for the citizens in the larger state: if they have been oppressing the potential secessionists, they likely have few to no claims on the potential secessionists beyond very minimal claims against violence and similar things.<sup>18</sup>

One reason to think Beitz does not mean to endorse a sort of agent-relative right for groups to secure their own justice without regard for justice for other groups is that holding such a view would entail the view that there is something special about the group that gives it a right to secure its own justice at the cost of justice for others, but if Beitz believed that a group of people could permissibly secure its own justice at the cost of justice for others, this

---

<sup>17</sup> Beitz writes "colony" where I substitute "seceding group" because he is addressing the narrower question of whether colonies have a right to political self-determination, but there is nothing particularly special about colonies on his account.

<sup>18</sup> That Beitz may be assuming this is even more likely given that he is only thinking about the case of colonies in his discussion of self-determination. Colonialism is even more obviously a case where the colonizing state almost certainly has few or no claims of distributive justice against the colony. See section 5.1 below.

would vitiate many of the other arguments he makes about international redistributive justice throughout his book. Allowing a group to exercise self-determination in order to secede, thereby resulting in less justice for outsiders, would be like allowing a group to exercise self-determination in order to redistribute resources within its borders rather than outside its borders, thereby resulting in less justice for outsiders. But Beitz argues at length against this sort of distribution, because he thinks borders do not block obligations of justice: “persons of diverse citizenship have distributive obligations to one another analogous to those of citizens of the same state. International distributive obligations are founded on justice and not merely on mutual aid” (Beitz 1979, 128).

If Beitz indeed would retract this more limited scope of concerns and argue that the right to self-determination should exist just when this would be better, from the point of view of distributive justice, for everyone, then his reductive approach to secession is the most direct antecedent of my own theory in the cosmopolitan literature. If Beitz would hew to the precise conception he advances, because groups ought to have a right to pursue justice for themselves regardless of the impact this has on justice more generally, then the way Beitz describes his view is the result that is delivered by my view, albeit via a somewhat torturous route. That is, Beitz would say that the Montagues have a right to secede if this would lead to more justice for the Montagues, and my theory would deliver this result by cashing out “better from a cosmopolitan point of view” in terms of “better from the point of view of Beitz-style justice, relative to the group that wishes to secede.” This is similar to the above imagined strict Nozickean rights view of secession. In this case we are specific about which rights are strict rights: they are the rights for a group to secure its own justice, should it so choose. This is distinct from the right to self-determination as it is usually understood, as will be noted below

in section 3.1, because the usual understanding of the right does not make its existence or its legitimate exercise contingent on the outcome in terms of another metric (in this case distributive justice). Just like one's right to marry or divorce is not contingent on what result this will have for domestic distributive justice, such that we wouldn't say that my right to marry Val depends on whether (for instance) our combined income will help bring the distribution of resources closer to the difference principle (or whatever other metric of distributive justice we choose), normally we would not think that a group's right to self-determination hinges on whether having their own state would be better from the point of view of justice. This is, however, what Beitz claims, and it is what my theory of secession delivers if we go with Beitz.

Next, we can imagine a very simple version of hedonistic utilitarian cosmopolitanism, according to which people (or all sentient beings) matter insofar as they can experience pleasure and pain. Maximizing pleasure and minimizing pain is the goal, and nobody's pleasure or pain counts for more or less simply because they are in one state or another. A group would have a right to secede if this would lead to more net utility, and otherwise it would not have a right to secede. The value of considering a theory like this is its simplicity. It is easy to see how this sort of cosmopolitanism works in my theory of secession.

Finally, we can imagine a very simple version of libertarian cosmopolitanism, similar to the Nozickean one described above, according to which everyone has a set of inviolable negative rights, and actions are permissible insofar as they violate nobody's rights and impermissible if they violate anyone's rights. Secession would thus be permissible if nobody's individual rights are violated through secession and impermissible if anyone's rights are violated through secession. Anyone subject to a state's authority without having agreed to

this authority would have a right to secede, because the state could not keep them around without violating their rights, and anyone who had agreed to subject themselves to a state's authority would not have a right to secede unless the agreement allowed them this leeway. This theory, like the utilitarian theory, is simple and straightforward, albeit somewhat less so, because it is not obvious which rights people have. Michael Huemer's vision of political authority is close to this (Huemer 2013).

This theory would be similar to Wellman's, but there are key differences. The biggest is that Wellman's right to self-determination is a group right that can be exercised even if some individuals disagree. If a group decides to secede, votes on the topic, and wins with a very large majority, they have a right to secede, according to Wellman. For the libertarian cosmopolitan, nobody could secede without the consent of everyone in the seceding territory (unless the people who live in the territory have already consented to a government which allows secession based on a majority vote). More importantly than the differences in outcome are the differences in justification. Wellman's theory of secession is justified on the basis of a strong irreducible group right of self-determination. The libertarian cosmopolitan theory of secession is justified on the basis of strong individual rights, which can be exercised in many ways, including in the form of secession by unanimous vote. It is thus important to note that in some cases, the main difference between my theory and other theories of secession is not how much secession is liable to be licensed, but rather the justificatory basis on which claims of the right to secede ought to be adjudicated.

These, then, are the candidate cosmopolitanisms which can be slotted into my theory of secession. The reader can substitute another kind of cosmopolitanism if desired, or refuse to commit to any specific conception of cosmopolitanism for the purposes of evaluating the

theory, just so long as some very basic cosmopolitan commitments, like the moral equality of all human beings and the *prima facie* moral arbitrariness of borders, are in place. There are four main questions one might have about this specification of what it means for things to be better from a cosmopolitan point of view. The first is whether this entails some kind of consequentialist summation of value which ignores the separateness of persons. The second is how this approach deals with time horizons. Does “better” mean “better overall for all time,” or just “better with respect to the next generation or two,” or something else? Third, isn’t the idea of determining whether things are better or worse in this way entirely implausible and unworkable? Fourth, aren’t there versions of “cosmopolitanism” according to which my theory just collapses into another theory of secession? I will address each question in turn.

First, we might wonder whether trying to rank states of affairs from best to worst requires us to engage in some sort of summing process that aims at maximizing something like utility or some other sort of consequence, and if this thus commits my theory to consequentialism. As the example theories described above have hopefully shown, I do not think this is the case. Cosmopolitans of all stripes, including Kantians like O’Neill and strict libertarians, can tell us, according to their theory, which states of affairs are better or worse than which other states of affairs. The hypothetical libertarian cosmopolitanism described above is extremely strict about rights, but it can still tell us which states of affairs are better and worse: every state of affairs in which no rights are violated is ranked above every state of affairs in which any rights are violated. Perhaps we can go further and say that fewer rights violations are better, but we need not do so. Perhaps the theory simply claims that moral conflicts are impossible and thus there is always some available choice that violates no rights. So, my theory does not need to commit itself to any kind of consequentialism.

Of course, my theory is also quite amenable to consequentialist approaches according to which borders are just tools for making the world better from the point of view of utility or some other value which we aim to maximize or satisfy or otherwise advance. My theory is not a trivial consequence of consequentialism, because consequentialism can endorse rights in various contexts for various reasons, such that a consequentialist might have reasons for endorsing a right to secede that is more sophisticated or qualified than a simple right to secede when the consequences would be better. Whether these sorts of consequentialist rights are “real” rights is unimportant, and it has also been addressed by the considerations above that set out what I mean by a right to secede. The basic point here is that nothing about my theory of secession cuts off wide swathes of cosmopolitan theories that aren’t ultimately consequentialist.

The second question is what to say about the time scale we are looking at. Whatever cosmopolitan theory we pick, and whatever ranking of states of affairs it provides, we might get different answers if we want to select the best state of affairs that obtains over the next 50 years as opposed to the best state of affairs that obtains over the next 500 years. The former may tell in favor of secession while the later tells against it, which is worrying. Without some non-arbitrary way to narrow down the scope, it seems like my theory will give us all sorts of conflicting answers and leave us with no way to select among them. The main response to this worry is a “partners in crime” response, and the second response is to note that there are costs to be paid for avoiding the worry in the way other theories of secession avoid it. Finally, there is a third response, which is to note that this worry may push us towards non-consequentialist cosmopolitanism.

The first response is to point out that my theory is not unique in raising uncomfortable questions about how far in advance we need to look in order to answer questions about political philosophy. A theory that purports to tell us what just institutions look like, for instance, might lead us to ask whether its answer is appropriate over long stretches of time, and the answers provided are often quite kludgy, if any answers are provided at all. Take O'Neill, for instance. Which institutes better secure external freedom? Presumably this question cannot be answered until we know if we are asking about external freedom for existing people, or for all people in the future, or for everyone except with discounting for future people, or something else. O'Neill does not provide any particular answer to this question, beyond noting that her theory is superior to consequentialist theories because the latter have difficulty with things like demanding "a 'generation of sacrifice' (or many generations) for the benefit of future generations" (O'Neill 2000, 124). Her account, which focuses on the obligations of justice, does not straightforwardly allow for sacrificing some for the benefit of others, except insofar as it's not "possible to achieve a flawless realization of justice under human conditions," which entails that the institutions we create cannot perfectly respect everyone's rights (O'Neill 2000, 139). According to O'Neill, then, people count for *something* and cannot be used as a means merely to achieve greatly beneficial results for others, including others in the future. This perhaps places a ceiling on the duties existing people can have to people in the future, but it hardly solves the question completely unless we think that everyone is obligated to hit the ceiling by doing as much for future generations as it is possible to do before one counts as having been treated as a means. It's not clear what the resulting theory looks like when we stretch our thinking into the indefinite future.



Beitz, meanwhile, uses the mechanism of the veil of ignorance to prevent people from knowing which generation they belong to, which will lead them to conserve resources for future generations, but as he points out, “the difficulties in forming a standard of conservation are at least as formidable as those of defining the ‘just savings rate’ in Rawls’ discussion of justifiable rates of capital accumulation,” and, having pointed out these difficulties, he says that he “shall not pursue them... except to point out that some provision for conservation as a matter of justice with respect to future generations would be necessary” (Beitz 1979, 142). Caney does not even address the question except to note that theories of global justice based on reciprocity “cannot ground obligations.... to future generations” which he takes to be a flaw of those kinds of views (Caney 2005, 135). It would be surprising if my theory did not inherit these sorts of difficulties, because it is explicitly reliant on overall theories of justice or of what things ought to look like.

So, although we might want more specificity from my theory on this point, this may be something that awaits a solution to these sorts of questions on a more general scale. Questions of population ethics infect much of political philosophy and answering them effectively is far outside the scope of this project. Even the toy utilitarian and libertarian theories face time horizon issues: do we maximize utility for all existing people, all possible people, all actual people including those who will actually exist later on, or what? The strict libertarian is probably in the best position to answer, given that one might say that only existing people have rights, but a plausible libertarian account of the world and the rights we have likely includes something like Lockean provisos that limit property appropriation in light of potential future people and other sorts of considerations, and the more plausible these limits sound, the more we find ourselves drifting towards a position like Beitz’s or O’Neill’s.

However, to the extent that the libertarian theory fares well in this situation, we may find it or something like it more amenable as a candidate cosmopolitanism, a point I will return to in my third response to the objection.

The second response is that theories of secession that focus instead on generating a right to secede when a group chooses to, even if this is suboptimal, and thus even if this is not great for future generations, avoid this worry only at the cost of assuming that the worry is not big enough to sink a theory of secession. In other words, to adopt a theory of secession that doesn't need to answer the question of what will happen to future generations (except perhaps to make sure massively disastrous consequences will not result) is to accept one possible answer to the issue, which is that future generations are not a big deal when we ask the question of secession just like we typically think future generations are not a big deal when we ask the question of marriage. I do not need to figure out how my great great grandchildren will fare under one marriage rather than another before I marry, because my right to self-determination allows me to marry whomever I choose.

If this is an acceptable answer in the realm of secession, it might mean one of two things. First, it might mean that my theory can simply assume this too. As long as the results for future generations aren't awful, "better from a cosmopolitan point of view" could just mean "better for people right now." Alternatively, it might mean that treating secession as a right like marriage and other sorts of rights gives us a reason to ignore future people because respecting a right requires us to avoid this kind of balancing act, whereas a "right" of the sort defended by my theory is not strong enough to rule out balancing future generations. If this second response is correct, it amounts to a restatement of the main difference between my theory of secession and others, namely, that the other theories endorse a strong right to

political self-determination whereas my theory does not. Thus if my argument below is successful, and I adduce convincing reasons for abandoning other theories of secession, we will likewise abandon this reason to ignore questions of future generations, putting us back at a point where my theory is no worse off than others.

These two responses may not be very appealing. I do not think there is much in the way of an appealing way of dealing with the question of future generations and time horizons in political theory, or at least there is not a non-controversial way of dealing with these questions. A theory of secession cannot be asked to solve this entirely separate question, one which, as Beitz points out, is a question which presents formidable difficulties. This is one area where perhaps the best we can do is hope that the eventual answer delivered by our best political theory will not render our other conclusions implausible, in this case our conclusions about secession. Whatever decisions we eventually reach with respect to future generations, my theory of secession is able to accommodate them, because these can be adopted either as a limit on the time scale we look at when we judge what it means for secession to be better from a cosmopolitan point of view, or as a component of what “better from a cosmopolitan point of view” means.

This leads us to the third response, which is that perhaps some theories of cosmopolitanism do better, in general, with respect to future generations, and if this point is demonstrated well by how these theories operate in my theory of secession, this can provide a reason for thinking that these theories are appealing. As noted above, a strict libertarian account of the world doesn’t have massive unanswered questions when it comes to future generations, because so long as one’s actions violate no rights, one does not have to worry about anything else, including the countless billions of future people and how one’s actions

will affect them. My own view is that it is actually hard to make even a strict libertarian theory comport with our considered judgments with respect to future generations, but if this is false, then we may have come up with an additional reason to accept a theory like this or another sort of theory that doesn't face these kinds of worries.

The third question is whether “better from a cosmopolitan point of view,” even if it can be specified in a fair amount of detail and even if we can sort out time horizon issues, is a workable or useful standard at all. How would we ever ascertain whether secession would be better from our chosen cosmopolitan point of view? The empirical difficulties are nigh insurmountable, both because predicting the future is hard enough and because the issues involved are fraught ones about which we could reasonably disagree even if we agree on most substantive philosophical issues. So for instance we might pick a candidate cosmopolitanism and agree that certain states of affairs described abstractly would be better than other states of affairs, also described abstractly, but fitting these judgments to any sort of picture we have or any sort of picture we are liable to get of the actual world would require knowledge, expertise, and judgment calls far in excess of anything that could reasonably be demanded of us by a theory of secession. What use is a theory of secession, we might ask, if we cannot use it to tell us which groups have a right to secede? Section 4.4 below deals with many of these questions with respect to my specific proposed theory, but here I will respond in defense of the general approach of using “better from a cosmopolitan point of view” as an evaluative term.

There are three main answers to the feasibility question. The first is similar to the first response I gave above to the issue of time scale. Many other theories face difficulties when it comes time to apply them. Utilitarianism is the clearest example. It is often entirely opaque which action, from the variety of options, would maximize utility, and even calculating what

would maximize expected utility is an enterprise the complexity of which far exceeds what we might suspect is reasonable. In the realm of political philosophical issues like secession, even theories that are based on more easily navigable questions like whether any rights would be violated are often on shaky ground. It is an empirical matter as much as it is a philosophical one whether one arrangement of institutions versus another possible arrangement would be more compatible with respecting individuals. When, for instance, O'Neill calls for us to create institutions that better secure external freedoms, we might worry about how we are supposed to know, in advance, which of the infinite possible institutional arrangements available to us will best secure external freedoms, especially because answers to these questions turn on decisions made by people who do not act in accordance with their moral duties such that we cannot just assume that an account of everyone's duties will settle the question. So, I am not sure that my theory is worse off than many other theories along these lines.

The second response to this worry is to deny that it is a worry. It may be true that the theory I advance here is, on its own, little to no help in determining, practically, which groups have a right to secede. I do not think this makes the theory any less true. Instead, it makes the theory insufficient for generating, on its own, normative requirements that straightforwardly apply to us absent additional theorizing. This is no knock against the theory unless we have reasons to think that theories that are incomplete or empty in this way are simply *wrong* about secession. Below, I address in more detail a claim to that effect, which is advanced by Buchanan, who claims that theories of secession aren't adequate unless they can serve as a model for international legal norms. My responses to that challenge highlight the ways in which we can still say a theory of secession is correct even if, alone, it does not give us certain

results about what we ought to do in any given situation. This is not an uncontroversial view, both with respect to secession specifically and with respect to questions of political theory and normativity more generally - see for instance David Wiens (Wiens 2014; Wiens 2015a) - but I think it is a defensible view, and if it isn't, I think the best response is to frame our conception of cosmopolitanism in a way that avoid the worry, rather than ask that our theory of secession does the work that our theory of cosmopolitanism cannot. In other words, if feasibility is a constraint on theorizing about secession, it ought also to be a constraint on our theorizing about cosmopolitanism more generally, and as I will argue in the positive argument for my theory later in this paper, my theory of secession can easily work with a cosmopolitanism that respects feasibility worries.

This leads to the third response, which is akin to the third response to the question of time horizons. Perhaps some cosmopolitan theories fare better from the point of view of providing workable solutions in terms of evaluations about what would be better or worse. This might give us reasons for adopting one of these cosmopolitan theories, and this might be highlighted by noting how they help us solve the question of secession in a workable manner. Thus the fact that utilitarian cosmopolitanism leaves us more or less at sea when it comes to figuring out if there is a right to secede in any given case may highlight a weakness with utilitarian cosmopolitanism, and a theory that does not face these difficulties may thus be a stronger theory for that reason.

The fourth question about “better from a cosmopolitan point of view” was to question why we can't be “cosmopolitans” but endorse another view of secession rather than mine. That is, aren't there versions of “cosmopolitanism” according to which my theory just collapses into another theory of secession? Although the goal is to be as ecumenical as

possible by not committing to any particular cosmopolitan view, as noted above, there *are* cosmopolitan theories ruled out by this approach, namely, cosmopolitan theories which, when we query them about what is better “from their cosmopolitan point of view,” so to speak, give an answer which is something like “things are better from my cosmopolitan point of view when we endorse a right to secede in the following circumstances...” followed by a theory of secession similar to the ones I reject. Altman and Wellman’s conception of cosmopolitanism, for instance, is ruled out, because it rests on what I argue is an implausibly strong conception of the right to political self-determination and on the basis of this endorses a certain account of the right to secede, regardless of what other cosmopolitan considerations would suggest about the results of secession in any given circumstance.<sup>19</sup> The reason I must rule out these visions of cosmopolitanism is clear: if any one of these is correct, then my theory of secession is simply coextensive with the theory of secession endorsed by the cosmopolitanism in question and thus it does not represent anything new or interesting. The grounds on which I can take myself to have ruled out *these* visions of cosmopolitanism has yet to be explored, because these grounds are simply the various substantive arguments I give below against the sorts of considerations that would lead cosmopolitans (or anyone else) to endorse the other various theories of secession. So, if I am successful in making these arguments, then we will agree that, whatever the correct specification of cosmopolitanism is, it is not going to endorse any of the other theories of secession for any of the reasons they supply in an attempt to get us to endorse them. Section 4.2 below is where I most directly deal with this question.

This should, I think, also make my ecumenical treatment of cosmopolitanism more palatable. I am not simply waving my hands and leaving the cosmopolitanism in question

---

<sup>19</sup> On the idea of Altman and Wellman’s theory as a form of cosmopolitanism, see their chapter 6 endnote 2 (Altman and Wellman 2009, 212).

*entirely* unspecified. I am, in fact, setting out limits on what I think a plausible cosmopolitanism can look like, limits which don't commit us to any *one* specific theory but which do rule out various theories. This project is as much about showing why a wide variety of cosmopolitan views are all committed not just to this theory of secession but also to the commitments that go along with it and explain why we should endorse it: commitments like a rejection of a strong conception of the value of political self-determination. If I am correct that it is possible to be fairly ecumenical about which cosmopolitanism we ought to endorse and yet still come to the conclusion that my theory of secession is correct, it will be in a large part on the basis of having shown that strains of thought that are common to many cosmopolitan theories are strains that tell against various other theories of secession.<sup>20</sup> Moreover, this approach might help us determine which cosmopolitanisms are appealing cosmopolitanisms because questions about time horizons or feasibility, which are highlighted by trying to figure out whether there is any right to secede, push us to endorse a brand of cosmopolitanism that fares well in response to these challenges.

### **1.3 Summary of the Paper**

The thesis this paper defends is that a group has a moral right to secede if and only if secession would result in a world that is better from a cosmopolitan point of view. Having explained what I mean by “a moral right to secede” and “better from a cosmopolitan point of view,” the central claim of the paper should be clear. I will now summarize the argument

---

<sup>20</sup> Conversely, as noted above, my arguments may be read as a *reductio ad absurdum* against versions of cosmopolitanism compatible with my views, and thus as telling in favor of varieties of cosmopolitanism that I rule out. Or, even worse for cosmopolitanism, we might decide that the only cosmopolitan theories left after my *reductio ad absurdum* are themselves unacceptable for other reasons, suggesting that cosmopolitanism is a lost cause.



which I give below in defense this view, and then frame the project by motivating various features of the argument in light of existing projects in political philosophy.

There are two main lines of argument in defense of my theory of secession. One line is a set of negative arguments against the three most popular types of theories of secession. The second line is a set of positive arguments that aim to show that there are benefits to adopting this view of secession. I will first summarize the negative arguments against the three most popular types of theories of secession, and then I will summarize the positive arguments.

One kind of theory of secession is a “remedial” theory of secession, according to which a group has a right to secede only if it has been mistreated in some way or the secession is otherwise necessary to preserve the group in the face of injustice.<sup>21</sup> The most well-known remedial theory of secession is Buchanan’s, advanced in his book *Secession* (Buchanan 1991) and elsewhere. Another popular remedial theorist is Wayne Norman (Norman 1998).

There are two main arguments I will make against remedial theories. The first argument is a methodological one (section 2.1). Much of the support for Buchanan’s theory, and for other remedial theories, is based on a notion of what a theory of secession should tell us, and what constraints we should impose on our theorizing. Buchanan argues that theories of secession should give us answers that accord in certain ways with international law and other practical considerations. If he is correct, then many theories of secession, including my own, are inadequate. I join other theories of secession in offering a series of arguments against this methodological claim, thus clearing the ground for my theory and also reducing the plausibility of remedial theories. The second set of arguments I will advance against remedial theories is that the most attractive features of remedial theories can also be captured by my

---

<sup>21</sup> The label “remedial,” and the labels for the other two types of theories, I take (with very slight modification) from Buchanan’s “Theories of Secession” (1997b).

theory of secession (section 2.2). Moreover, other theories of secession cannot easily capture these features. Remedial theories provide results that seem to intuitively match what many pre-theoretically believe about secession, which put them ahead of other theories, which have certain unintuitive results with respect to when a group has a right to secede. I will argue that my theory can capture some of the intuitive features of remedial theories. Thus, I aim to show that my view is almost as good as remedial theories when it comes to judging whether the outcomes of the theory make sense. If remedial theories lack both the methodological imperative that forces us to choose them and clear superiority in generating plausible outcomes, then they will not represent a better choice than my theory.

The second main kind of theory of secession, and the next target of a set of negative arguments, are the “associationist” theories. Paradigmatic associationist theories include Christopher Heath Wellman (Wellman 2005a), Andrew Altman and Wellman (Altman and Wellman 2009), David Copp (Copp 1997; Copp 1998), and Daniel Philpott (Philpott 1995; Philpott 1998). These theories hold that any association of individuals which wishes to secede may secede, so long as the group meets some minimal criteria. The theories diverge on which criteria are necessary, but they typically include things like a requirement that the secessionists be able to form a viable state, a requirement that the new state not violate human rights, and other similar requirements. Notably, they do *not* limit the right to groups that have been mistreated by their state or that share some kind of special quality or anything like this. For associationist theories, whether the group shares a culture that stretches back through the ages or is simply an amalgamation of strangers who one day wake up wishing to secede, the group’s desire to secede is the central issue and the justification for a right to secede. My argument against associationist theories consists of an argument aiming to show that there is

no right to political self-determination that is anywhere near strong enough to support associationist theories in the way that they need this support (sections 3.2, 3.3, 3.4, and 3.7).

Finally there are the “ascriptivist” theories of secession. These are represented by theories like Margalit and Raz (Margalit and Raz 1990), Margaret Moore Moore 1997), and David Miller (Miller 1988; Miller 1994; Miller 1998). According to these theories, some unique feature of a group gives it a right to secede (subject to certain conditions, which the various theories differ on) and groups that lack this feature have no right to secede. Invariably this feature is something like a shared culture or identity, which is summed up in the idea of “nationhood,” a technical term describing a group that shares things like a language, a history, a sense of shared identity, a culture, religious beliefs, and so on. For ascriptivist theories of secession, nations, because of their special features, have a right to secede that other groups don’t. My main argument against ascriptivist theories is contained in my argument against associationist theories, because both rely on the importance of political self-determination - they simply differ on which groups ought to be able to leverage this importance on their behalf (sections 3.2, 3.3, 3.4, and 3.5). I will offer additional arguments against ascriptivist theories, though, by pointing out their commonly-noted anti-cosmopolitan and potentially even anti-liberal implications and by pointing out that we might still secure much of what the ascriptivist theorist desires without endorsing an ascriptivist theory of secession (section 3.6 and elsewhere in section 3). To the extent that someone does not find cosmopolitanism or liberalism appealing, ascriptivist theories are likely the best alternative to my theory of secession. In this paper I don’t attempt to resolve the debate between cosmopolitanism, liberalism, and the various alternatives (like communitarianism). In other words, I do not attempt to argue in favor of cosmopolitanism and against communitarianism or other

alternatives, and nothing in this paper is designed to get someone to switch sides. I throughout assume that liberal cosmopolitanism of some form is largely correct. This is why, above, I suggested that one possible way to read this project is as a *reductio ad absurdum* against cosmopolitanism. If the only way to oppose ascriptivist theories of secession and their communitarian justifications is to admit that any plausible cosmopolitanism entails the implications I claim it does, one might abandon cosmopolitanism.

As with the negative arguments against remedial theories, the negative argument against the associationist and ascriptivist theories is in another sense a positive argument. If the right to political self-determination is very weak and justifies little, or at least often fails to justify secession, this is a significant conclusion. There are many strong defenders of political self-determination in political philosophy. Quite often, these defenders muster political self-determination to support their arguments in favor of secession, or in favor of limiting immigration, or in favor of preventing outside intervention in illiberal or otherwise suspect practices. Cosmopolitanism is typically opposed to these sorts of limitations, but cosmopolitan arguments are rarely framed directly around political self-determination in the way that secessionist arguments are. Thus, by showing the implications for secession if it is approached from the point of view of a cosmopolitanism which rejects the strength of the right to political self-determination, as I think cosmopolitanism often does, I will not just provide a theory that I hope is more convincing, but I will also have helped explain what cosmopolitanism is committed to given a certain view of political self-determination (section 4.2). Thus the relevance of this argument goes beyond simply demonstrating problems with associationist and ascriptivist theories: it offers a reason to think that their failure highlights an heretofore largely ignored aspect of cosmopolitanism.

This completes the summary of my negative arguments against the common theories of secession. As noted above, these negative arguments are also in one sense positive, so, having elaborated the above arguments, a large bulk of the work will have been done. There are, however, three main positive arguments I will advance in favor of my theory of secession.

The first is an argument which is meant to raise skepticism about the attribution of rights to groups of people (section 4.1). The point of this argument is *not* to raise ontological or other related issues about the possibility of attributing rights, agency, or responsibility to a group of people or anything like this. Rather, the argument aims to show that there are reasons in political philosophy for being reluctant to endorse the existence of any given group right without very strong arguments in its favor, especially a group right with implications for big questions like secession. The idea is that we should prefer a theory of secession that serves up a right to secede for groups of a certain kind only after we are convinced that it makes sense to commit ourselves to such a sweeping claim. My theory of secession, I will argue, does well along these lines, because it is hardly about groups at all: it looks at everyone in the world to decide whether a given group has a right. Indeed, one might question whether my theory provides any *right* to secede at all. If rights are supposed to be the sorts of things that mark out areas of individual or group freedom with respect to a certain choice, regardless of the consequences, then my theory hardly provides this except in the trivial sense that a group gets the right only when the results would be good according to our favorite theory of cosmopolitanism. This would not be a mistaken way of viewing my theory. This positive argument, then, aims to highlight reasons why we might be so skeptical of a group right to secede that we would say it does not exist, even if we are willing to endorse other group rights

that have a much firmer basis, like a group right to preserve a culture, a language, or a religion, or a group right to inhabit ancestral territory. If these group rights can make it over the hurdle of justification (as I think they perhaps can), we have no reason to be suspicious of them. I will argue that suspicion should attach to any claim of group rights at the stage at which we ask whether it exists in any strong form, not at a stage where we ask if groups are the sorts of things that can have rights.

The second positive argument I will raise is a more thorough explanation of remarks I have made above about what cosmopolitanism is committed to (section 4.2). This argument will clearly lay out the case for thinking that liberal cosmopolitanism, at least in its most plausible forms, is likely committed to something like my theory of secession. This argument will focus more on the relationship between cosmopolitanism, political self-determination, and secession than on specific alternative theories of secession, and it will serve as an elaboration of themes that will have been raised in the negative arguments against the associationist and ascriptivist theories. The goal is to show that cosmopolitanism, properly understood, ought to lead us to think about borders and secession in the instrumental way that my theory leads us to think about them.

The third positive argument I will raise is the degree to which my theory can accommodate the empirical facts of the matter, and potential radical implications of these facts, in a more elegant way than other theories (section 4.3). Other theories of secession set out conditions under which groups have a right to secede, but also typically contain some kind of stipulation that, if the consequences of secession would be bad enough, then the right is overridden. Following up on points raised in the first positive argument about what it means to endorse group rights in political philosophy, I will argue that theories of secession face a

dilemma: either they are serious about how “rights” ought to function in making decisions, which commits them potentially to licensing too much secession and almost certainly to difficulties in reconciling rights to secession with various other rights that we might be tempted to endorse; or, they admit that the right to secession, even if we endorse it, ought not to play a key role in our evaluation of circumstances more generally, in which case it is unclear why these theories of secession make more sense than mine.

After making these arguments, I will address further issues, mostly in the form of biting bullets on topics like colonialism, invasion, and annexation (section 5).

#### **1.4 Framing the Project**

This completes a description of the thesis I aim to defend and the arguments I aim to use to defend it. What remains is an explanation of the project from a more general level. What are the merits of approaching secession like this? What does this theory illuminate? Above, I have mentioned one of the main reasons I think this theory is a useful addition to our thinking about secession: I claim that it fits better with, and follows more clearly from, liberal cosmopolitanism, which is a leading approach to liberal political philosophy more generally (section 4.2). Secession and related questions have often received perfunctory treatment in cosmopolitan theories, which focus more particularly on issues like immigration and global distributive justice. This project is as much an effort to explore cosmopolitanism as it is an effort to answer the question of when a group has a right to secede. As will become clear in the discussion below, this theory of secession has (perhaps surprisingly) not a lot to say about secession. It does not have much to say about whether secession is a good thing or a bad thing; whether secessionist claims are typically going to be legitimate or whether they are

often going to fail to be; and so on. Because this theory adverts to cosmopolitanism to answer the question rather than to something closely related to secession, like political self-determination, there is even a sense in which it is not really a theory of secession at all.

Analogously, imagine a situation where there are three theories of the circumstances under which a state has a right to bar immigrants from entering, and none of these three theories takes the basic liberal cosmopolitan position that, at least *prima facie*, no state should have this right because one of the key tenets of cosmopolitanism is that, because individuals are the ultimate unit of moral concern and because everyone matters equally from the point of view of morality, limitations of immigration that exist largely (or solely) to privilege citizens of one state make others (the potential immigrants) worse off for a morally arbitrary reason and are thus unjustifiable. If this were the situation with respect to theories of immigration, it would certainly be valuable for someone to introduce this naively cosmopolitan viewpoint in order to give it as fair a shake as possible. Joseph Carens, although his argument has more strains than just this simple cosmopolitan reasoning, is the best representative of this basic cosmopolitan approach to immigration (Carens 1987). The basic cosmopolitan approach to immigration has a bit more to say about immigration than (according to me, at least) it does about secession, because cosmopolitanism about immigration suggests we should endorse open borders, whereas cosmopolitanism about secession doesn't tell us anything this specific, but this is to be expected. Immigration is fundamentally a question about what individual people, the ultimate units of moral concern, have a right to do, whereas secession is about where groups of people can draw borders, which is one step removed from the sorts of considerations cosmopolitanism directly concerns itself with. Immigration is (at least potentially) about the fundamental human right to freedom of movement, whereas secession is



about where borders should be drawn, and cosmopolitanism's stance towards borders is that they are least *prima facie* morally arbitrary. Thus, one reason for adopting the approach I take here is to see what we can get out of it. It is a largely unexplored avenue with respect to secession, and given that cosmopolitanism as broadly conceived is taken by many to be a fruitful approach to political philosophy, it would behoove us to get clear on what it has to say about secession.

Another more focused reason to approach the question of secession from this direction is that this approach is one that forthrightly rejects any strong group right to political self-determination. The right to political self-determination is one drawn upon by almost every theory of secession, with the possible exception of remedial theories. It is justified in a wide variety of ways and used to support a variety of conclusions, including both ascriptivist and associationist theories (section 3.1). Outside of the secession literature and the literature on related issues, like the rights of nations, the right to political self-determination has not often been searchingly addressed by political philosophy, and especially not by many cosmopolitan theories. Cosmopolitan theories often take for granted that the right to political self-determination has to take a backseat to cosmopolitan considerations about, for instance, distributive justice, because a group's desire to organize into a state and ignore the welfare of the rest of the world is one that cosmopolitanism typically rejects, but beyond this perfunctory rejection of any strong right to political self-determination, cosmopolitan theories typically say little.

Beitz, for instance, rejects the right to political self-determination (which he terms "autonomy") as support for opposition to "intervention, colonialism, imperialism, and dependence," which "are not morally objectionable because they offend a right of autonomy,

but rather because they are unjust,” where by “unjust” he means unjust according to his conception of cosmopolitanism (Beitz 1979, 69). The right to political self-determination “is neither fundamental, nor adequate as a justification” of the sorts of arguments that nationalists and others use it for (Beitz 1979, 69). By viewing questions like colonialism as being “properly understood as assertions that the granting of independence would help reduce social injustice in the colony” rather than as questions that can be solved by understanding the importance of a right to political self-determination, we avoid “the arbitrariness of flat assertions of a fundamental, absolute right of independence (it can always be asked, why is there such a right?)” (Beitz 1979, 104). By a right to independence, Beitz means a right to political self-determination on the part of specific groups (in this case, groups that have been colonized). This somewhat brusque dismissal of group rights to political self-determination as a bedrock principle of political philosophy is practically required for the arguments behind many common cosmopolitan commitments to things like open borders and stringent duties of global redistributive justice, as noted by Freiman and Hidalgo, who show how one cannot endorse self-determination and liberalism simultaneously (Freiman and Hidalgo 2016).<sup>22</sup> What sounds plausible and perhaps electrifyingly radical and progressive when applied to questions of immigration and redistributive justice, though, sounds slightly less tempting when it must contend with issues like colonialism: to view colonialism as wrong because of distributive justice questions rather than because of a right to political self-determination commits Beitz to the view that there’s nothing illicit if the colonial regime is “the most

---

<sup>22</sup> Indeed, Altman and Wellman, who are among the few who endorse a strong right to political self-determination, for that reason end up supporting a right for states to completely close their borders (albeit only if they absolve themselves of any duties of justice by helping the potential immigrants in other ways, if necessary), and a rejection of redistributive duties apart from basic humanitarian duties to keep others from starving unless there is some special relationship between the states in question that leads to oppression of the poorer state by the richer state. See their chapters 6 and 7 (Altman and Wellman 2009).

benevolent of all possible imperial countries,” and if the colonized group attempts to gain independence from this kind of benevolent imperialism, the colonizers “should resist” - he admits that “intuitively, this seems implausible” (Beitz 1979, 103). When we move even further down the line to questions like secession and annexation, a position that rejects strong group rights to political self-determination may give us results that seem more implausible still. Or perhaps it will not (see section 5). Either way, this is a road that we ought to explore, because one way or another it is going to help us understand what cosmopolitans are at least potentially committed to, if only to illuminate what more sophisticated cosmopolitan theories will need to wiggle their way out of. My position is that cosmopolitanism is safe from even the most unintuitive results of this investigation into secession, but the possibility that this project constitutes a *reductio ad absurdum* of many popular conceptions of cosmopolitanism lurks in the background.<sup>23</sup>

This, then, is the larger context in which this theory of secession sits. I hope that it represents a contribution both to the secession literature and to the political theoretic literature surrounding cosmopolitanism and global justice more generally. Even if my arguments do not prove persuasive with respect to defending my preferred conception of secession and cosmopolitanism, I think that no matter what one’s commitments are, there is value in exploring this territory to a depth at which it has yet to be explored.

## 1.5 Some Terms and Definitions

---

<sup>23</sup> Kit Wellman has suggested to me that the chief value of a project like mine is to show everyone else how crazy they are to reject his strong endorsement of the right to political self-determination. Once the implications of a rejection of self-determination are clear when it comes to topics like secession, colonialism, and invasion, he thinks, liberal cosmopolitans will abandon traditional cosmopolitan theories and endorse his position, as opposed to rejecting his position, as many do now.

Briefly, a note on terms. Above I defined secession as the process by which some group of people leaves one or more existing states, taking territory with them, in order to form a new state or join another existing state. Here I will alter that definition slightly: from now on, unless noted otherwise, “secession” refers to the process by which some group of people leaves one or more existing states, taking territory with them, in order to form a new state or join another existing state, against the will of the state or states being seceded from. By fiat this rules out secession that is agreed on by both parties. This is a stipulation as opposed to an attempt to capture normal usage of the term outside philosophy: “secession” in common parlance also describes mutually agreed-upon state-breaking.

I limit myself here to state-breaking that is not mutually agreed upon for a few reasons. The first is that this is the form of secession examined by other theories of secession. The second is that the most interesting and fraught cases of secession are the ones that are contested, because there is much more disagreement about what ought to happen in these cases. Finally, it is not difficult to imagine how my theory generalizes to cases that are not contested, because nothing in my theory is particularly limited to cases of contested secession. Even though it would not alter my arguments if “a right to secede” referred to secessions that are not contested, this would be at odds with the way other theories approach the issue, and I would have to continually note the difference when quoting other theorists. This is most clear when it comes to ascriptivist theories of secession, most of which have no problems with mutually agreed upon secession that does not involve nations. Ascriptivist arguments for a “right to secede” do not deliver a right to secede in this sense, because they are based on the ascriptive characteristics of nations, but few ascriptivists would say that the groups involved have no right to mutually agree upon secession just because neither group is a nation. Instead

the ascriptivist would conceive of this as a right to secede in a sense separate from the sort supported by ascriptivist arguments that are based on nationhood. It is therefore simpler for “secession” to mean the same thing every time it appears below by stipulating that we are talking about contested secessions. (See Catala 2013, 75 for a similar stipulation.)

The group aiming to secede will sometimes be referred to as the “secessionists.” Throughout I assume that the secessionists are subject to the government of the state being seceded from. This excludes situations where outsiders wish to “secede” from a state by coming into the state and taking part of its territory to start their own state. So, for instance, if a group of expatriates from America wishes to start their own state in part of Venezuela, we might wonder whether they have a right to do so. This is closely akin to secession but for the sake of simplicity I will ignore these cases because they are strange and complicated and because nobody else seems to have them in mind when discussion secession.

The state that is being seceded from will often be referred to as the “rump state” or the “remainder state.” “States” are territorially delimited political organizations governed by a single sovereign government. Unless noted otherwise, a “sovereign” government is the authority of last resort with respect to political questions. This conception of sovereignty is not meant to be trivial or universally acceptable, but there is no single uncontroversial conception of sovereignty and ideally one could insert any other conception of sovereignty below without altering my argument at all. (To the extent that this is not true, any resolution of the resultant difficulties is outside of the scope of this paper.) I specify what I typically take “sovereign” to mean only to clarify the term if one does not have a candidate theory of sovereignty in mind. Because the right to secede is a right to create a state in the territory in question, and because the state is sovereign, the right to secede entails that the secessionists in

the territory are subject to the state that they create, assuming that our theory of political obligation supplies reasons that people are obligated to obey the commands of the sovereign. If people are not ever obligated to obey sovereign states, then secession is not a very interesting right, because it is a right to create a state which nobody has to listen to. (This does not imply that obligations to obey the state are always overriding.)

“Country” and “polity” are synonyms for “state.” A “federation” is a state the government of which comprises other, smaller governments, each of which has some degree of autonomy but all of which are subject to the federal government to at least some degree. Thus the federal government is sovereign with respect to issues over which it is the authority of final resort and the sub-units of the federal government are sovereign over the issues that are left up to them.

“Nations” are groups comprising members who share an encompassing culture, including but not requiring or limited to characteristics like a shared language, a shared history or conception of history, a homeland, shared customs, a shared cuisine, shared holidays, and other similar things.

“Territory” is an area of land subject to sovereign governance by one or more groups, including states. Who “owns” a territory in an economic sense is unrelated to the question of who governs a territory: a state may govern territory owned by private individuals, or the state itself may own the territory it governs. Thus territory could “change hands” in one sense, by being bought and sold and thus changing ownership, without this constituting a change in governance relevant to the question of secession. Imagine someone from China buying a plot of land in California from a Californian. The territory changes hands but does not become Chinese territory in the sense of being governed by the state of China. Similarly, secession

can occur without ownership of the territory in question being altered. California could secede but the plot of land would still be owned by the person from China. Secession differs from emigration in that the secessionists redraw borders in such a way as to remove territory from the rump state, whereas emigrants remove themselves from the authority of the state without also taking territory from the state.

“Annexation” is almost the opposite of secession - annexation is when one state incorporates new territory into itself by taking it from another state. The opposite of secession, which is when a group joins an existing state by adding territory to that state, will be referred to as “accession” in the rare instances when it is discussed. Annexation differs from accession because the annexation process is done at the behest of the state gaining the territory, whereas accession is done at the behest of the group joining the state.

## **2. Remedial Theories of Secession**

### **2.1 Buchanan's Methodological Critique**

The first order of business is to defend my theory of secession, and also most other theories of secession, against a methodological challenge mounted by Buchanan on the part of remedial theories of secession. Buchanan has argued that political philosophy verges on incoherence when it ignores the existing international institutional situation. Creating theories of secession without regard for how they will be understood, implemented, and enforced, he argues, will lead us toward all the wrong answers. “Otherwise appealing accounts of the right to secede are seen to be poor guides to institutional reform once it is appreciated that attempts to incorporate them into international institutions would create perverse incentives” (Buchanan 1997b, 32). A theory created “independently of any questions of *institutional* morality” may prove not only useless but actively harmful when applied to the real world (Buchanan 1997b, 32). He argues that both ascriptivist theories and associationist theories sanction too much secession and fail to meet criteria that he establishes for evaluating theories of secession, while his remedial theory of secession passes all the tests. If Buchanan is correct, the theory of secession I defend here must do well on Buchanan's criteria, which, for reasons that will become clear below, is not likely to be the case.

I and others contend, however, that Buchanan does not effectively make the case for an institutional rather than a pre-institutional approach, at least in a way that suggests we should exclusively create theories of secession that fit Buchanan's criteria as opposed to also working out less institutionally-bound theories, like the theory I defend. Wellman, for instance, points out that in addition to the perverse incentives that Buchanan believes would result from a widespread right to secede, certain benefits would also be created, and because



the relative strengths and weaknesses of these incentives are empirically unknown, “the burden of proof to establish the empirical fact of the matter lies squarely on the shoulders of those who would *restrict* these moral rights” (Wellman 2005a, 165-6).<sup>24</sup> Moreover, he argues that even if these perverse incentives would indeed result, this is only an argument against preventing secession for the time being, while the world works towards a better state of affairs where secession will not need to be restricted beyond what is morally sanctioned. Kai Nielsen (Nielsen 1998), meanwhile, believes that we should still work towards having a vision of how things ought to be so that there is something to aim for. Similarly, Michael Freeman (Freeman 1998) argues that because the world is clearly not currently just, there is no reason to privilege the status quo when constructing theories. These arguments seem to me decisive, but the case against an institutional approach can be further strengthened.

Buchanan argues that a remedial right to secede, which sanctions secession only in cases where the secessionists have suffered specific wrongs, is preferable because it leads to less secession. “Given that the majority of secessions have resulted in considerable violence, with attendant large-scale violations of human rights and massive destruction of resources, common sense urges that secession should not be taken lightly,” and “there is good reason to believe that secession may in fact exacerbate the ethnic conflicts which often give rise to secessionist movements” because it gives rise to a new minority in the seceding state and an even smaller minority in the rump state (Buchanan 1997b, 44-5). This conclusion rests on an inappropriately circumscribed field of consideration. It argues that secession occasioned by looser restrictions would be as violent as existing secession without considering whether the existing restrictions are in part a cause of the violence. Secession may typically be

---

<sup>24</sup> A much more expansive set of arguments along the same lines can be found in Altman and Wellman (Altman and Wellman 2009, 54-67).

accompanied by violence because it is greatly restricted, commonly considered illegitimate, and is pursued almost entirely by persecuted minorities that see little other option. If a more permissive theory of secession were in place, we might expect to see less violent secessions because opposition to secession would be seen as less justified and because groups other than those in dire straits would choose to secede. The creation of new minorities in the seceding state and the rump state is a problem, but it is no more or less of a problem than the existing minorities in the overall state, and there is no reason to overly privilege one state of affairs instead of the other, or at least some reason must be provided to avoid begging the question. Also, we might think that the fact that secession generates conflicts tells us nothing about the right to secede just like the fact that divorce generates conflicts tells us nothing about the right to divorce. It may be unfortunate that secession (or divorce) occasions violence, but this is not the correct way to argue against the existence of a right. Finally, even if we find these concerns dispositive, this only suggests that we should incorporate them into our evaluation of when a right to secede exists, which my theory is able to do. So, at best, this argument puts my theory and Buchanan's at an equipoise.

Buchanan further argues that theories of secession can be judged on four principles: "minimal realism," "consistency with well-entrenched, morally progressive principles of international law," "absence of perverse incentives," and "moral accessibility" (Buchanan 1997b, 42-4). These requirements are described as "relatively commonsensical and unexceptionable" (Buchanan 1997b, 44). A theory of secession crafted to meet these criteria would look much different than one that could safely ignore some or all of them, and it is therefore important to see if the case can be made for incorporating these limits on a theory of secession.

The first criterion is minimal realism. In Buchanan's words, "a theory is morally progressive and minimally realistic if and only if its implementation would better serve basic values than the *status quo* and if it has some significant prospect of eventually being implemented through the actual processes by which international law is made and applied" (Buchanan 1997b, 42). Permissive theories of secession have difficulties meeting this criterion because states do not want to sanction the violation of their territorial integrity. We should care about what states desire because "states have a *morally legitimate interest* in maintaining their territorial integrity" (Buchanan 1997b, 46). This claim is substantiated in his evaluation of the second criterion, where Buchanan argues that states have an interest in protecting their territorial integrity because it protects the physical security, rights, and expectations of individuals, and because it creates an incentive structure that encourages people to participate in cooperative government.<sup>25</sup> Without territorial integrity, these values cannot be protected and people cannot be assured that decisions they make will be binding for their children in the future.

The contention that protecting territorial integrity of some sort is necessary if states are to be able to serve these important roles is plausible, but what is less plausible is that the current arrangement is the only way or the best way to go about this. A theory that is unlikely to be adopted by states is not for this reason alone morally suspect,<sup>26</sup> and if the justification for respecting the right to territorial integrity is that it provides the aforementioned benefits, a further argument must be forthcoming with regard to why one particular choice is superior. The existing understanding of territorial integrity itself is not necessarily the best way to

---

<sup>25</sup> The merits of the second criterion itself will be addressed below.

<sup>26</sup> A point Buchanan acknowledges (Buchanan 1997b, 46).

achieve the goals Buchanan praises it for achieving. Thomas Pogge (Pogge 1992), for instance, has advocated an alternative view of sovereignty that distributes control throughout a number of vertically divided levels, from the village on up to the state. O'Neill (O'Neill 1994) and Matthew Smith (Smith 2008) have also proposed alternative arrangements of sovereignty that move away from the notion of absolute (or even substantial) territorial integrity on the part of governing bodies and suggest that these may be more desirable arrangements. The current arrangement of territorially distinct, mutually independent sovereign states is a relatively recent historical development, and the experience of the Italian city-states, the Hanseatic League, and feudal Europe (among many other examples) show that it is not impossible to have other arrangements of sovereignty than our current ones (Spruyt 1994). Basic assumptions of the modern state structure, such as the state's monopoly on the legitimate use of force within its territory, are relatively recent developments (Thomson 1994; Morris 2012). It is not difficult to imagine that at least some modification could be made to the principle of territorial integrity that would have the effect of better protecting security and rights than the status quo. Indeed, the inability of the world community to contest the sovereign authority of blatantly illegitimate and harmful states has led to great tragedy on numerous occasions. Finally, federalism, especially in forms where the federal states are granted a large degree of autonomy, divests the sovereign state of a degree of control over its territory. To the extent that it can ever be legitimate for a group (like, for instance, the Quebecois) to demand federalist arrangements that grant them some independence from the central sovereign state, this would suggest, *pace* Buchanan, that in some instances the state can sometimes lack a morally legitimate interest in maintaining a stranglehold on its territorial integrity in the form of its ability to control the laws and so on in the territory in question. Just

as these considerations might lead us to question the basis of territorial integrity upon which Buchanan relies in order to say that his theory better serves basic values, considerations about which specific borders would work best can lead us to endorse a theory of secession that allows the redrawing of borders outside the cases compassed by Buchanan's theory.

Associationist theories, ascriptivist theories, and my theory can all offer reasons to draw new borders in ways that better serve basic values than the status quo. Even if it is implausible that this will occur with associationist theories and ascriptivist theories, it is guaranteed by my theory, because on my theory secession is justified *only if* it would better serve the values in question, assuming the values are indeed ones that we need to respect.

As noted above, Buchanan argues that granting states the ability to maintain their territorial integrity ensures that people can participate in cooperative government without worrying whether their changes will be binding in the future for their children and so on. This charge presupposes that politics cannot be carried out in a manner that would lead to agreements that would transcend the borders drawn by secession. In short, it likewise assumes that the current arrangement of territorial sovereignty is the only possible vehicle for effective state power. If states are taken to be completely sovereign over their own laws, then it is understandable why secession might wipe out laws made in the past and thus make people worry about how binding their decisions will be. If, however, we can imagine constraints on sovereignty of the sort that would require seceding states to maintain some kind of legal continuity, or any sort of other solution that we might imagine, we are left with fewer reasons to agree with Buchanan on this point. One might even argue that a movement of sovereignty away from states and towards some sort of world state or large governing body, invested with the ability to protect basic human rights (including, perhaps, a right to secede) would do a

much better job than the present arrangement of sovereignty. This is the thrust of O'Neill's and Caney's theories of cosmopolitanism which my theory can use to generate conclusions about secession. The question is at the very least open to discussion, and we should not simply assume that however we answer these complicated, largely undecided (and to some degree unexplored) questions raised above will tell in favor of Buchanan's theory as opposed to any other. The requirement that newly-seceded states set up these kinds of arrangements, and other sorts of modifications that can preserve the goods Buchanan is worried about even in cases of secession, can easily be accommodated by my theory of secession and can also be limitations on associationist and ascriptivist theories, if needed. We do not need to be pushed all the way to remedial theories specifically and a certain sort of theorizing more generally just by the concerns Buchanan adduces.

Finally, even if we accept that our existing conception of territorial integrity is crucial to the international order, even to the point of preserving existing borders even if this entails certain costs, Buchanan's remedial theory of secession itself sanctions the violation of territorial sovereignty in certain cases. That is what it means for his theory to be a theory of secession: in the cases in which a group is being mistreated, Buchanan's theory allows the group to violate the state's territorial sovereignty by seceding. The question, then, is not whether territorial integrity can be violated but where the line ought to be drawn. Buchanan draws the line in one place, and presumably if another theory of secession posits a moral right to secede in some given instance, we are dealing with a case where the line has been drawn at a different point than that drawn by Buchanan. A remedial right to secession is only willing to allow the violation of territorial integrity after grave cases of injustice; a theory like Wellman's allows it much more often. It is begging the question to say that sanctioning fewer

violations of territorial integrity is desirable, because we are really worried not about the *volume* but about the *permissibility* of territorial violation. In other words, if the world were such that a remedial right to secede sanctioned more secessionist movements than it currently does, because in this world many, *many* governments were mistreating minorities, we would not for this reason seek to find an even *more* restrictive right to secede. Rather, we would simply acknowledge that our theory of secession, endorsed for other reasons, allows more secession in this specific set of circumstances than it would in some other set of circumstances. This is the same attitude we should have when choosing *between* various theories of secession. One theory may sanction more or less secession, but this is just a fact that can be observed about it rather than a way to judge its correctness. Or, at the very least, we would want a principled reason for preferring a theory that sanctions fewer secessions - that secession often causes issues might be true, but the correct theory of secession is going to sanction some number of secessions, and although we might regret it if our theory sanctions more secessions than we would prefer, this doesn't suggest that the theory is wrong for any substantive issue. Plus, it is not clear that my theory actually *does* sanction more secession than Buchanan's, so perhaps it is irrelevant whether this criterion ought to apply to our theories of secession. My theory may turn out to sanction even *less* secession than Buchanan's, in which case it would pass the test with flying colors. Whether this is the case depends entirely on features specific to each particular case of secession.

Buchanan's second criterion is that "a proposal should build upon, or at least not squarely contradict, the more morally acceptable principles of existing international law, when these principles are interpreted in a morally progressive way. If at all possible, acceptance and implementation of a new principle should not come at the price of calling into

question the validity of a well-entrenched, morally progressive principle” (Buchanan 1997b, 42). It is better to adopt the progressive interpretation of international law, which matches up with a remedial right to secede, than to reject the progress international law has made by positing a theory that allows much more secession. This ties the legitimacy of a moral theory much too closely to the existing state of international law. That the accepted law has moved in a morally progressive direction of late is good, but the vagaries of what is currently acceptable in the international realm should determine the moral theory we adopt no more than changing interpretations of domestic law should alter our theories of justice or punishment. It would indeed be a shame to contradict a morally praiseworthy trend in the traditionally conservative international legal sphere by endorsing a more radical view, but this clearly only tells against trying to enforce the correct idea when it is not feasible, rather than against the adoption of the idea itself. Wellman puts it well when he writes that a conflict between international law and our theory “should inspire us to do all that we can to foster international respect” for the values in question until the actual theory itself is enforceable (Wellman 2005a, 167).

The third criterion Buchanan believes theories of secession should be judged under is their tendency to create perverse incentives:

Acceptance of the proposal, and recognition that it is an element of the system of international institutional conflict resolution, should not encourage behavior that undermines morally sound principles of international law or of morality, nor should it hinder the pursuit of morally progressive strategies for conflict resolution, or the attainment of desirable outcomes such as greater efficiency in government or greater protection for individual liberty (Buchanan 1997b, 43).



His theory passes, he argues, because states will treat their minorities right so that they do not acquire a remedial right to secede, while a permissive theory of secession will encourage states to deny resources and autonomy to minorities in order to keep them from being able to break away and function as their own state. This is not a perspicuous way to judge theories of secession. It takes for granted the existing incentive structure and changes only the bare conditions under which a group can legitimately secede. Consider the following perverse incentives that one might charge to Buchanan's own view: states will forcibly relocate minorities to prevent them from being territorially concentrated enough to secede even in the face of grave injustice; states will feel free to wreak all manner of injustice on their minorities as long as they stay under the line that justifies secession; states will move with more viciousness and alacrity during ethnic cleansing or genocide in order to make sure there are not enough minorities left alive to secede; states will prevent movement into and out of areas where minorities live in order to keep evidence of their persecution hidden. David Copp recognizes this issue, although he is slightly less apocalyptic in his criticisms. He points out that "states would have incentives to prevent groups that they have treated unjustly from concentrating in territories, from developing or retaining group identities of the kind that often lie behind groups' desires to secede, or from otherwise qualifying as territorial political societies" (Copp 1998, 243). All of these are of course possible, and would be methods of reducing the likelihood of secession under Buchanan's view, but we do not imagine these to be obvious strikes against him because these actions are morally objectionable and likely to occasion more trouble than reward for the state.<sup>27</sup> Clearly, there are some perverse incentives

---

<sup>27</sup> Of course, one may be less sanguine about the prospects of avoiding these kinds of atrocities with any manner of regularity, especially in light of the freedom accorded to totalitarian states like North Korea with respect to their populaces. Anyone harboring these suspicions will consequently disagree with Buchanan about the efficacy of his own theory at preventing perverse incentives, and probably with the possibility of coming up with any

that are off-limits. What these are, though, is a function of what we believe to be morally objectionable and morally required.

The perverse incentives that Buchanan attaches to Wellman's theory, if Wellman is correct, should consequently be seen as especially morally objectionable actions *precisely because* they attempt to prevent groups from exercising their moral right to secede. If it is wrong to prevent oppressed groups from exercising their remedial right to secede, as Buchanan believes it is, then we must endorse their right even if it could potentially lead to perverse incentives. Because we endorse the right, the incentivized behaviors become all the more objectionable and acquire an air of almost complete illegitimacy, as the list in the paragraph above hopefully demonstrated. Were we to accept a theory like Wellman's, the perverse incentives Buchanan identifies would likely seem all the more terrible and subsequently be that much less likely to occur without international sanction. Daniel Weinstock similarly argues that that "the prudent institutional designer... can, through a judicious use of sanctions and rewards, affect the utility-schedules of relevant actors in ways that will increase the likelihood that the goods underpinning the right will be realized, and lessen the chances that the foreseen negative consequences will ensue" (Weinstock 2001, 146). The current practice of international law does not sanction anything like Wellman's right to secede, but if it did, it could possibly alter our perception of circumstances such that opposition to non-remedial secession became just as suspect as opposition to remedial secession. Finally, it is hard to imagine exactly what perverse incentives would be generated by my theory of secession, given the thin nature of the prescriptions offered by the theory.

---

theory of border alteration that won't lead to its own terrible consequences. If any theory has a chance of avoiding these rocky shoals, it would probably be mine, which leaves as much as possible unspecified so as to be able to accommodate situations like this, as I will argue below.

Moreover, any perverse incentives the theory engenders could be charged to the version of cosmopolitanism we endorse rather than the theory of secession specifically. If this is a good objection against a cosmopolitan theory, this maybe just suggests that we need to pick a different cosmopolitanism.

Buchanan's last criterion is moral accessibility: "the justifications offered in support of the proposal should incorporate ethical principles and styles of argument that have broad, cross-cultural appeal and motivational power, and whose cogency is already acknowledged in the justifications given for well-established, morally sound principles of international law" (Buchanan 1997b, 44). He notes that none of the theories of secession that he considers "clearly fail[] the test of moral accessibility" but points out that a remedial rights only theory fits our intuitions better because if anything will justify secession, the injustices required by a remedial rights theory will (Buchanan 1997b, 55). Few, however, have the intuition that any group can secede for almost any reason, as in a theory like Wellman's. This again takes the status quo for granted. Intuitions about border alterations, like intuitions about any complex political action with numerous moral dimensions, cannot be immediately trusted as correct or even close to the truth when they have been formed in a specific climate with very specific guidelines. The Westphalian model of sovereignty, which holds stable borders and nonintervention up as the chief virtues of international relations, has been built up for hundreds of years through norms and institutions, both explicitly and implicitly.<sup>28</sup> From before the peace of Westphalia up to the most recent United Nations charters, one specific model of international political morality has reigned supreme, and it is only recently that actions to protect human rights have begun to acquire legitimacy in the face of intuitions

---

<sup>28</sup> See for instance Derek Croxton (Croxton 1999); Bruce Bueno de Mesquita ( Mesquita 2000); Daniel Philpott (Philpott 1999); and Andreas Osiander (Osiander 2001).

against intervention in a sovereign state (Annan 1999). Buchanan's remedial theory of secession avails itself of these newfound intuitions by restricting secession to cases of human rights violations, but if anything this only shows that it is more likely to be a contingent product of the times than a morally comprehensive solution. (Buchanan himself argues that we should be quicker to incorporate at least some aspects of distributive justice into our thinking about international relations in the way that we have recently adopted standards about human rights (Buchanan 1997b, 312-3).) If alternative models of sovereignty had held sway for the past 600 years, intuitions about border modification might easily support a theory like Wellman's. Without a cognizance of the forces that have shaped the influences on our intuitions, conclusions we draw from them can take on a limited form that is too tightly bound to present contingencies. That there is disagreement in the first place about what the correct theory is should give us pause before we turn to our intuitions to decide the issue.

Thus I do not think that the four criteria Buchanan suggests are good ones to use in order to circumscribe the set of acceptable theories of secession. At best they are good limits on which theories we ought to use as a direct basis for shaping international law or for telling us what we ought to do in actual situations right now. Finally, we might note that many of Buchanan's arguments get much of their strength from his arguments against theories that are more permissible: sanctioning too much secession, providing perverse incentives, and so on are results that he aims to pin on theories that give more leeway to secessionists. In its most basic sense, the theory I defend is neither permissible nor impermissible compared to other theories, because it leaves so much up in the air, but given certain assumptions, we might possibly expect that the theory I defend is not particularly permissive, at least compared to the associationist and ascriptivist theories, which sanction secession for groups that desire it or for

nations, respectively. To the extent that Buchanan is right about the terrible results of being permissive about secession, my theory ought to be able to avoid these results because it of course cares quite a bit about results, as evaluated by our preferred brand of cosmopolitanism. It is even possible that in practice my theory would be even *less* permissible than Buchanan's, because it at least countenances the possibility that a mistreated minority would have no right to secede because this secession would be bad for others, like a third party or even the majority in the state that is mistreating the minority. This is one of the biggest objections to my theory, and it will be addressed below. The point here is just that unlike ascriptivist and associationist theories, which almost certainly permit more secession than remedial theories, my theory is not necessarily more permissive.

Wayne Norman highlights one additional reason to prefer an institutional approach to theories of secession. Secession is one of a series of “issues that are so conceptually bound up with the idea and apparatus of the modern state or the system of states that it would be peculiar to try to address them outside the context of this network of institutions we have assembled so recently in human history” (Norman 1998, 47). Just as the answer to “the question of the principles that justify an appropriate amending formula for any given constitution” would be impossible to deduce from first principles absent considerations about the specific political institution in question, the question of secession must fit in with the modern state system and the institutions it comprises (Norman 1998, 47). Thus the question of when a group has the moral right to secede is the same as “the problem of justifying the best legal procedure for regulating secessionist politics” (Norman 1998, 48). The issue with this approach is that Norman equivocates about what constitutes an institutional approach. When he is detailing the structure that a theory of secession must take, the institutional approach

according to Norman is just coextensive with working out what international law ought to be. If this is right, then the institutional approach likely renders my theory useless, or at least implausible, and the same goes for associationists and ascriptivists. Buchanan's approach, meanwhile, fares quite better, as does Norman's, which is built on Buchanan's but which reaches somewhat different conclusions. However, if *this* is what Norman means by the institutional approach, it enjoys no support from the fact that secession presupposes the modern state system, because surely the fact that the modern state system exists does not on its own tell us that the only moral question relevant to secession is what international law ought to be. The institutional character of the modern state system which is presupposed by theorizing about secession only gets us an institutional approach in a much more general sense: any approach to secession must presuppose the existence of certain institutions, namely, the state system. If *this* is just what Norman means by the institutional approach, then all theories of secession can adopt it. Nobody is ignoring or rejecting the existence of states. This leaves us more than enough leeway to undertake investigations into the morality of secession that are not bound by the requirement that we generate nothing that couldn't serve as a principle in international law. It simply requires that our theory of secession not somehow transcend the existence of states. It is hard to imagine how a theory of secession could do so, especially given how I have specified what it means to have the right to secede, because, as noted above, the right to secede entails four powers, all of which are powers to bring about claims against others with respect to the creation of a new state. This of course presupposes the institution of states, and thus it meets the bar Norman sets for institutional theorizing even though it cannot come close to the much higher bar that Norman sets.<sup>29</sup>

---

<sup>29</sup> Buchanan similarly argues that because the state is an international legal institution, questions of secession must be questions of international law, although his focus is on the idea of state legitimacy rather than just the

The sorts of objections I have raised to Buchanan's criteria and to Norman illustrate a larger point which suggests that we ought to go beyond institutional theorizing when formulating theories of secession. Secession is an inherently state-centric question, because secession is simply the process of forming a new state or leaving a state to join another state. Arrangements of political power that cross state boundaries or which are not otherwise traditionally organized are simply outside the scope of secession specifically. They are, of course, not outside the scope of political philosophy more generally, and we should be cognizant of this when we formulate theories of secession. A theory of secession should not ignore the fact that secession is far from the only option for altering arrangements of political power. Granting certain rights to groups and thus allowing them some degree of autonomy short of secession is one example suggested by Will Kymlicka (Kymlicka 1989) and Margaret Moore (Moore 2015). Framing the question of secession as one of what the international law surrounding secession should be is an approach that moves us away from looking at the more fundamental concepts involved, like self-determination, and towards looking at fruitful changes that can be made to existing institutions. The latter is a perfectly fine project, but the former is also important, because engaging in the former project allows us to use our entire suite of normative concepts to approach the question, rather than being limited by circumstances that are contingent on how international law has been created. There is no reason to think that international law is coherent, consistent, and comprehensive from a normative point of view, especially because non-traditional arrangements of political power simply are not compassed by existing international law. Hewing to international law

---

idea of the state (Buchanan 2003, 24). I take my argument against Norman to also defeat Buchanan's contention. Altman and Wellman offer a response to Buchanan similar to this one against Norman (Altman and Wellman 2009, 56-7).

potentially leaves us with a piecemeal theory of secession, or of anything else, because solutions have to be crafted in ways that fit existing categories.

## **2.2 Remedial Theories and Intuitions**

One further reason to think that a remedial theory of secession is the correct approach is that it matches the intuitions that many have about when secession is morally justified. Perhaps the strongest intuition that remedial theories easily capture is the intuition that a group which has undergone grave injustices has a right to secede. A minority that has been subjected to economic exploitation, political discrimination, and especially violent displacement and assault of the sort represented by ethnic cleansing surely has the right to secede if anyone does. The minority in question, we might reasonably think, has no duty to remain subject to the government that is mistreating it. To think that there is any such duty would be perverse. At least *prima facie* there seems to be no reason to disagree with Steven Weimer when he says “I do not find it difficult to accept that a group is justified in seceding from an existing state that has subjected it to” what Buchanan dubs “persistent and grave injustices” (Weimer 2013, 627; Buchanan 1997a, 351).

A second intuition which is weaker but still compelling in the eyes of many is the intuition that any old group of people cannot simply pick up and leave a state on no basis other than what is effectively a whim, an intuition associationist theories cannot easily capture but which remedial theories can definitely capture. Just *wanting* to leave a state, we might think, does not give one a right to leave. Indeed, states typically go so far as to fight wars to prevent secessionists from leaving, and absent any mistreatment of the secessionists by the state, one might think that the state has a point (even if going to war is perhaps over the



line).<sup>30</sup> For instance, one of the objections against secession raised by Abraham Lincoln relies implicitly on nothing other than the idea that secession is objectionable on its face.

Addressing the secession of the Southern states, he asks “why may not South Carolina, a year or two hence, arbitrarily, secede from a new Southern Confederacy, just as she now claims to secede from the present Union” (Cited in Wellman 2005a, 67)? Wellman notes that “as it stands, this argument may not appear very compelling,” because what it lacks is some reason to think that secession is bad: otherwise, we have no reason to worry about the notion that secession will lead to more secession (Wellman 2005a, 71). Wellman rehabilitates Lincoln’s argument by adding additional machinery, but one simple and reasonable way to read Lincoln is to see him as appealing to an intuition that lay people, at least, seem to endorse: secession is simply bad, and thus *prima facie* unjustified. The Southern states are in a bad position when they argue that they ought to be allowed to secede because this will leave them unable to object to secession on the part of any states that make up the Confederacy. Given that the Confederacy would not want secession to occur, because secession is bad, the United States can say to prospective secessionist Southerners that, on pain of inconsistency, they must realize that their desire to secede is inconsistent with their perfectly reasonable desire that others not secede from them. Asking for an exception by claiming a right to secede is akin to asking to be allowed to steal or lie while expecting others not to do so.

Even if one does not share the fairly simple and unsophisticated intuition that secession is just a bad thing that we ought not to encourage, it is easy to imagine more detailed reasons for thinking that secession is bad. Secession is disruptive, conducive to

---

<sup>30</sup> My entirely unsystematic investigation suggests that this intuition is not as often held by political philosophers or by people from Quebec, Scotland, and other areas that have expressed secessionist desires, but it is otherwise a popular one, especially with respect to a group of people trying to secede from *your* state as opposed to from just any old state.

conflict, and seemingly inimical to the spirit of togetherness and cooperation we might want to foster amongst humanity generally and co-citizens particularly. Put simply, particularly permissive theories like associationist theories seem to sanction too much secession compared to the more reasonable, less permissive remedial theories. Divorce as an analogy for secession might be apt in a way the associationists might not be sanguine about: secession, like divorce, brings with it a variety of problems, and if there is a way to make the “marriage” work, we ought to pursue these routes rather than heading straight for dissolution as the solution. If something awful has happened, then, as the remedial theory acknowledges, there may be no way to salvage the relationship, but absent that, it seems hasty to endorse a right to secede without any wrongdoing on anyone’s part, and even without any evidence that the current arrangement is at all sub-par.<sup>31</sup>

For the first part of my argument, I will take for granted the legitimacy of these kinds of intuitions. Although I think there may be reasons to reject some or even all of them, anyone willing to be that revisionist with respect to intuitions about borders is likely to be amenable to whatever theory of secession does best along other lines, initial intuitions be damned. This claim - that a willingness to revise borders, even in the face of conflicting intuitions, tells in favor of my theory - will be argued for later in this section. Here, though, I aim to deal with those who have the intuition that secession, for various reasons, is not typically permissible. If we think these intuitions make sense, we will be tempted by remedial theories. I think, however, that we can be equally (if not more) tempted by my own theory on the basis of these intuitions. This is because the sorts of considerations that would undergird these intuitions are

---

<sup>31</sup> Of course, the divorce analogy may tell against the remedial theorist and in favor of the associationist if we think that, regardless of how the marriage is going, anyone has a right to leave their marriage for any reason. Denying this is a fairly regressive stance to take towards marriage, but we might think that in the political realm it is a more plausible position to hold.

considerations that my theory of secession can avail itself of as well as or better than the remedial theories can.

The strongest intuition is that a mistreated group has a right to leave the state. Why might we think this? The answer is not hard to imagine. The mistreated group has been *mistreated*: bad things have happened to it, bad enough that we think it ought to be able to break off from its state, taking territory with it, so as to hopefully get them a bit of independence from the offending state and immunity to the sorts of mistreatment that it has undergone.

The fact that bad things have happened to the members of this group, and will potentially happen in the future if they are forced to remain in their state, provides a strong reason to think that my theory will endorse a right to secession. It is hard to imagine actual cases where the mistreatment of a group of people will lead to such beneficial effects for others that we wouldn't prefer a world where the group was not mistreated. If, plausibly, we would prefer the world where the group secedes because secession will prevent more wrongdoing against this group, then the group has a right to secede, at least in the case where secession would help bring about this beneficial result. If the case is hopeless either way, my theory will be neutral between both options, and if the case is even worse if the group secedes, perhaps because this will not protect it and it will also expose another minority in the rump state to additional persecution or something like this, then my theory says there is no right to secede. It is hard to imagine a case like this occurring, but it does not seem unreasonable to say that if secession is not going to be an effective remedy for the wrongs in question, then a remedial theory of secession will look much less plausible compared to my theory. If the possibility of the remedy is closed off, what use is a remedial theory?

Beitz too thinks that this is the right way to view these sorts of cases according to his conception of cosmopolitanism. Addressing colonies, the groups of people who have by far the strongest remedial claims due to the horrific mistreatment that characterized colonialism as practiced by the various European powers, Beitz argues that “while colonial rule is usually illegitimate... there is no assurance that successor governments will be any more legitimate” (Beitz 1979, 102). “What is certain,” he says, “is that members of colonized groups have a right to just institutions; whether they have a right of self-determination depends on the extent to which the granting of independence would, in particular circumstances, help to minimize injustice” (Beitz 1979, 102). He agrees that the actual situation is such that it is almost always the case that independence (secession, in other words) typically works out better, but this “can only be settled definitely (if indeed it can be settled at all) with reference to particular cases” (Beitz 1979, 102). The recourse to empirical investigation of each specific case simply highlights the fact that what we want to address is the injustice on the ground, and while the remedial theory is typically right to sanction secession, the reason for this is that we want to deal with the injustice, not because we think there is some inherent link between being mistreated and having a right to one’s own state. Secession is a remedy (hence the label “remedial”) and if the remedy is not going to work, there is no reason to prescribe it. My theory of secession can account for this fact, while remedial theories cannot.

Moreover, my theory of secession does a better job than a remedial theory because it is able to go beyond simply capturing the intuition that oppressed groups ought to be able to secede in order to protect themselves. My theory adverts to the mechanisms by which this sort of protection can be achieved and incorporates this mechanism into the justification provided by the theory. What the actual mechanism *is* depends both on circumstance and on various

empirical considerations which I will not adduce here beyond briefly sketching them, but it's not hard to imagine them. Sovereign states have a recognized right in international law to protect themselves, which means aggressors are automatically in a suspect position with respect to attacking the group in question, whereas internal oppression is less obviously condemned in current international law. Sovereign states have recognized rights in international law to tax their citizens, raise an army, enforce borders, and carry out other similar activities, all of which can make it easier to resist mistreatment than it would be if the group in question was simply internal to the oppressive state. Sovereign states are recognized by other sovereign states - they have a seat in the United Nations, the ability to make treaties with other states, and so on. These privileges and powers may be crucial to securing defensive alliances and discouraging other states from interfering, violently or otherwise, with the group in question. These and similar mechanisms are what we might think give rise to the intuition that secession is a good remedy for mistreatment: the newly created state can protect its citizens. Why, then, does my theory do a better job of incorporating these mechanisms into the justification of the right to secede than a remedial theory? The answer is that a remedial theory of secession does not require that all or any of these mechanisms be effective in any given case of secession. According to Buchanan's remedial theory, for instance, "the state's refusal to cease serious injustices it is perpetrating against the seceding group can justify secession" (Buchanan 1991, 153). Whether the state will continue to inflict these serious injuries on the newly-seceded state is not the central issue.

However, one might wonder whether this is fair to remedial theories of secession. Are remedial theories really committed to the idea that secession is a right even in a case where secession will not be an effective remedy for the wrongdoing that remedial theories cite as the

basis for the right? There are two options for the remedial theorist. Either the remedial theory in question is committed to the idea that there is a right to secede even if secession would not effectively serve the remedial purposes that we hope it might, or the remedial theory is not committed to this idea. Although most remedial theories do not make it overtly clear that they are committed to the first option, there is a sense in which this is a charitable rather than an uncharitable reading of them. The two main remedial theorists are Buchanan and Norman. They both approach the question from the institutional direction. As I argued above, I do not think the institutional approach is the best way to come up with a theory of secession. Regardless of this, though, the institutional approach, once adopted, has sensible reasons for endorsing a remedial right even in cases where the remedy would not be effective. The point of an institutional approach to secession is to formulate principles that can be adopted in international law and otherwise used as the structure of international morality in a context where the theory of secession is used to make specific decisions. Theories of secession must be able to “provide significant guidance for international legal reform” and must address the question of when a group should be “recognized as having a right to secede as a matter of international *institutional* morality, including a morally defensible system of international law” (Buchanan 1997b, 32). These are not circumstances where we want the potential results to be exactly examined each time in order to see if there is a right to secede, for two reasons.

The first reason is that would be impractical from both a practical and a political point of view. Practically it can be difficult to work out what is likely to happen if a group secedes. This is a very complicated question involving many variables. Even if the practical question were simple, the politically fraught nature of each case is going to make it very difficult for

international institutions to come to any conclusion: the institutions themselves would have to be unbiased, which is hardly assured in every case, and the sorts of information they would be looking at to make these determinations would be shot through with the influence of various parties that want to determine the outcome one way or another. Prospective secessionists and their allies have an incentive to exaggerate the good that would result from secession and the bad that would result from the opposite, and the same applies to opponents of the secession.

A second reason this approach would be impractical for international institutional morality is because it is unreasonable to put the burden of proof on the oppressed prospective secessionists, which would be the result of withholding an endorsement of the right to secede until it has been determined that secession would be an effective remedy. When the stakes are such that a mistreated group is pitted against their antagonist, as a matter of policy it makes more sense to support secession for these mistreated groups on the assumption that the cases in which this will be a bad idea will be greatly outnumbered by the cases in which delaying a recognition of a right to secede would just lead to more oppression (which can include killing and other rights deprivations).

Thus, if we grant the remedial theory argument that political philosophy should give us dictates that would function as effective principles to regulate international law, then it makes sense to read remedial theories as being committed to viewing secession as something that a group has a right to when it has been mistreated, even if secession won't stop this mistreatment.<sup>32</sup> If these theories are indeed committed to this view, then we return to the point

---

<sup>32</sup> If we grant that the institutional approach is the right one, this will not bode well for my own theory, because my theory would not serve very well as a guide for institutional design. Thus, although I'm willing to grant the point provisionally to show why it might make sense for remedial theorists to be committed to the view that a right to secede exists even when secession won't be an effective remedy, I cannot be willing to grant the point more generally - my arguments above about how the institutional approach is not the only and best way to theorize about secession must go through for my account to be plausible.

in the argument above where I pressed the objection that it makes little sense to endorse a remedy when the remedy is not effective, especially from the point of view of capturing the important intuition that mistreated people should be able to avail themselves of a remedy. The answer of the remedial theorists is that endorsement of the right even when it fails to constitute a remedy is the best option, all told, but if we reject the restriction to institutional theorizing as I have above argued we should, a better option emerges, which is that the efficacy of the remedy should tell us whether we ought to endorse the right.

What if, instead, we read remedial theories as being committed to a remedial right to secede only in instances where secession would be an effective remedy? The problem with this approach is that it is hard to see why we would then endorse a remedial theory of secession as opposed to my own theory. The theories would give the same answer in the case where secession would not be an effective remedy: there would be no right to secede. The only time the two would diverge is when secession would be an effective remedy for the seceding group in terms of alleviating the injustice they suffer, but this remedy would be outweighed by negative results for third parties.

For instance, if we adopt O'Neill's cosmopolitanism as our standard, then secession that weakens a supra-state institution which is instrumental to the provision of justice for many third parties would be suspect: that the citizens of the seceding state would get more just institutions is not much comfort to the greater number who are deprived of just institutions, and it's unclear why the secessionists should have priority. The remedial theory, in this case, tells us that injustice to one specific group, the secessionists, matters more than injustice more generally. But this is implausible. That the secessionists are able to put their desire for justice into the words of a "right" to secede, leaving the third-parties worse off, is



just an accident of history and how borders were drawn: in other words, it is only the fact that the remedy to the injustice the secessionists suffer can be solved via secession that tempts us to think they have a special right to seize on this remedy at the expense of third parties. There is no good reason to reify existing borders like this, because we could easily imagine a different world where the third parties could only prevent the injustice in question by themselves seceding, at the expense of the secessionists in our actual case. In this hypothetical case, we would either implausibly switch our judgment to favor the third parties for no reason other than that they happen to be plumping for secession, or we would adopt the more plausible balancing according to which we look not to whoever wants to secede, as if this decides anything about justice, but rather to who is going to suffer injustice.

Similarly, take for instance Beitz's cosmopolitanism, according to which we similarly ask whether the requirements of distributive justice would be better served by secession. If the answer is no, then presumably this is because although the secessionists will end up better off, others will not, and again we might ask what makes the secessionists special. If the remedial theorist answers "nothing," then the remedial theory ought not to deliver a verdict that secession is permissible, because it has collapsed into my theory. If the remedial theorist does not want to answer "nothing," it is not clear what else the theory could offer, beyond "it is always necessary to privilege secessionists over third parties in questions of justice, simply because the secessionist are secessionists." This seems arbitrary. The best defense one might give for it is that secession is a question of rights, and the third parties at issue, although they will be harmed by the secession, have no claim against the secessionists that this harm not occur. This gives rise to the question, "why do the secessionists have this right, while the third

parties do not have any similar right that gives them a claim against the secessionists (or indeed anyone)?”

The answer is presumably something like “the secessionists have been mistreated in a way that violates some other right they have not to be mistreated, whereas the harm that the third parties will suffer from the secession is not the sort of mistreatment they have a right not to suffer.” Perhaps the third parties will suffer from a weakened federation which the secessionists will no longer be contributing to. Notice, though, that we have to figure out the question of whether the third parties have a claim against the secessionists that the third parties not suffer this harm *before we decide if the secessionists have a right to secede*. If we try to first decide the question of whether there is a right to secede on the remedial account, we have already discounted the harm to the third parties as not giving rise to its own remedial claim against the secessionists that they not secede.

In other words, the criteria we are going to use to decide who has a right not to suffer any given harm are going to have to be neutral about the question of whether the secessionists have a right to secede. Indeed, the criteria are going to look like the broad cosmopolitan criteria my theory adverts to, or like a theory of self-determination that associationist and ascriptivist theories of secession advert to. If the third parties have no special claim against the secessionists that these third parties not suffer for some action taken by the secessionists, *this will not be because there is a right to secede that the secessionists may permissibly exercise despite the harm it causes*. It will be for some *other* reason, perhaps because the secessionists have some right to political self-determination that allows them to make *any* political choice that harms others, so long as the harm is not too extreme or something similar. The secessionists can’t hold up their right to secede because this is precisely what they are

trying to establish via the remedial theory, but for the remedial theory to privilege the secessionists, it needs some principled reason to do so.

Thus to support itself, the remedial theory cannot just advert to the wrongdoing the secessionists have suffered. It has to turn also to some right the secessionists have, by themselves, to make this harm “matter” more than the harm that third parties would suffer because of the secession. Whatever this right is, it is going to be more general than a remedial right to secede, because a right to something like political self-determination has implications beyond just being able to draw borders around oneself. This right is going to have to include the conditions under which a group has a claim against others that they not harm the group. More specifically, the right is going to have to include the conditions that explain why the secessionists have this claim whereas the third parties don’t. There is no reason to think this further explanation is going to *always* favor the secessionists, because sometimes the harm to third parties *will* be something the secessionists have a duty not to inflict, but even if it *does* always favor the secessionists, this result has to obtain in virtue of *something*, and this *something* is what is doing the work, rather than the remedial theory of secession, and this *something* (if indeed it can be justified) belongs in our general theory of cosmopolitanism or in our theory of self-determination that causes us to adopt an ascriptivist or associationist theory of secession.

For instance, if secession requires ethnic cleansing carried out against a third party in order to create a viable secessionist state, we are likely to think that secession is impermissible even on the remedial theory, but even *if* this ethnic cleansing is permissible, the reason for this will be some principle that tells us why the right answer is to always favor the secessionists, or to favor the secessionists even in this case. The remedial theory cannot

provide this on its own - it has to address the broader sorts of questions that a general cosmopolitan theory would address, or it has to simply privilege certain groups because they have a right to self-determination that other groups do not.

Thus, the remedial theory collapses into mine even if it claims that we should always favor secessionists over third parties who will be harmed by secession, because the reason for this cannot be the remedial theory itself but rather overarching considerations that, if justifiable, belong in our more general cosmopolitan theory. Alternatively, the remedial theory collapses into an ascriptivist or associationist theory of secession, because it endorses a strong right to self-determination for some sort of group for reasons beyond the remedial reason, which is that the group has been mistreated.

The only other option for the remedial theory is to add an *ad hoc* condition according to which we favor secessionists over third parties who would be harmed by the secession, not for more general cosmopolitan reasons or for the sorts of reasons favored by other theories of secession but just for no particular reason at all, except perhaps that this fits better with our pre-theoretic intuitions (if indeed it does). I take it the *ad hoc* nature of this reply renders it less tempting than the alternative, which is accepting that plausible elaborations of the remedial theory must rely on some kind of more fundamental theory of the sort that ought to drive all of our thinking about secession directly, as opposed to indirectly via a remedial theory of secession.

Amandine Catala has pointed out the awkward position remedial theories are in by raising a similar objection about their *ad hoc* nature, but instead of focusing on the harms that the remedial theories advert to, she instead examines the right to political self-determination. Remedial theories are theories about which groups have a right to secede, and because a right

to secede implies a right to self-determination, we might ask not why only the potential secessionist's harms count in the calculus, but also why other groups that might similarly desire self-determination but which have not suffered harms do not merit it. Catala argues that remedial theories "are arbitrary in favoring the status quo to the detriment of non-remedial secessionist claims" (Catala 2013, 76). Because remedial theories must "already implicitly recognize the significance of self-determination by including wrongful annexation, breaches of intrastate authority, and the production of permanent minorities as valid reasons for secession," it is not clear why we might "stop short of non-remedial secessionist claims" (Catala 2013, 76). Just as I am arguing that an unbiased, objective measurement of the harms involved wouldn't prioritize harms to the secessionist group when it comes to determining whether the group has a right to secede, Catala is arguing that an unbiased, objective measurement of the importance of the right to self-determination wouldn't prioritize the self-determination of harmed groups when it comes to determining whether the group has a right to secede. In both cases, remedial theories are being charged with picking out something they take to be important, like harm or the right to political self-determination, and unjustifiably counting its importance only for a circumscribed group of people in order to determine which groups have a right to secede. A more objective balancing of the interests in question would, in my case, force remedial theories to collapse into mine, and in Catala's case, force remedial theories to collapse into something close to associationist or ascriptivist theories.

What if the remedial theorist tries to respond to this objection by agreeing that we shouldn't favor the secessionists over third parties? In that case, the remedial theory more obviously collapses into my theory, with the remedial theorist's flavor of cosmopolitanism filling in. (The only exception is if the remedial theorist is not a cosmopolitan. It is unclear

what would drive a non-cosmopolitan to adopt this modified remedial theory, but if someone did this, the theory would only collapse into mine if we could go one further step and show why cosmopolitanism is preferable to the remedial theorist's own commitments. Showing is outside the scope of my argument, partially because I am not sure anyone would pursue this line of argument and partially because making cosmopolitanism compelling is a project much larger than mine.) Once we agree that a remedial secession might not be justified if third parties are harmed by it, we are just balancing the various concerns according to our overall cosmopolitan theory, which is what my theory recommends.

Thus, no matter how we read remedial theories of secession, they represent an alternative to mine only if they countenance the existence of a right to secede even in instances where the mechanism by which secession serves as a remedy is either inoperative or is operative for the secessionists at the expense of other people for *ad hoc* reasons. In both instances, my theory does a better job of capturing this mechanism and the intuitions it drives. My theory does as well as the remedial theories when it comes to capturing the mechanism in cases where it does operate: both my theory and the remedial theory say that, because secession is an effective remedy for injustice, we should endorse the existence of a right to secede. My theory does better than the remedial theories when the mechanism does not operate, because there seems to be little reason to endorse a remedial theory of secession in instances where no remedy exists, unless we endorse it only in virtue of thinking that our more general cosmopolitan theory will give us answers that look like a remedial theory or in virtue of having adopted an ascriptivist or associationist theory of secession.<sup>33</sup>

---

<sup>33</sup> As noted above, one reason to endorse a remedial theory of secession even when the remedy will be ineffective is if we think that an institutional approach to these questions is ideal. Because the efficacy of the remedy in any given case is a difficult practical problem to solve, an institutional approach will have strong reasons for eliding the distinction between cases where the remedy is certain to be effective and cases where this

My theory also does better than remedial theories in instances where the mechanism operates as a remedy for the secessionists but only at the cost of greater damage that is done to non-secessionists. In this case, the intuition that the mechanism gives rise to, namely, that we want to prevent injustice and similar ills and that we want to endorse rights to secede that prevent these injustices, is just as much an intuition *against* secession, because of course we are worried not about just the secessionists but about everyone. Without some reason to privilege the potential secessionists from the point of view of whatever it is we worry about, it is unclear why the limitation of our consideration to the secessionists required by a remedial theory is acceptable, and even if we can provide this reason, if it is not an unjustifiably *ad hoc* reason it is going to look like a general cosmopolitan theory about all sorts of issues than a specific remedial theory of secession, and the right way to use this theory to address secession would be via my theory rather than a remedial theory that conceals its reliance on a theory of cosmopolitanism according to which certain groups (the secessionists) can cause harm to third parties for whatever reason.

I think the prospects for providing any kind of cosmopolitanism that just happens to sort itself out into recommending a theory of secession that looks like the remedial theory is implausible. This means that I think we should expect my theory to differ from remedial theories in suggesting that sometimes harm to third parties can outweigh what would otherwise be a right to secede. This kind of thinking is very aggregative in nature. It suggests that losses for one group of people may not give rise to a right to secede, simply because denying this right is necessary in order to prevent greater losses for another group of people. One might object to this mercenary way of viewing things. One might think that perhaps the

---

is more uncertain. Thus if my arguments above against the institutional approach were unsuccessful, this is a reason to endorse remedial theories as opposed to others.

question of secession is one that should be solved not by looking at all affected parties but only at the group that wishes to secede, and perhaps the group being seceded from, and this second group, in the case of remedial theories of secession, has presumably acted badly enough to explain why we might discount or disregard its interests. I do not think that we need to have a worryingly aggregative view of things to endorse the above arguments against remedial theories of secession, because secession is not necessarily the only right in question: plausibly, the sorts of harms that would befall third parties are harms they have a right not to suffer, as for instance when secession would lead to the rump state invading a third party to make up for its territory loss.<sup>34</sup>

Let us grant, though, that there is another source of the intuition that a remedial theory of secession is correct, and this source is one that looks harder to capture by my theory compared to the remedial theory. Rather than adverting to the beneficial results of secession, which may fail to obtain or which may be outweighed by harmful results for others, we might instead think that a remedial theory captures a different, more principled sort of consideration. We might think that the group that has been mistreated shouldn't be forced to stick around in the state that has oppressed it, or that some wrongs give rise to a right to secede regardless of the results, especially if the results are not dire. Just as we might endorse a right to divorce in an abusive marriage not just for the mercenary reason that this cuts down on abuse but for the obvious wrongness of thinking that someone must remain married to an abusive spouse, even if the spouse ceases to be abusive, we might also endorse a right to political divorce in instances where a history of mistreatment has made it implausible to think that a group lacks a right to secede.

---

<sup>34</sup> I also do not think that in the context of large-scale judgments of political morality that this kind of aggregative thinking is overly worrying. This point will be defended below in section 4.



In this case, I do not think my theory does a *better* job than or even *as good* a job as remedial theories do at capturing the intuition. I do, however, think my theory can largely capture this intuition, and also explain why we should not be worried about its inability to as entirely capture the intuition. First, the way in which my theory can largely capture this intuition is by adverting to the conception of cosmopolitanism that we fill in when we calculate whether a right to secede exists according to my theory. Cosmopolitan theories have resources not just to explain bare aggregative judgments about good and bad things happening to various groups, but also to explain the justice and injustice of specific political relationships amongst groups of people in ways that are live to the possibility that unjust arrangements that give rise to a remedial theory of secession are, equally, unjust arrangements that are judged as such according to cosmopolitanism and thus condemned in terms that explain why my theory of secession would deliver a right to secede. So we should expect that, the stronger our intuitions are in any given case that a group of people has been so badly mistreated that it *must* be allowed to secede, the stronger the case will be on any plausible cosmopolitan theory that the group has a right to secede according to my theory.

O'Neill's account of cosmopolitanism, for instance, is focused not on bare aggregative questions of harms visited upon groups, but on the creation of institutions that secure the external freedom of all. Thus if we are ranking states of affairs according to her cosmopolitanism, we might rank a state of affairs in which secession has created an institution that secures more freedom over a state of affairs in which the institutions are worse but things are better along other dimensions (like total well-being). If the prospective secessionists have been mistreated by their government, this implies that the government is not an institution that does a good job of securing the external freedom of all, so we know for sure that this will be a

bad thing on O'Neill's account. The other things that must get weighed up may not amount to much, and at least they are not guaranteed to be crucial in the way that the creation of a better institution via secession will matter.

A similar result obtains for the libertarian cosmopolitanism, which is worried about rights violations above everything else and which could plausibly focus exclusively on remedying these before generating any other conclusions. This is not the result given by every kind of cosmopolitanism, though. Beitz, for instance, is committed to no particular view on institutions, self-determination, or anything along these lines, which means that an evaluation of states of the world according to Beitz's criteria may end up aggregative in this potentially objectionable manner. The same can be said for hedonistic utilitarian cosmopolitanism, which says that anything goes so long as it gets us utility. So, depending on the correct conception of cosmopolitanism, it may be that my theory will not do a good job of capturing the intuition that a group which has been subjected to mistreatment by its government has a right to secede.

Let us grant, then, that there will be some cases where my theory will not necessarily capture the intuition. In these cases, the secessionists have indeed been mistreated, but for some reason the harms that will occur to third parties should secession occur are bad enough to outweigh the claim to a right to secede. (We might think that in this case, if the harms to the third parties are this bad, our intuitions will change so that we do not favor secession. I will discount this possibility here, of course, because if it is correct, this supports my view.) My theory cannot capture the intuition that there is a right to secede here. I think this is not a huge bullet to bite for my theory for three reasons.

First, these instances are likely to be uncommon. The most likely cases would be ones in which the prospective secessionists aim to visit harm upon some other group immediately

after seceding, but in these cases even the remedial theories say that there is no right to secede, because they stipulate that the prospective secessionists have a right to secede only if they are not going to mistreat another group. There will still be rare cases where harm to third parties will occur not because the secessionists bring it about but for some other reason: perhaps the balance of power in the region shifts, leaving third parties worse off. The rarity of these cases, though, suggest that if my theory gives results that are contrary to intuitions, it will at least not do this often, and moreover we might be skeptical about whether our intuitions, which are readily applied to common cases, are really so trustworthy when it comes to odd cases that rarely occur. Without the ability to test our intuitive predictions or even understand these cases because they are so rare, our intuitions may be misfiring, or at least it may be prudent to discount them to some degree.

Second, in this case I think the marriage analogy is doing too much work. As I point out below in section 3.4, there are many ways political association is unlike marriage, and one of the main ways is that the day to day influence of a marriage is much greater than the day to day influence of simply being a member of a political association.<sup>35</sup> Unjust political exploitation may entail impoverishment, oppression, forced relocation, and other ills, but because these are the same kinds of ills that will happen to the third parties here, the only difference is that the secessionists are having these ills visited upon them by their government, whereas the ills for the third parties may be coming from anywhere, like from the rump state or from another third party. If secession were like marriage, we would probably be more worried about the people stuck in the bad marriage, who are facing all the ills associated with this, than third parties who might suffer similar ills from non-spousal sources, simply because

---

<sup>35</sup> For more on the ways in which the marriage analogy may be misleading, see Hilliard Aronovitch (Aronovitch 2000) and Jason Blahuta (Blahuta 2001), both of whom are addressed below in the discussion of the marriage.

marriage is such an intimate relation which is hard to get away from. Political association is more attenuated - that one's *own* government is inflicting the harms might even be irrelevant in many cases, especially if one is a secessionist who feels no particular attachment to the government in question.

The third reason not to worry about a failure to capture this intuition is that, given the basic insights of cosmopolitanism, I think the intuition is at least partly misguided. To the extent that the third parties actually would suffer more than the secessionists, our focus on the question of secession can unduly cause us to think that a right to secede is the right response to injustice in the world, even if this right brings with it downsides for third parties. The framing of the question is liable to mislead the intuition. If we take secession out of the picture and simply ask which of two possible worlds is preferable, we will choose the world where the secession does not occur, because there is less suffering and oppression in this world. The reason our intuition might shift if we add in the question of secession is because we are attached to notions like a right to political self-determination or some other feature that would give us a reason to favor a group that is striking out on its own over a group which does not raise any questions of political authority or borders. Below, though, in section 4.2, I argue that if we are committed to cosmopolitanism, we should not be attached to a right to political self-determination or anything like it to the degree necessary to make this intuition a legitimate one. Thus, in this case, the strength of remedial intuitions relies partially on considerations that might also be adduced in favor of a more permissive and expansive stance on the right to secede. This is not to say that these intuitions should be rejected. It is just to say that, ultimately, the remedial theory may not be the real beneficiary of these intuitions.

Finally, although this section is focused on alleviating worries that remedial theories of secession will do a better job than my theory at capturing important intuitions, it is worth pointing out that associationist theories, and to a lesser degree ascriptivist theories, also face difficulties capturing the intuitions undergirding remedial theories of secession. Moreover, I do not think that many (or even any) of the arguments I have provided here are available to these other theories of secession. Thus, even if one is not entirely convinced that my theory does better than remedial theories along these lines, it is still important to recognize that my theory does better than the other two main options, and if there are other reasons for preferring my theory to remedial theories, then on balance it may be more important that my theory captures intuitions better than the other two, and less important how well my theory does on this question when compared with remedial theories.

### **3. Self-Determination and Secession**

This completes my main discussion of remedial theories of secession, although I will still discuss them below occasionally. We now move to my arguments against associationist and ascriptivist theories of secession. The core argument hinges on the right to political self-determination. As noted above, I aim to provide a series of negative arguments designed to show that the right to political self-determination is not strong enough to support associationist and ascriptivist theories. First, though, I will explain why it makes sense to focus on self-determination.

#### **3.1.1 Why the Right to Political Self-Determination?**

I think that a strong valuation of the right to political self-determination is needed in order to make associationist and ascriptivist theories of secession plausible. It is important for my argument that this is true. It is important because in the next section I will argue that it is improper to value the right to political self-determination this much. This, then, will undermine associationist and ascriptivist theories of secession. It will not undermine my theory of secession because my theory does not depend on a strong valuation of the right to political self-determination. The other aim of this section is to explore the concept of political self-determination in detail, because the concept is crucial to many accounts of secession. First I will explain what the right to political self-determination is in section 3.1.2. Then I will use two strategies to demonstrate the importance of the right to political self-determination for associationists. First, I will just advert to fairly simple facts about theories of secession, which go a long way towards explaining why it's intuitive and unproblematic to think that associative theories of secession need a strong right to political self-determination to get off

the ground (section 3.1.3). Second, I will cite various associationist theories in order to demonstrate that they are indeed committed to a strong right to political self-determination (section 3.1.4). Finally, I will explain why ascriptivist theories are also committed to a strong right to political self-determination (section 3.1.5).

### **3.1.2 Self-Determination Defined**

In this section I will explain what the right to political self-determination is and explore some of the main arguments that suggest that at least some groups have a right to political self-determination. The first distinction to draw is between self-determination more generally and political self-determination. Self-determination generally is the ability to control what happens in one's life. A right to self-determination is a right to control what happens in one's life to the best of one's abilities, and a group right to self-determination is a right to control what happens to the group to the best of the group's abilities. Self-determination in its various forms is thus synonymous with concepts like autonomy and self-governance - Sarah Buss, for instance, uses the terms "self-governing," "self-determining," and "autonomous" interchangeably to describe a property of the will of an individual, and Altman and Wellman use "autonomy" and "self-determination" interchangeably to describe a right that a group may possess (Buss 2012, 647-9; Altman and Wellman 2009, 160).<sup>36</sup>

---

<sup>36</sup> This does not conflict with Donald Horowitz's claim that "the analogy of collective self-determination to individual autonomy is entirely specious" (Horowitz 2003, 7). His point is that autonomy and self-determination have different characteristics when they are exercised by a group as opposed to an individual - "collective identity fluctuates, as individual identity does not," for instance (Horowitz 2003, 7). We would be wrong, he thinks, to conclude that just because individuals have a right to autonomy, groups ought to also have this right. He is not claiming that individual autonomy isn't the same as individual self-determination or that group autonomy isn't the same as group self-determination. He is just arguing that we cannot go from an individual right to a group right simply by pointing out that they are analogous and by then claiming that because the individual right is uncontroversial, the group right must also be uncontroversial. As will become clear below, I agree with Horowitz on this point.

Self-determination is a wide concept that encompasses far more than just political aspects of life. Thus, political self-determination is more limited than self-determination generally. Political self-determination for a group is the ability of a group to control the political aspects of that group's existence. The group comprising everyone with red hair has no political self-determination, nor does the group comprising everyone with red hair in Arkansas, except perhaps in an extremely attenuated sense. Certainly these groups have no right to political self-determination just in virtue of their being a group. The group comprising citizens of Arkansas has some political self-determination to the extent that citizens of Arkansas control the Arkansas government, and the group comprising citizens of the United States has political self-determination to the extent that this group controls the United States government. (Even if in fact the group comprising citizens of the United States does not exercise much control over the government, it still has political self-determination to the extent that it *could* exercise control if it so chose.) Whether the groups comprising citizens of Arkansas or citizens of the United States have a *right* to the political self-determination they currently have, or a right to *more* or *less* political self-determination than they currently have, is a further question.

A person or a group may be self-determining in certain aspects without having political self-determination. For instance, I may have the ability and the right to choose my religion, my spouse, and the ways in which I express myself without having the ability or the right to vote, to participate in government, or to otherwise make political decisions. A group may have the ability or the right to practice a religion or speak a language without having the ability or the right to make most political decisions. Political self-determination can be instrumentally useful in securing other types of self-determination: if the Navajo had



complete control of their government, they could legislate that all government documents must be available in the Navajo language, and this would allow them to perpetuate the language if they so chose. Political self-determination is not conceptually necessary for other types of self-determination, though. The Navajo might lack all political power and yet enjoy complete linguistic self-determination if the United States government chooses to provide Navajo translators in court and Navajo government documents and Navajo language instruction in schools and so forth. One could thus plausibly argue that a person or a group has a right to self-determination in various spheres without arguing that this person or group has a right to political self-determination. One might also argue that a person or a group has a right to political self-determination not as a matter of fundamental rights but because this is an instrumentally useful way of securing other rights that the person or group more fundamentally has.

Buchanan borrows the distinction drawn by James Anaya (Anaya 2004) between “constitutive self-determination,” the right of a group to make “a fundamental choice concerning its political status,” and “ongoing self-determination,” which entails the right of a group to “exercise some independent political control over some significant aspects of its common life” (Buchanan 2003, 332-3). Buchanan correctly notes that ongoing self-determination “need not be full-independence” (Buchanan 2003, 333). Maximizing ongoing self-determination may sometimes entail denying that groups have a right to constitutive self-determination (and perhaps vice versa). For example, if the group of Kurds currently spread out in Iraq, Syria, Turkey, and Iran instead lived in a separate state of Kurdistan, it is not a stretch to think that this group would be much more effectively able to exercise its right to ongoing political self-determination. (This is assuming for the moment that the Kurds, as a

group, have a right to ongoing political self-determination.) This would be the case even if some other group brought about the existence of Kurdistan in violation of the Kurds' right to constitutive self-determination. In making this claim I partially disagree with Walzer, according to whom "a state is self-determining even if its citizens struggle and fail to establish free institutions, but it has been deprived of self-determination if such institutions are established by an intrusive neighbor" (Walzer 1977, 87).

There is a sense in which Walzer is correct. We can say the right to constitutive political self-determination is infringed if a group's state comes about not because of its own actions but because of the actions of a third party.<sup>37</sup> This is similar to how one's personal autonomy is infringed if one is forced to marry against one's will, even to a spouse that one will be happy with.

But there is also a clear sense in which Walzer is wrong. The group's ongoing self-determination has been greatly bolstered, and if we think that the group has a right to this ongoing self-determination, we would not want to say that this right has been violated. Perhaps we would want to say it has been violated in a very minimal sense: part of ongoing self-determination, we might think, *includes* constitutive self-determination, because the "fundamental choice concerning its political status" is one of the many aspects of a group's "political control over some significant aspects of its common life." But it makes perfect sense to violate a right in the service of preventing further greater violations of this right, as when we rightfully push someone aside, violating their right to bodily autonomy, in order to prevent them from being partially crushed by a boulder launched by an aggressor, which, if it hit, would occasion a much greater violation of this person's right to bodily autonomy.

---

<sup>37</sup> Whether this is an infringement of the right only when the creation of the state is against the wishes of the group, or if it occurs whenever outside powers interfere (as Walzer believes), is a question I leave aside.

Whether ongoing self-determination necessarily incorporates constitutive self-determination is a detail we can ignore.

This distinction between constitutive and ongoing self-determination maps on to the earlier distinctions between political and other kinds of self-determination. A group might have a great degree of ongoing religious self-determination but no constitutive religious self-determination if, in the counterfactual situation in which it attempts to alter its religious practices, the regime ruling it (or some other force) would prevent the group from doing so. A group may have constitutive and ongoing political self-determination but very little linguistic self-determination if, for whatever reason, it can't change the language it speaks (perhaps the group is incapable of coordinating such a shift, or its members don't have the resources to all learn a new language). Whether the groups in question have rights to these sorts of self-determination is a further factor. Permutations of every kind can be imagined.

The distinction between constitutive and ongoing self-determination is similar to, but distinct from, the distinction between what Cara Nine and others dub external and internal self-determination (Nine 2012, 94). External self-determination is a group's freedom from "undue external interference" such that its decisions are "respected by external powers," and internal self-determination is "the liberty" of a group "to organise itself such that it has the capacity to make and act on democratic decisions" (Nine 2012, 94). (One might quibble with the definition of internal self-determination in terms of *democratic* decision making. It is possible that some groups of people are selves that can collectively make decisions in a non-democratic manner. To decide the question one way or another requires either substantive arguments or begging the question for or against theories about democracy and its importance. I will here ignore this complication.) Constitutive self-determination is realized

by granting a group external self-determination where before it did not have this, but external self-determination is also an ongoing notion, because for the duration of the group's existence as an independent political entity, it can be more or less free from external influences.

The next distinction to introduce is between political self-determination generally and complete political self-determination. As Buchanan also points out, "secession is only the most extreme form of self-determination. Short of independent statehood there is a broad range of self-determination arrangements, with varying degrees and dimensions of autonomy within the state" (Buchanan 2003, 373). What I dub complete political self-determination is the ability of a group to completely control the political aspects of that group's existence. In the terms of the previous distinction, a group with complete political self-determination has both constitutive political self-determination and as much ongoing political self-determination as it is possible to have. The population of a democracy has the legal right to exercise complete political self-determination (so long as it can amend the constitution), whereas the population of a state in a federation has a legal right to exercise less than complete political self-determination, because there are aspects of its life that are controlled not by that population but by the larger group that makes up the federation. There is another group in a democracy that can exercise complete political self-determination aside from the entire population: the majority (at least in a simple democracy where all issues can be decided by a bare majority vote). The majority of citizens in a democracy has complete political self-determination, but because the majority often comprises different people at any given point in time, there may be no one stable group in a democracy that constantly has complete political self-determination, although any citizen who consistently votes with the majority will consistently be a member of a group (or of a series of groups) with complete political self-

determination. State sovereignty as it is currently conceived in international law consists of an international legal right to complete political self-determination or something close to it: with the possible exception of human rights violations and other violations of international law, the governments of states are recognized as having a right to control every political aspect of the state's existence.

Again, this distinction maps on to the earlier ones. A right to complete constitutive and ongoing political self-determination is the right of a group to secede should it so choose - this is because I have defined the right to secession as not just the right to form a sovereign state but also as the right to bring about claims against others that they treat the new state the way they are obligated to treat other states, and at least insofar as we take the norm among states to be non-interference, the newly-sovereign seceded state would thus be afforded complete ongoing political self-determination. Whether the seceding group *in fact* ends up with complete constitutive or complete ongoing political self-determination of course depends on whether other groups respect the seceding group's rights, and also on whether some other kind of mischance does not befall the group. If suddenly the territory the group wishes to secede in is stricken by a famine, it may be the case that although the group has a right to complete constitutive and complete ongoing political self-determination, it does not in fact have the ability to actualize either of these.

Many defenses of the right to self-determination for a group are defenses of the right to complete constitutive political self-determination and to near-complete ongoing political self-determination. Altman and Wellman, for instance, argue that the right to self-determination for any group that wishes to and is able to exercise it grounds the right for that group to secede from a state and to form a new state. This new state is largely immune to

claims from other states, except that it must afford basic humanitarian aid to the desperately needy and compensate those who are harmed by its policies. This conclusion is only correct if the self-determination that the group has a right to is complete political self-determination of both kinds - constitutive and ongoing. If a group had a right to less than complete constitutive political self-determination, this right might ground increased autonomy, as in a federalist arrangement, or special concessions for that group in the state's constitution, but it would not ground complete secession from the government in question, because there are many ways for a group to be politically autonomous without exercising complete, full autonomy in the form of the group's own state.<sup>38</sup>

The same point applies to Margalit and Raz, who argue that a nation's right to self-determination grounds its right to its own state. This conclusion only follows if the nation has a right to complete constitutive (and henceforth ongoing) self-determination, or the right to be completely in charge, because the nation could have some degree of control in political arrangements short of a completely separate state. As David Copp puts it, "which groups, in which territories, have the right to be or to constitute themselves as state? Or... which groups have 'the right of self-determination'" (Copp 1997, 277)? Steven Wall similarly calls the "full right to political self-determination" the right that is "invoked to justify secession" (Wall 2007, 237).

As the above discussion may have made clear, it would be odd to argue in favor of complete constitutive political self-determination for a group without also thinking that the group should be afforded complete or near-complete ongoing political self-determination. A right to decide whom to marry is less impressive if neither spouse has much say over the

---

<sup>38</sup> See Kymlicka 1989 and Moore 2015 for arguments in favor of this kind of self-determination.

resulting marriage, and a right to form a new state is hardly much of a right if immediately the state is subject to the sorts of restrictions that make it unclear what the point of being a separate state in the first place is. So although one might think that states have onerous duties to others, and that therefore while complete constitutive political self-determination may make sense, ongoing political self-determination must be radically curbed so as to hold states to their duties, it is hard to come up with reasons for the first thought that don't tell against the second, and vice versa.

For this reason, when we talk of secession and of a right to political self-determination, we are typically talking about complete constitutive and complete (or at least substantial) ongoing political self-determination. In what follows, I will not continue to reiterate that I am talking about both of these parts of political self-determination unless it is relevant. The “right complete to political self-determination” is the right to both constitutive and ongoing political self-determination on the part of the right holder. I will also often omit the word “political” and talk just of “self-determination,” but in doing so I do not mean to revert to a discussion of all sorts of self-determination. Rather, unless it is otherwise specified, “self-determination” henceforth refers to complete constitutive and ongoing political self-determination.

This conception of political self-determination is as anemic as I think it can get. It is possible to build more into our conception of political self-determination. For instance, we might link our conception of what is “political” more closely to specific institutions, like states or even democratic states. Thus a right to political self-determination would be a right to be in control (to some degree) of a state, or a right to be in control of, or at least be incorporated into, the democratic government of a state. I mean here to beg no questions with

respect to what is political, and in doing so I aim to avoid taking a stance on the various institutions through which a right to political self-determination might be exercised.

This leaves open the possibility that a person or a group might be described as having some degree of political self-determination without directly participating in a government, so long as there is some way for the person or group to effect political outcomes. If this wide conception of the political is too wide, one could instead conceive of political self-determination as an inherently state-centric concept, such that political self-determination is the ability to influence the actions of one's government. This will not change any of my arguments below, because secession is inherently a state-centric question, but it is worth noting that the framework of my argument does not assume anything extensive about the structure of political power.

Once we know what a right to political self-determination is, we might ask where it comes from and how strong it is. Do individuals have this right? To what degree? Do groups? Which groups? And so on. There are many different defenses of a right to political self-determination in political philosophy. To compass them all would require more summary than would be helpful. I will focus here only on defenses of group rights to complete political self-determination, because a group right to complete political self-determination is the right that is relevant to secession.

Some defenses of a group right to complete political self-determination are based on individual rights to political self-determination, while others hold that the right is a right for the group that is irreducible to the rights of its members. This is just one difference between the various defenses. Sources of the right to complete political self-determination include: the willingness and ability of the group to carry out the requisite political functions of



governance, for Altman and Wellman (Altman and Wellman 2009, 5); nationhood, for Margalit and Raz (1990); the autonomy of the individuals who make up the group, for Daniel Philpott (1995, 1998) and Simon Caney (1998); a theory of political obligation according to which consent is necessary for legitimacy, for Harry Beran (1984); the importance of securing distributive justice and the need to solve collective action problems, for David Miller (1988); respect for others, for Thomas Nagel (2005); individual well-being and the problems that attend multi-national states, for Caney (1998); and the implications of democratic governance, for Copp (1997).

Broadly, we might divide these defenses into two main groups: defenses of the intrinsic value of a right to political self-determination because of the importance of individual or group autonomy, and defenses of the instrumental value of a right to political self-determination because of the good consequences that result from positing this right. There is more agreement that perhaps some kind of group right to political self-determination exists than there is about its source, and many accounts of the right focus also on explaining why other accounts of the right fail to justify the existence of the right. Thus, although we can confidently say what a right to political self-determination entails, we cannot be specific about whether or why it exists without moving from the realm of general description into a particular account of the right.

To summarize: the right to political self-determination is a right held by groups or individuals. The right is a right to influence the political aspects of one's life. Examples of the right include an individual's right to rule a country as a dictator, an individual's right to vote in a democracy, a group's right to tax its own members to provide for public services not provided by the dictatorship under which the group lives, and a group's right to govern itself

democratically within some defined territory. Political self-determination can come in degrees, and a right to complete political self-determination entails a right to govern one's state. Absolute dictators and polities in democracies both have complete political self-determination. Having outlined what political self-determination is, I will now present two sets of reasons for thinking that associationist theories of secession are committed to a strong right to political self-determination on the part of certain groups and one set of reasons for thinking that ascriptivist theories of secession are committed to a strong right to political self-determination on the part of nations.

### **3.1.3 Fairly Simple Facts about Associationism and Self-Determination**

The first reason for thinking that associationist theories of secession are committed to a strong right to political self-determination is that this seems obvious on its face. The right to complete political self-determination is the right to politically govern oneself, to delegate this governance to another, or to fail to govern oneself. This right entails a right to secede - if one is allowed to govern oneself to the exclusion of other governments, and one exercises this right in order to displace the existing government, one has either seceded or revolted, depending on whether the original government has any territory left to remain in charge of. Whether they are committed to it directly, because they think there are strong reasons for endorsing it, or whether they are committed to it indirectly for whatever reason, associationist theories of secession have to deliver the verdict that groups have a right to political self-determination strong enough to get them complete political self-determination.

That a strong right to political self-determination is needed in order to ground associationist theories of secession becomes clearer when we think about what might ground

an associationist theory. Unlike remedial theories, which base the right to secede on some wrong visited upon the secessionists, and ascriptivist theories, which base the right on some shared characteristic amongst members of the group, associationists rely primarily just on the fact that the group desires to secede. A simple desire, of course, is hardly enough for the other two kinds of theories, and one might therefore ask what makes a group's desire to secede so important, if the group has not been mistreated and if the group is not special in some other way, because of nationhood or something similar.

The clear response from the associationists is that groups have a right to political self-determination, and on the basis of this right, if they want to secede, then it is at least *pro tanto* impermissible to stop them. The right to self-determination in the individual case surely gives the individual a right to leave a marriage or a club or to refuse to associate with certain people. A group right to self-determination works in the same way. That this right needs to be fairly large in scope is clear from the fact that it grounds *secession*, or complete divorce: in other words, the right must be a right to *complete* political self-determination rather than just to some degree of political self-determination short of complete.

Similarly, associationist theories of secession naturally endorse a strong right to complete self-determination because of the results they imply compared to other theories of secession. Other theories limit secession only to mistreated groups or to nations. Associationist theories grant the right to anyone who wants it, subject only to minimal provisos, like the requirement Altman and Wellman place on secession, which is that the group must be "willing and able to establish and maintain institutions that perform the requisite political functions" in the territory in question (Altman and Wellman 2009, 5). Although remedial theories and ascriptivist theories can be described as theories of self-

determination, because a right to secede implies a right to self-determination, the fact that only members of a strictly delimited group end up with a right to secede means that it is clear that the important element in each of these theories is not necessarily self-determination itself but rather being the sort of group that has a right to self-determination. Associationists, because they do not place any particular importance on any unique features of the group, must end up endorsing a picture of political philosophy according to which a right to complete political self-determination is one of the main characteristics of almost any group of people that desires it.

In short, associationist theories are much more liberal with the right to complete political self-determination than other theories are. That this widespread endorsement of a right to complete political self-determination falls out of associationist theories highlights the importance that these theories place on the right.

Hopefully, then, it is clear why associationist theories of secession would be committed to a right to complete political self-determination strong enough to ground secession. It is at least possible, though, to endorse an associationist theory of secession without being committed to a strong right to complete political self-determination. For instance, one might endorse an associationist theory because one thinks that this would promote overall utility, or overall average utility, or some other goal not related to any sort of right to complete political self-determination (although I am not aware of anyone who endorses a theory like this). Thus we might desire stronger evidence that any (or all) associationists actually are committed to a strong group right to complete political self-determination.

### 3.1.4 Citing Associationists on Self-Determination

I will here cite associationist theories to show that they are committed to a strong conception of the right to political self-determination. Altman and Wellman develop “an account of the right to political self-determination” which “appears to give the right to groups occupying territory within the boundaries of legitimate states, as long as those groups are willing and able to perform the requisite political functions. Even those groups within a legitimate state that have in no way been treated unjustly could, it seems, invoke a right of self-determination to ground claims to secede” (Altman and Wellman 2009, 43). This is a very strong conception of the right to political self-determination, which they are happy to admit. This account “does, in fact, involve an unusually permissive stance on state-breaking,” which is “a conclusion from which [they] do not shrink” because they are willing to “argue that many groups not often recognized as having a right to political self-determination do have a right to secede and establish their own state” (Altman and Wellman 2009, 43). Thus their account “extend[s] the scope of the right to self-determination” far beyond its traditional scope (Altman and Wellman 2009, 43). Similarly, in his earlier book, Wellman argues that “self-determination [is] valuable and should be accommodated whenever it does not conflict with political order” (Wellman 2005a, 35). He argues that “the case for political self-determination” that is strong enough to provide such a liberal endorsement of secession rights can be highlighted by noticing “how we regard the state’s interference with personal autonomy in other contexts,” personal autonomy being another extremely valuable right (Wellman 2005a, 35). In short, Wellman thinks “there are *deontological* reasons to respect *group* autonomy,” an “ambitious and controversial” proposal (Wellman 2005a, 38).

David Gauthier characterizes his associationist theory as being based in part on a “weak right” to political association (Gauthier 1994, 360). By “weak right,” though, he means “one whose exercise must be coordinated with that of other persons in such a way that, other things equal, as many persons as possible will find themselves in mutually desirable association” (Gauthier 1994, 360).

Putting to the side the complications raised by “other things equal,” which consist of considerations like economic redistribution and similar factors that may tell in favor of requiring secessionists to pay compensation to the rump state or even refrain from seceding, Gauthier’s weak right is actually fairly strong. By requiring everyone to coordinate with each other so that as many people as possible find themselves in mutually desirable association, Gauthier gives secessionists a veto over the freedom of association of those in the rump state. This is because if the secessionists do not want to associate with the people in the rump state, the people in the rump state have no “weak right” to political association that would tell in favor of keeping the state together, whereas the secessionists have a “weak right” to political association that grounds a right to secede.

He realizes this and notes that “an appeal to a weak right of association... might seem to provide a much broader justification for secession than Buchanan is willing to accept” and indeed he argues that it *does* provide this broader justification, because even once the economic considerations and other related considerations are worked out, Gauthier’s theory of secession is quite permissive, as most associationist theories are (Gauthier 1994, 364). Analogously, we might describe a “weak right” to personal association for individuals, a right the exercise of which must be coordinated with other people so that as many persons as possible will find themselves in mutually desirable personal relationships. “Weak” would be a

correct description of the right insofar as it does not allow us to associate with others against their will, or in other words to run roughshod over their own (“weak”) right to personal association.

However, we might also describe the right as a “strong” right, because on the basis of this right, we can refuse to associate with others against our will (by refusing to marry them, for instance) no matter how much they desire it. Association runs both ways - in the case of secession, and in many other cases, one party wishes to associate and the other does not. By arguing that the right to association only applies to mutually desirable association, Gauthier rules out a right to association against the will of the person or people being associated with, which rules out any claim on the part of the rump state (and any claim on the part of the person who wishes to marry me against my will).

This, then, is why we can correctly read Gauthier as holding that a strong right to political self-determination exists, even though the basis of his theory is what he calls a weak right to political association. The right to self-determination is the right to not associate with others (and thus to secede), and any time one does not wish to associate with others, one does not have to, on Gauthier’s view, because the right to political association only functions if the desire is mutual.

Daniel Philpott straightforwardly endorses a strong right to political self-determination. He argues for “what may at first appear rash: that any group of individuals within a defined territory which desires to govern itself more independently enjoys a prima facie right to self-determination,” which entails “statehood” if statehood is what is desired (Philpott 1995, 353). The “prima facie” qualification is there to cover “illiberal groups, groups that are mingled with minorities, and groups that are simply less than unanimous about

political divorce. Provisions for them are exceptions; they make the right of self-determination *prima facie* rather than absolute” (Philpott 1995, 353). Liberal democratic groups, though, enjoy a right to political self-determination and may thus secede should they so choose. David Copp argues the same thing. He says that “the right to self-determination is... the right to acquire or continue to possess the status of a state” (Copp 1997, 279). He argues that “societies with a territory and a stable desire for self-government have the right to constitute themselves as states” as long as these societies are democratic (Copp 1997, 278). To constitute oneself as a state entails secession insofar as one is already subject to some other state, as practically everyone is.

Harry Beran adduces three considerations in support of an associationist theory, arguing that liberalism commits us to valuing freedom, sovereignty, and majority rule, and further arguing that these principles support an associationist take on secession. Freedom and sovereignty, as Beran conceives of them, amount to a right to political self-determination for groups that choose it democratically (a condition which is captured by Beran’s third consideration, majority rule). Freedom, for Beran, is relevant because “normal adults are self-governing choosers,” who “have the capacity to review their beliefs and goals in the light of reasons, to make decisions appropriate to these beliefs and goals and to act on them” (Beran 1984, 24). In light of this, “all relationships among sane adults in [a liberal state] should be voluntary” - “one’s relationships with adults - marital, work, political - are voluntary,” and one’s relationship to co-nationals ought likewise to be voluntary, which implies that if one wishes not to be in a political relationship with one’s co-nationals, one may secede (Beran 1984, 24). This right to determine what groups are self-determining is a very strong right to political self-determination. Beran also thinks that a liberal conception of sovereignty gives us



a strong right to political self-determination. Sovereignty “must be composed of the moral rights of individuals to decide their political relationships” (Beran 1984, 26). Just as we grant this right to individuals “by acknowledging their right to emigrate and to change their nationality... liberalism must also grant that territorially concentrated groups can exercise their sovereignty, i.e. their moral right to determine their political relationships, through secession” (Beran 1984, 26). The strong group right to political self-determination is just the individual right to political self-determination writ large.

Thus, although one might conceive of self-determination as something weaker than a right to secede, and although one might ground a right to secede on something other than self-determination, associationist theories of secession advert to a strong right to self-determination as the basis for secessionist claims. Reasons to think that there is no such right are thus reasons to reject associationist theories of secession.

### **3.1.5 Why Ascriptivists Also Need Political Self-Determination**

As I noted above, it is not quite as obvious that ascriptivist theories of secession are committed to an endorsement of a strong right to political self-determination, because unlike with associationist theories, where simply the desire to associate (that is, the desire to exercise one’s self-determination) gives rise to the right, ascriptivist theories have something different at the base of the theory: nationhood. So we at least must establish a link between nationhood and a strong right to political self-determination if we want to lump ascriptivists in with associationists on this point.

This turns out to be a simple task, however. Indeed, the paradigmatic ascriptivist theory of secession is found in Margalit and Raz’s (1990) article “National Self-

Determination,” and as the title indicates, ascriptivist theories of secession are often more accurately seen as ascriptivist theories of the right to political self-determination, a right which brings with it a right to secede if the right to political self-determination is strong enough to countenance this, and ascriptivist theories of secession hold that it is.

That ascriptivist theories wish to avail themselves of a strong right to political self-determination (albeit for a more circumscribed set of groups than the associationist countenances) is clear from the fact that ascriptivist theories often occur in the context of larger arguments about self-determination for nations generally (as with Margalit and Raz) as opposed to in the context of an argument limited just to a theory of secession. See for instance Miller, who argues that “the principle of nationality [he] defend[s] holds, as one of its three elements, that where the inhabitants of a territory form a national community, they have a good claim to political self-determination” (Miller 1998, 65). Or see Moore, who argues in “in favour of a conception of self-determination which involves the *equal* recognition of different national identities,” a “claim [which] derives from the mere existence of a nation” (Moore 1997, 900).

It is conceptually possible that one might have an ascriptivist theory of secession without having an ascriptivist theory of the right to self-determination, but this would be difficult for two reasons. First, a right to secede entails a right to self-determination in the constitutive sense, unless it is a right only to secession and not to refuse to secede or to join another state or anything like this, which would be a strange right to defend. (This would be similar to defending a right to divorce but not a right to remarry, or even to choose one’s spouse in the first place.) Second, if we are dealing with an ascriptivist theory, then something about the group in question (invariably nationhood) is supposed to be explaining where the

right to secede comes from. There is no particular connection between being a nation and having a right to secede - rather, the link seems to be that secession would be one of a constellation of rights available to a nation that come along with the right to self-determination. There is not any good reason to think that there is something about nationhood or something about secession such that we would see a link between secession and nationhood but not a link between self-determination and nationhood.

Finally, we might wonder about remedial theories and the right to self-determination. These theories typically do not rely on a strong right to self-determination, at least not explicitly. Catala argues that this is an incoherent position for remedial theorists to hold, given their commitments about the wrongs of annexation (Catala 2013). If she is correct, then to avoid incoherence, remedial theories must either move closer to my position, by backing away from the condemnation of annexation except in cases where annexation is accompanied by separate injustices that can be explained without a right to self-determination, or they must move closer to the associationists by more fully drawing out the implications of a reliance on self-determination. In other words, remedial theories “already implicitly recognize the significance of self-determination by including wrongful annexation, breaches of intrastate autonomy, and the production of permanent minorities as valid reasons for secession. So why stop short of non-remedial secessionist claims, in cases where the group would uphold justice in the new state” (Catala 2013, 76)? I largely agree with Catala’s criticisms, but because I have other arguments against remedial theories, as noted above, my argument here does not depend on Catala being correct.<sup>39</sup> If she is correct, then my arguments against the right to self-

---

<sup>39</sup> Catala responds to an objection on the part of remedial theorists which holds that her argument does not adequately incorporate institutional questions, and one might think that her response is inadequate - it is at least a little underdeveloped (Catala 2013, 89-90).

determination relied upon by associationists will apply in whole or at least in part to remedial theories that revise themselves in the direction of the associationists rather than in the direction of my theory in order to respond to Catala's criticisms.

### **3.2 Self-Determination is not a Strong Right**

If associationist and ascriptivist theories of secession rely on a strong right to political self-determination on the part of the secessionists, then demonstrating that there is no such right will render these theories of secession unconvincing. This will be more damaging for associationist theories, which have little other than their reliance on the right to self-determination. Ascriptivist theories, even if they cannot get much out of the right to self-determination, might still try to salvage a right to secede from some other feature of nationhood. In any case, explaining why we should be reluctant to endorse a strong right to self-determination will go a long way towards rendering associationist and ascriptivist theories implausible. My goal in this section is to demonstrate that there is no such right. The right to self-determination, to the extent that it is held by groups at all, is not one that can ground associationist and ascriptivist theories of secession.

There are two main kinds of argument against the strong right to political self-determination that I advance. The first is a set of general arguments against a strong right to political self-determination, on the basis of various considerations, like the implausible consequences of positing such a right and the questions about other topics on political philosophy that are begged by the existence of such a right. The second set of arguments is a set comprising arguments against specific conceptions of the right to political self-determination and the specific defenses of this right offered by various associationist theories.

Generally, arguments in the first set apply to all, or nearly all, associationist or ascriptivist theories, or to both kinds of theories simultaneously, and arguments in the second set are much more specific. Associationists themselves disagree with each other about the grounds of a right to political self-determination, and thus many associationists will agree with many of the arguments in the second set. Associationists disagree with ascriptivists about the importance of nationhood for grounding a right to political self-determination and thus both sides may agree with the various arguments against the opposite side. (Ascriptivists, at least, even if they disagree about the grounds of the importance of nationhood, are united on the step from nationhood to a right to self-determination, so there are no internecine conflicts for me to exploit there.) Even if the more general considerations alone do not amount to a decisive reason to reject a strong right to political self-determination, hopefully they can be combined with any or all of the more specific arguments, depending on what conception of political self-determination one finds most plausible, with the result being that I have made a convincing case against such a right.

Why, then, might we think that there is no right to political self-determination strong enough to ground secession in cases where secession would not be best, on the whole, for everyone? There are four main sorts of arguments I will give. The first centers on who the “self” in self-determination is (section 3.2). The second deals with how we should approach cases where there are conflicts within or between groups with the putative right to self-determination (section 3.3). The third sort tries to draw a line between marriage and self-determination by arguing that marriage is not a great analogy for self-determination when it comes to secession (section 3.4). The fourth argues that endorsing a strong right to self-

determination commits us to other views in political philosophy that we should not commit to for the sake of the right to self-determination (section 3.5).

### **3.2.1 Who is the Self?**

One reason to doubt the existence of a strong right to self-determination is that we run into problems when we try to figure out who the “self” is. On this question, Ivor Jennings famously remarked “on the surface it seemed reasonable: let the people decide. It was in practice ridiculous because the people cannot decide until someone decides who are the people” (Jennings 1956, 56). It is clearly not enough just to simply read off from the world who the “selves” are without at least saying something more substantial. Each kind of theory of secession has its own way of answering this question.

In this section I will address each of the three kinds of theories - remedial, ascriptivist, and associationist - and argue that for the latter two, picking out the “self” turns out to be more complicated than one might have thought. Ascriptivist and associationist theories suffer a mismatch between the “self” that does the theoretical work in terms of grounding the theory’s plausibility and the “self” that actually has a right to secede, given the most plausible way of interpreting the theory. This mismatch pressures us to either alter the theories such that the mismatch no longer exists, or to adopt a theory that does not generate a mismatch. Neither the ascriptivists nor the associationists have a great way to reformulate their theory as one that avoids the mismatch, and my theory of secession does not generate the mismatch. Therefore an examination of the question of who the “self” is tells in favor of my theory and against ascriptivist and associationist theories. The considerations adduced here are not decisive, but

they are one of a set of considerations that suggest that a strong right to self-determination may not be a fruitful source of a right to secession.<sup>40</sup>

### **3.2.1.1 Remedial Theories**

Remedial theorists pick out the “self” by looking for groups that have been mistreated and that fit any other secondary criteria that the particular remedial theory contains. Clearly there is nothing particularly special about the groups that constitute these “selves” except for the fact that they have all been mistreated by the state. The impetus for picking out these groups as the “selves” is just that there are independent considerations that make a remedial theory of secession plausible, which leads us to recognize a right of self-determination for all and only the groups with remedial claims. Therefore, my arguments above against remedial theories of secession are not bolstered by considerations about how to pick out the “self” in question. Remedial theories, unlike the other two theories of secession, are not fundamentally about a group’s right to self-determination so much as they are fundamentally about the sorts of wrongdoing that gives rise to a claim to self-determination. If remedies short of, or at least different from, a right to self-determination existed, then we could imagine a remedial theory of secession changing to a remedial theory of whatever other solution exists.

Insofar as secession is the only or the best available remedy, though, remedial theorists endorse a right to self-determination just for this reason. It’s not even clear that, according to a remedial theory, only mistreated groups have a right to secede. Margaret Moore argues that a remedial theory of secession “doesn’t require that the would-be secessionist group itself be the victim” because it “requires only that the state that is being dismembered is the perpetrator

---

<sup>40</sup> Sarah Fine briefly highlights concerns similar to mine about who makes up the “self” in ascriptivist and associationist theories (Fine 2013, 264-5).

of injustice” (Moore 2015, 101). If this is true then the remedial theorist has no problems picking out the “self” because the question is basically irrelevant - all and only groups seceding from an unjust state count as a self, no matter what characteristics the group members do or do not share.

In this way, remedial theorists are close to my theory of secession in one way: the “right” to secede, under a remedial theory and under my theory, is not much of a right - it is a right that a group has only when certain conditions are met, conditions that the group itself may not have any chance of bringing about, which the group almost certainly wishes not to bring about, and which have no particular relationship to the group itself. The focus is instead of the justice or injustice of the state being seceded from. There is certainly no robust right to secede simply because one chooses to secede, either on my theory or on the remedial theory.

For instance, according to my theory, if the cosmopolitanism we pick is O’Neill’s, a group has a right to secede if and only if the resulting states would better secure the external freedom of all. If we pick Caney’s cosmopolitanism, a group has a right to secede if the result is a world in which cosmopolitan goals like increased well-being are better advanced through the resulting political organizations. On Beitz’s account, a group has a right to secede if this would reduce social injustice overall. None of these approaches rely on any particular characteristic of the group that does or does not have the right to secede. Compare this to ascriptivist and associationist theories of secession, which grant a right to secede to groups simply because of the kind of group that they are.

One preliminary lesson can be drawn from this: a theory that picks out the “self” based on considerations extrinsic to the “self” does not really need to worry about the makeup of the “self” in the sense that Jennings was worried when he said that it is ridiculous for the people



to decide who the self is because we must first decide who the people are. If extrinsic considerations like mistreatment by the state or an encompassing conception of cosmopolitanism tell us who the “self” is, then the people are not deciding who the “self” is and we thus don’t run into this sort of circularity. My proposed theory of secession, like remedial theories, relies on extrinsic considerations to pick out the “self” - the “self” has a right to self-determination just in case this would be better, on the whole, from the point of view of our cosmopolitan theory. So at any one point there are many “selves” which have a right to self-determination and many which do not, regardless of what anyone happens to think about it.

#### **3.2.1.2 Ascriptivists**

This leaves ascriptivist theories and associationist theories, both of which are committed to substantive arguments in favor of a strong right to political self-determination that grounds secession in particular cases rather than an incidental ascription of the right just to certain groups that happen to meet certain conditions (like having been oppressed or being a group that could secede in a way such that the results would be better from a cosmopolitan point of view). Therefore, both of these sorts of theories of secession must give some answer to the question of who the self is in a way that does justice to the primacy that the right to self-determination plays in the theory.

Ascriptivists have a straightforward way of picking out who the self is, at least on the surface. The self is the encompassing group, or the *nation*, in question. Any and all nations have a right to self-determination should they so choose (subject perhaps to some minimum

limitations, like a limitation of the right to those groups that could conceivably rule their own state or join another state).

We might wonder whether it is really possible to cleanly delineate nations such that we would feel comfortable saying that these are the groups with a right to self-determination. Often self-determination precedes and creates nationality, in the sense that the opportunity for political autonomy or the unsolicited imposition of new borders encourages groups of people to view themselves as a nation where before they took no such view. Chandran Kukathas describes how at one point, “in the former Indian state of Madras, cleavages within the Telugu population were not very important. Yet as soon as a separate Telugu-speaking state was carved out of Madras, Telugu subgroups quickly emerged as political entities” (Kukathas 1992, 110-1). It is somewhat implausible to take nationhood to be of supreme importance with respect to how borders ought to be drawn if the way the borders are already drawn changes the nations that we see, because it seems arbitrary to prefer one set of nationalities reified by one arrangement of borders over any other.

Even if we either ignore this worry or find a way around it, perhaps by focusing on the “true” nations rather than those created by political exigencies, there are other puzzles. Take the Berbers, also known as the Imazighen, for instance.<sup>41</sup> Do the Imzaighen form a nation? They share a history, a culture, a geographic homeland, and other characteristics that suggest they form a nation. Political parties like the Amizagh Culture Movement promote nationalism, especially against Arabizing influences in Africa and against other movements that potentially threaten the existence of a separate Amizagh Nation (Maddy-Weitzman

---

<sup>41</sup> In some situations, ‘Berber’ has pejorative connotations for various reasons, including its etymological link to the term ‘barbarian,’ so I will use Imazighen (plural) and Amazigh (singular) to refer to this nation (Sadiqi 1997, 11).

2012). There is an Amizagh language, Tamazight (or, at least, a language group - more on this below) (Maddy-Weitzman 2011, 2). It seems like Imazighen share enough of the characteristics of a nation for us to be confident that they count as one for the purposes of ascriptivist theories of secession.

If we look closer, though, matters are more complicated. The language spoken by Imazighen, Tamazight, can be divided up into various other languages, depending on how one draws the line, like Tashelhit in Morocco, Taqbaylit in Algeria, and Zenaga in Mauritania and Senegal (Maddy-Weitzman 2011, 3; Applegate 1971, 97; Aikhenvald 1995, 41). (Others classify these as dialects, not as languages, although many of the dialects are not comprehensible by other speakers of one of the languages. Identifying languages at all is a tricky proposition: Max Weinreich famously remarked that “a language is a dialect with an army and a navy.”) Just the bare possibility of dividing up a nation’s language into different languages is not worrying. A worst, we might simply reject language as one of the markers for this nation’s existence, because the case here is thorny. At best, we might simply say that as long as there is a relatively cohesive encompassing language, which Tamazight is, then we have enough of a language to count as something in favor of the existence of a nation.

This simple solution may not be adequate, though. Even if it is, now is the time to register this as the first of a series of issues with the concept of a “nation.” The determination is not always straightforward, and in actual cases, making any such determination will be a fraught political question, if not also a thorny ontological and moral one about which we might have justifiable confusion. Below, we will encounter more of these sorts of issues, and eventually I will group them together and suggest some issues with the idea of a “nation” as a viable unit of analysis in questions of self-determination. For now, let us return to the smaller

issue, which is the question of picking out which groups are nations when factors like language become more confusing.

There is a group of Touareg languages (or dialects), which are themselves a subset of the Tamazight language, which are spoken by the Touaregs, including the Touaregs in northern Mali. (These Touaregs speak Tamasheq, which is variously described as a language itself or as a dialect of Tamazight - see Maddy Weitzman 2011, 2. Tamasheq is one of the various languages, or dialects, grouped into the category of Touareg languages, which are all themselves a subset of the Tamazight language. See Heine and Nurse 2008, 271. Tamasheq is also the name of the language - or dialect - generally spoken by Touaregs in northern Mali, which is a subset of Tamasheq, the broader category of languages - or dialects.) In 2012, these Touaregs in northern Mali began a secessionist movement which resulted in a brief war (Maddy-Weitzman 2012, 130-2; Lecoq and Klute 2013; Cline 2013; Ronen 2013; Arieff 2013). Was the secessionist claim justified, at least *prima facie*, on an ascriptivist approach to secession? That is, are the Touaregs in northern Mali a nation, such that they have a claim to self-determination strong enough to ground secession?

It seems clear that the Touaregs as a general group have as good a case for being a nation as Imazighen more generally do: they too share a history, a language (or perhaps a dialect, or perhaps a group of languages), a culture, and so on. They simply happen to be a subset of another group, the group comprising Imazighen, that also looks like a nation. What about the Touaregs specifically in northern Mali? For a nation to justifiably secede, must the *entire* nation be present in the area that wishes to secede? (Not all Touaregs are in northern Mali - more live in Niger, for instance.) In other words, must the “self” picked out for answering the question of who has self-determination and thus a right to secede be

coextensive with the “self” that we would naturally pick out if we simply tried to divide the world up into nations? Is it only nations that have a right to self-determination, as opposed to smaller subsets of nations?

Answering “yes” suggests not only that the Touaregs in Mali had no claim to secede but that perhaps no Touaregs could ever have a claim unless the rest of the Imazighen also wanted to come along. Or perhaps Touaregs are different enough to count as their own nation, but the northern Mali Touaregs are not. In any case, it is clear that this answer is somewhat lackluster. We might think that it is an accident of geography that only some of the Touaregs are in northern Mali. Borders could have been drawn such that all the Touaregs were in northern Mali. Why should the legitimacy of a claim to self-determination hinge on whether the group making the claim is the entire nation, or, for whatever reason, is instead a subset of the nation?

It thus looks like the ascriptivist theorist will want to answer “no” to the question above. That is, the ascriptivist will want to say that the “self” does not have to be an entire nation. It can be part of a nation and still have a right to self-determination strong enough to ground secession. Thus the Touaregs in northern Mali would (at least *prima facie*) have a right to secede for the ascriptivist. If the ascriptivist theory says “no,” though, it seems like nationalism is not doing the work, or at least it is not doing all of the work. Just being a nation would not be necessary for being able to justifiably claim a right to self-determination. Nationhood is not necessary because a group can be a subset of a nation rather than a full nation, like the Touaregs in northern Mali, and potentially all the Touaregs anywhere, who are a subset of the Amizagh nation, and thus potentially not their own nation. It is not clear whether a group can simultaneously be a nation and a subset of a nation. If this is impossible,

then either the Touaregs are not a nation or the Imazighen are not a nation, because the Touaregs are a subset of all of the Imazighen.

In any case, the northern Mali Touaregs are certainly not their own nation. It is an accident of how post-colonial borders were drawn that happens to have put some Touaregs in northern Mali and other Tuareg Berbers in neighboring Algeria and in other states in Africa. The situation grows more complex when we also consider that the secessionist movement comprised more than just Touaregs. The Touaregs were joined by Islamist separatists, and after this coalition captured much of Mali, divisions between the Touaregs and the Islamists caused them to begin fighting with each other (Zounmenou 2013, 170-2). Eventually, the Touaregs, in the face of losses suffered to the Islamists, abandoned their secessionist ambitions, at least temporarily, and became partial allies of the Malian government in its fight against the Islamist forces in the north (Nossiter 2012). Is the presence of the Islamists in the original secessionist coalition the sort of intrusion that changes the secessionist claim from a nationalist one to a different one? On this basis would ascriptivist theories of secession claim that the Touaregs had no right to self-determination because they wanted to include the Islamists in their new independent state? If, instead, ascriptivist theories attributed a right to self-determination to the Touaregs and the Islamists, how many Touaregs needed to defect from the secessionist cause before the right to self-determination evaporated? Once *all* the Touaregs had left, presumably the Islamists had no nationalist claim to secede (unless the Islamists themselves were a nation). But since the secessionist claim got off the ground with only *some* of the Touaregs (just the ones in northern Mali), it must have been able to keep going with even *fewer* Touaregs. It can't be necessary to require *all* the Touaregs in northern Mali to be on board.

None of these is meant to be a worry about the empirical difficulties of discovering whether a nation is behind a secessionist claim or about the various practical difficulties that often accompany secessionist claims, whether they are clearly nationalist or whether they are more complex, as with the case of northern Mali. The point is more theoretical. The ascriptivist position is one according to which there is something about nations that gives them a right to political self-determination strong enough to ground secession. This clean answer starts to look less convincing when we realize that if we plausibly want a nation to have the right, we might plausibly want a subset of the nation to have the right, and we might plausibly want a group comprising the nation and other secessionists to have the right.

For instance, if we think the Touaregs, as a nation, have a claim to self-determination strong enough to ground a right to secede, surely it is permissible for them to join with Islamist groups which also desire to secede. Simply adding non-national members to the secessionist project shouldn't alter the situation. It would be implausible to deny this, because even if for whatever reason the Touaregs were forced to secede on their own rather than with the Islamists, their right to self-determination would of course give them the right to let the Islamists join the new Touareg state, a result functionally identical to a situation in which the Touareg secede alongside the Islamists. (One could instead claim that the Touaregs would have no right to allow the Islamists into the state - it must be a nation-state exclusive to Touaregs. I take it that this would be a *reductio* against ascriptivist theories of secession. Self-determination for nations is no use if the nations cannot control basic things such as the state's immigration policy.)

This demonstrates that what is doing the work for an ascriptivist theory is not that a nation desires to secede, but that a nation has a right to self-determination which allows it to

secede either on its own or in conjunction with others. The entire nation doesn't need to come along, either: recall that only a portion of the Touaregs wished to secede from Mali, and even if every Touaregs had been in Mali, the Touaregs might be more accurately described as a subset of the Amizagh nation, and not all Imazighen wanted to secede from Mali. The vast majority of Imazighen have never even been to Mali.

If, then, an ascriptivist theory suggests that less than a nation (a portion of it) and more than a nation (the nation plus others, like the Islamists) can both be the possessors of a right to self-determination strong enough to ground secession, then the ascriptivist answer to the question of who the "self" is turns out not to be the straightforward answer we began with - the self is the nation - but rather a more complicated answer, namely, the self is whatever groups there are which need a right to self-determination in order to secure the sorts of benefits that ascriptivists think are due to nations. So, the Touaregs plus the Islamists would have a right to self-determination because this would be the way of ensuring that the Touaregs (or the Imazighen more generally) are treated the way they ought to be treated in light of the fact that they are a nation. Or to be even more precise, the subset of the Touaregs in northern Mali, plus the Islamists, would have a right to self-determination because this would be a way of ensuring that all the Touaregs, or all the Imazighen more generally, are treated in the way they ought to be treated in light of the fact that they are a nation.

Put this way, the ascriptivist account of secession starts to sound more like the theory of secession that I defend. The ascriptivist view of the world is one in which nations are of great importance, and we ought to accord a right to secession to just those groups that desire it for purposes that are amenable to nations. This may mean giving a right to secession to any and all nations (or at least any and all nations that can plausibly run their own state) but, as the



example of the Touaregs and the Islamists show, this may mean giving a right to secession to groups that neither comprise a full nation nor solely comprise a nation. One reply the ascriptivist might give is that the right to self-determination is not limited to the Touaregs northern Mali (plus the Islamists). Rather, it belongs to all Touaregs, and when it is exercised in this instance, it simply allows some of them to secede from northern Mali.

The problem with this is that it simply highlights the mismatch, rather than alleviating the worries attached to it. The right to secede from Mali simply cannot belong to all the Touaregs unless they are in a position to potentially secede, just as the right to divorce Val cannot belong to me unless I am married Val and a right to eat my carrot cake cannot belong to me unless there is a carrot cake for me to have a right to eat. At best we can say that all the Touaregs have a right to secede in the counterfactual circumstance in which they are subject to the government of northern Mali, but this is simply an answer to a different question than the one we are asking. There is no confusion (or at least there is less confusion) about whether all the Touaregs have a right to secede according to ascriptivist theories. That question is easy to answer. The difficulty arises when we ask if some of the Touaregs have a right to secede when the other Touaregs cannot conceivably have the right because they are in a position where the right is nonsensical. At best the ascriptivist will want to say that the more general right to self-determination lets nations, wherever they happen to be located, draw borders in ways they find amenable, even if the nation drawing the borders does not end up entirely within the borders. If we read this in a strong sense, nations will get to draw borders all over the map, even in cases that do not involve many (or perhaps even *any*) individuals who belong to the nations.

Whether this is plausible or not is a bit beside the point, because if this is our answer, we have again come close to collapsing into my theory of secession, with the only difference being that in this case nations are attributed extreme importance as opposed to general cosmopolitan considerations. If we read this in a weak sense and require the nations to be mostly subject to the borders they aim to draw, we are back to the original mismatch between the right to self-determination for the entire nation and the right to secede for the subset of the nation within the borders.

I have put this in terms of a right to secession rather than a right to self-determination. This is one way for an ascriptivist theory to reclaim the idea that there is an easy way to pick out the “self.” The ascriptivist can claim that the question of secession is different from the question of self-determination. Perhaps the right to self-determination that each nation has only leads derivatively to a right to secede, which could explain why the more heterogeneous groups like the group comprising some of the Touaregs and the Islamists have a right to secede despite not matching up with the self.

More perspicuously, we might say that groups have a right to secede based on whether this would have positive results for a nation. Put this way, a right to self-determination drops out of the picture as a justification for secession. What is doing the work is the value of nations and the potential importance of secession when it comes to protecting the interests of these nations. This is not to say the ascriptivist would be wrong to make such a move. It is just to point out that abandoning self-determination as the firmament for a theory of secession is a substantive alteration for ascriptivist theories, and we might wonder whether the resulting theories are as compelling as ascriptivist theories based ultimately on a right to self-determination for nations.

Thus, from the fact that the “self” in question turns out not obviously to be a nation even according to an ascriptivist theory of secession, we can draw the conclusion that a right to self-determination may not be needed for an ascriptivist theory to justify secession. Ascriptivist theories, however, are typically theories not just of secession but of self-determination more generally: they argue that self-determination, whether it is used to exercise a derivative right to secession or not, is a right that nations have because of the importance of nations. The true lesson to draw from this discussion is therefore that, because questions about who the “self” is give us seemingly contradictory answers about the importance of self-determination to the justification of nationalist secession, the concept of self-determination itself may be unhelpful and perhaps to some degree incoherent when it comes to the question of secession and even when it comes to any other question related to nations that we might ask.

Notice that for any important aspect of a nation that we might want to protect, we can describe this aspect without adverting to a right to self-determination. We above did this for secession and its attendant right to sovereignty, and we can also do this for things like religious rights, language rights, rights to inhabit a homeland, and so on. It is true that a right to self-determination could help a nation secure and protect these other rights, insofar as we understand what a right to self-determination entails, but as we have seen, at least with secession it is not clear that the nation’s right to self-determination is what gets us the nation’s right to secession, because the right to secession isn’t easily seen as being attached to the nation *per se* so much as it is attached to whatever group has some kind of claim (in our example, some of the Touaregs plus the Islamists).

So, we are left then with a mismatch between the groups that matter fundamentally to ascriptivist theories of secession and which properly have a right to self-determination - the nations - and the groups that actually have a right to secede - some of the Touaregs plus the Islamists, for instance. This mismatch cannot be fixed without giving us implausible results, like requiring the entire nation to come along during secession or requiring the nation not to allow outsiders to accompany the secession. This mismatch generalizes from secession to other things that we might think a nation has a right to: in truth, ascriptivist theories of secession relying on self-determination might instead best be seen as statements about how nations are important and about how sometimes, endorsing a right to secede for groups other than nations (and also, sometimes, nations) can help express and protect this importance.

Described in this way, self-determination drops out and our theory of secession no longer looks like a simple ascriptivist theory. Instead it looks like my theory, with one main difference: nations are given a great degree of moral importance. This approach has its own virtues and vices. The relevant point here, though, is that the right to self-determination for nations loses some of its plausibility as a basis for a theory of secession.

Peter Jones has argued along similar grounds against Margalit and Raz's conception of the right to self-determination specifically. Jones highlights how, for Margalit and Raz, the basis of the nation's right to self-determination is that "the wellbeing of individuals" in the nation "is, generally, best served by their having a collective right of self-determination. Thus, for Margalit and Raz, the case for national self-determination is made by way of the interests of those who make up a nation rather than by reference to the status of nationhood itself" (Jones 1999, 363). But, he notes, "if, for some reason, people's interests would be better served by taking a section of the population of Nation A and a section of the population of

Nation B and putting them together in a self-determining unit, neither Nation could claim that its rights had been violated” (Jones 1999, 364). In effect, Jones is arguing that Margalit and Raz have not made a case for the right to self-determination for nations. Instead, they have made the case for a right to self-determination for various groups of people, sometimes comprising a nation and sometimes comprising more than or less than a nation, because the “self” who gets to self-determine is picked out not simply by looking at who is a member of a nation but rather by looking at who, if they had a right to self-determine, would make the world better for people. For Jones, then, Margalit and Raz’s theory of self-determination collapses into mine except for the caveat noted above, which is that Margalit and Raz give nations much more moral importance than cosmopolitan theories generally do.

This is one way of viewing the dialectic and of course I would be happy to the extent that other theories of secession, especially paradigmatic ascriptivist ones, turn out to instead resemble my own theory apart from the more general disagreement between cosmopolitans and nationalists.

But there is another way of viewing Margalit and Raz, a way that is more charitable if we assume (correctly, I think) that they do not mean for their theory to collapse into something akin mine. A right that exists only when it is better for everyone is, in some sense, not much of a right at all. Margalit and Raz clearly don’t have this kind of right in mind for their theory of self-determination. Indeed, they explicitly say that the right to self-determination, on their view, is one that nations have even when this would lead to *worse* results, because they conceive of the right as answering the question “who should decide?” even if the answer to “what should be done?” is ‘this nation ought not to exercise its right to self-determination, because this will be bad’ (Margalit and Raz 1990, 455). It would be

strange for Margalit and Raz to think their analysis leaves the question of “what should be done?” unanswered if, as Jones argues, they are committed to the view that nations only have a right to self-determination when this would be better for the people involved. Surely if it would be better for the people involved, this would answer the “what should be done?” question, and if what is better for the people involved is decisive, then Margalit and Raz would have said that they are answering the “what should be done?” question rather than the “who should decide?” question.

Instead, we should read Margalit and Raz as arguing that, even though it may not be optimific, affording a right to self-determination to nations all the time (not just when it would work out better) is the best way of capturing the importance of nations in the people’s lives. This is similar to why one might be a rule utilitarian as opposed to an act utilitarian: for both the rule and act utilitarian, the ultimate ground of value is utility, and we do not have to think that rule utilitarianism no longer accepts utility as a fundamental value just because it tells us to follow a rule in an instance where following the rule leads to less utility. Instead, we see that rule utilitarianism is just one way of accounting for the importance of utility and for the various considerations that sometimes make it difficult for actors to act optimifically.

Similarly, Margalit and Raz can commit themselves to a blanket right to self-determination for nations even if the fundamental basis for their right is the well-being of individual people, and thus commit themselves to a right to self-determination for nations even when grouping people together in violation of this right would be better. This reading is coherent and it responds adequately to Jones’ argument that Margalit and Raz are committed to a much weaker right than we might otherwise have thought (a right that looks very similar

to my account of the right, with the added caveat that nations are very important and thus instead of ‘better from a cosmopolitan view’ we would have ‘better for nations’).

Although Jones’ argument is unconvincing as a reconstruction of the shape of the right that Margalit and Raz endorse, it is a more convincing argument when it comes to the question of what right they can *convincingly* endorse with the resources afforded by their view. The distinction between the act utilitarian and the rule utilitarian is again illustrative. J.J.C. Smart accuses rule utilitarianism of “superstitious rule-worship” (Smart 1956, 349). For Smart, the foundation of utilitarianism consists of seeing “‘it is optimific’ as a reason for action,” and in his view this entirely fails to justify taking an action because that action “is a member of a class of actions which are usually optimific” (Smart 1956, 353). His claim is that one cannot get to rule utilitarianism from act utilitarianism without losing the moral foundation of utilitarianism. Jones can push a similar line of argument against Margalit and Raz. One cannot get to a right to self-determination for nations (or, in other words, a rule that we follow, the contents of which are ‘nations have a right to self-determination’) without losing the moral foundation of self-determination, which is the important role nations play in the lives of individuals, because this value might sometimes be served not by giving a right to self-determination to nations (not by following the rule) but by giving the right to self-determination to some other group (a subset of the Touaregs plus the Islamists, for instance).

If we (charitably, I think) read Margalit and Raz as taking the hard line approach and granting the right to self-determination to nations for reasons similar to why the rule utilitarian ascribes rightness to rule-following actions that nevertheless fail to maximize utility, Jones’ argument, filtered through Smart, then becomes the same as my argument. The justifications Margalit and Raz offer for the right to self-determination fail to deliver the

correct right. We ordered a right to self-determination for nations, but the only ingredients available are the importance of nations in the lives of various individuals, and the only dish we can cook with these ingredients is a right to self-determination for myriad groups of almost indescribable variety - certainly not just nations. On this basis, then, it is unclear why we ought to be talking about a right to national self-determination in the first place.

Something else seems to be doing the work, and we will make little headway into the problem of secession if we persist in thinking of it as a question of a right held by nations.

To summarize: it can be difficult to determine who the “self” is when we try to figure out who has a right to self-determination. Cases where we might think we are somewhat sure about who has the right to secede under an ascriptivist justification don’t necessarily suggest that the nation has a right to self-determination or even to secession. Rather, some group, containing part of the nation, the nation plus others, or a part of the nation plus others, might have a right to secede because of the benefits this will secure for a nation, and this doesn’t have to tell us anything particular about self-determination for this group or for the nation as a whole.

For the purposes of coming up with a theory of *secession*, then, self-determination may not be the right place to start, and it is even less likely that it will do most of the work.<sup>42</sup> This is the first of a series of worries about self-determination, the first of a series of worries about how to pick out the self, and the entirety of the issues that arise when we try to pick out the self in the context of ascriptivist theories of secession. So we now have one reason (which

---

<sup>42</sup> The question of how precisely to define the “self” in question with respect to ascriptivist groups is also addressed by Steven Wall (Wall 2007, 248-9) and Anna Moltchanova (Moltchanova 2009, 25). Suzy Killmister has offered a response to the similar question of how to tell which individuals belong to an ascriptive group to which we have attributed rights, a question which is at the heart of a larger debate over whether it makes sense to attribute any sort of right to ascriptive groups (Killmister 2011).



in time will be joined by others) to doubt that self-determination is a helpful concept off of which to build theories of secession.

### **3.2.1.3 Associationists**

We can now move to associationist views of secession and the difficulties we encounter here in terms of picking out who the “self” is. The associationist, on the face of it, also has a simple response to this question. The people who decide together to exercise a right to self-determination have a right to self-determination. This could be ascertained via a plebiscite, or via some other means, but regardless of how one might go about picking out the people as a matter of practicality, the theoretical point seems straightforward enough.

Whoever wants in, is in. Or, at least, whoever wants in, so long as everyone else agrees, is in. The group of course can’t just automatically comprise anyone who wants to be a part of it, because then a group that wanted to secede could be immediately joined by all of the people in the rump state, thus rendering the secession meaningless. So, we must have some way of circumscribing the group beyond just checking the desires of each individual as to whether they would like to be in the group.

Moreover, we cannot just check the desires of each individual with respect to which other people the individual in question would want to be in the group with. That is, we cannot just ask me (for instance), with respect to everyone else, whether I think they ought to be part of the secessionist group or not. This is because there is no reason to think that this procedure will give us a determinate answer. I might wish that the group includes Val but not Adrien, Val may wish that the group includes Adrien but not me, and Adrien may wish that the group includes me but not Val. Who does the group comprise? What if we fiddle with the strength

of the desires, add more people, make certain desires conditional on the desires of others or the strengths of those desires, or make certain desires conditional on the eventual makeup of the group?

Another issue with this procedure is that it is (at best) unclear that everyone (or anyone) will have determinate views about each other potential member of the secessionist group. Perhaps I have never even heard of Val or Adrien, because they live on the other side of the country. Perhaps my preferences are not going to give us determinate results because they fail to obey certain constraints, like the independence of irrelevant alternatives (Temkin 2012, 387). Peeking into everyone's brain is not going to help us figure out who the associationist "self" is in any simple, straightforward sense.

Thus a plebiscite or some other definitive procedure begins to look good not just as a practical way of figuring out who the self comprises, but as something that is constitutive of the self on a fundamental level. A literal vote or some other actual procedure provides definite answers and sidesteps issues about mismatched or unformed preferences, because however people vote or act in the procedure can simply settle the question. (We might worry that if their actions cannot be taken to be good representations of their preferences, because there is no way to set up a vote or any other decisive procedure without forcing people to act in ways contrary to some of their preferences, then our procedure won't capture what we think is morally relevant, namely the desires of each individual. I will simply assume that the associationist has some answer to this worry.)

Associationists often envision a plebiscite according to which some group draws the proposed borders of the seceding state, and a vote is held within these borders. If a majority (or perhaps a supermajority of some sort) votes to secede, then the territory secedes. There is

some difficulty here when it comes time to explain whose right to self-determination grounds the legitimacy of this secession. Is it the right to self-determination on the part of everyone in the seceding territory? What if that leaves out some people who supported the secession and who helped draw the boundaries, but whom were left out of the seceding state because there was no way to draw the new boundaries such that they ended up in the state without also including too many people who would vote against the secession? Should the group really include all of the people who voted *against* secession, especially given the fact that they are now free to draw their own new set of borders and secede from the new state to rejoin the original state?

This “recursive” procedure is precisely what Beran recommends, for instance, because this will help us end up with borders that match everyone’s wishes as much as possible (Beran 1984, 29). Altman and Wellman endorse Beran’s solution and explicitly conceive of it as a solution to the problem of the initial borders drawn by secession failing to match up with the desires of the individuals which form the basis of the right to self-determination for groups (Altman and Wellman 2009, 49-50). It thus seems strange to lump the people who are about to abandon the new state in with the group that has a right to self-determination on the basis of which the new state has been created.

Analogously, consider a polygamous marriage situation that, for whatever reason, can’t be resolved in whatever the usual straightforward manner is. Instead, in the marriage comprising Val, Adrien, me, Robin, Gene, and Cary, a group of malcontents (Val, Adrien, and me) decide we want a divorce from the rest. Due to a miscommunication, we think that Robin also wishes to divorce. We thus propose a divorce: Val, Adrien, Robin, and I will split off (this is news to Robin, but the paperwork has already been filed). The potential divorcees

vote on it: Val, Adrien, and I in favor, Robin against. A supermajority wins, and the divorce takes effect. Robin, following the recursive procedure, now suggests a new divorce - the group comprising Robin will split off (and then immediately rejoin Gene and Cary in the original marriage). The potential divorcee (Robin) votes on it, a supermajority wins with 100% of the vote (just Robin), the divorce (and subsequent remarriage) takes effect, and everything is as it should be.

It would be odd to say that the right to self-determination for the group comprising Val, Adrien, Robin, and me was the right that gave moral weight to the group's desire to effect the original divorce. Surely the morally relevant group excludes Robin - Robin wanted no part in the divorce and in fact rejoined the original marriage as soon as possible. A group right to self-determination is an expression of the collective will of the group's members, but it seems obvious that Robin's will played no part in the collective will. Robin's will was diametrically opposed to the collective will and was included in the divorce by accident.

It is far more plausible to say that the group of four had a moral right to divorce on the basis of the right to self-determination of just Val, Adrien, and me. Robin came along in the divorce because of practical considerations, but Robin's will played no part in legitimating our right to leave the marriage. More people like Robin in the group would in fact have *delegitimated* our right to leave. The divorce would not have gone through if the group had included enough people who wanted to stay in the marriage. So if self-determination is what we really care about, it seems strange to think that anything other than a unanimous plebiscite is really an expression of the right to self-determination of the group that is seceding. Instead it seems like the right to self-determination ought to belong to the people who want to secede (or maybe just the people within the proposed borders who want to secede) and this right also

gives them a right to press-gang the unwilling into the secessionist project so long as the unwilling cannot outvote the willing, at least until the unwilling people run their own recursive plebiscite, at which point it would be wrong to continue press-ganging them into the newly seceded state just like Val, Adrien, and I couldn't force Robin to stay in the new marriage.

One might of course simply stipulate that the right belongs to the group that secedes and leave it at that, arguing perhaps that this is a theoretical nicety about which we need not worry too much. This is an unsatisfying reply insofar as the right to self-determination that grounds secession is supposed to be of the utmost importance: it is respect for this right, and more specifically for the groups that have this right, that leads us to adopt an associationist theory of secession in the first place. We don't want to just arbitrarily pick the group that ends up in the newly created secessionist state if this does not align with the reasons we have for respecting and according importance to the right to self-determination. As Altman and Wellman put it, "the state is not an individual whose well-being or life ultimately matters morally. Rather, the individual members of the state are the ones whose lives matter," and the fact that it would be wrong to override the collective choice of these individuals "requires respect for the self-determination of their state" (Altman and Wellman 2009, 7). More precisely, we should say that we don't have to respect the self-determination of "their state" - we need to respect the self-determination of any group that desires to exercise the right, even if this requires breaking up a state. This is why Altman and Wellman endorse an associative theory of secession, which entails that state breaking is perfectly fine so long as it is done on the basis of the right to self-determination held by groups of people.

In cases of secession, therefore, we can see quite clearly how the state might not match up precisely with the choices of each individual (choices which are themselves constitutive of the importance of the right to self-determination): the ones who have voted against secession don't belong to a group whose right to self-determination would be infringed if the secession were prevented (indeed, the ones who have voted against secession would welcome this), and the ones who would have voted in favor of secession but who for political or geographical purposes weren't able to be within the borders of the secessionist state seem like better candidates for membership in the group whose right to self-determination requires respect. Rejecting this would be to impose arbitrary criteria on which groups have a right to self-determination, which is as far as possible from what the associationist desires. Groups ought to pick themselves, insofar as it is possible. But, as we have seen above, it is not clear how the group can possibly pick itself without some sort of plebiscite or other procedure which gives us results according to which the group now leaves out some people who want in and includes some people who want out. Such is the nature of the plebiscite and the practical considerations that accompany it.

Accepting this drives a division between respect for self-determination and a right to secession. When the "self" that matters is not quite the one that ends up in the seceding state, it is hard to see how one might straightforwardly claim that a right to self-determination entails a right to secession, as the associationist theory of secession claims. Rather, what we are left with is the result that a right to self-determination for one group entails a right to secession for another group.

The group that draws the borders for the plebiscite has the right to self-determination - this is why the group has a right to force the vote on secession in the first place, and it is why

the group gets to draw the borders it chooses, and so on. The group that has the right to secede, though, is the group within the borders, should the plebiscite succeed. People outside these borders have no justifiable claim to be free from the rump state's political authority (unless they can successfully advance their own separate secessionist claim), even if they were part of the original group that drew the borders and wanted to secede. People inside these borders have no justifiable claim to be free from the new secessionist state's political authority (unless they engage in Beran's recursive procedure and themselves secede), which means they have no claim to be subject to the rump state's political authority - this would violate the right to self-determination of the group that drew the borders and held the plebiscite, and perhaps also the right to self-determination of the group comprising the new state, if a right to self-determination grounds political authority over each other as Altman and Wellman suggest it does (Altman and Wellman 2009, chapter 2).

What do we make of this wedge driven between, on the one hand, the self that desires to secede, and which, on the basis of its right to self-determination, has a right to draw the borders and force the vote; and, on the other hand, the self that actually has the right to secede, in the sense of being subject not to the political authority of the rump state but instead being subject to the political authority of the newly seceded state? In a sense this wedge is analogous to the wedge that we noted above between the nation, on the one hand; and the actual group of people who desire and have the right to secede, on the other, when we examined the ascriptivist theories. The existence of the wedge suggests that when we theorize about secession, what we really care about isn't a right to secession for the groups that, at a fundamental level, potentially have a right to self-determination. Rather, we care about something else. But this is bad news for an associationist theory of secession, which relies on

the right to self-determination to ground the right to secede. So the associationist theory must find some way around this wedge.

The need to find one's way around this wedge should make us wary of the project that the associationist theory of secession represents. To assume that we first know what a right to self-determination entails and that we can then draw conclusions from this about who should have the right to secede is to grant too much credit to the idea of a right to self-determination. If it does not straightforwardly entail a right to secede, because we have found there is a wedge between the right to self-determination and the right to secession, what are we left with?

Many things, we might think - a right perhaps to make decisions for the newly seceded government (although this is unlikely - it seems more likely that the citizens of the newly seceded state will have this right, rather than the people in favor of secession who drew the borders, including the people who still live in the rump state), or a right to linguistic and religious self-determination, and other things that matter other than simply secession. But the coherence of the concept of a right to self-determination suffers a blow if it cannot deliver us answers about secession, and the blow is a strong one indeed when we are asking not just about the coherence of the concept but specifically about how the concept informs whatever the correct theory of secession is, which is of course our topic here. When an associationist theory of secession is up against a theory like mine, and when it points to the right to self-determination as a defense, the existence of the wedge should make us pause and wonder whether the associationist theory has the resources necessary to deliver a theory of secession more plausible than mine.



### 3.3 Which Selves Matter?

Another consideration that should make us wary of basing a theory of secession on a strong right to self-determination is the realization that endorsing a *right* to self-determination strong enough to ground secession can be at odds with respecting the *value* of self-determination more generally. There are two ways in which this can be the case. The first is what we can call the set of ‘inter-self’ situations. These are situations in which trade-offs between different groups are such that giving some or all of the groups a *right* to self-determination strong enough to ground secession will result in fewer people or fewer groups, overall, being in a position to exercise their right to self-determination. This would be like a situation in which giving every individual person a right to free speech would result in fewer people, overall, being able to exercise this right. The second is what we can call the set of ‘intra-self’ situations. These are situations in which trade-offs between the various kinds of self-determination and the various benefits that self-determination can secure make it the case that giving a group a right to self-determination strong enough to ground secession results in a net loss more generally for that own group’s self-determination. This would be like a situation in which giving someone a right to make choices would lead to a reduced ability for this person to make choices generally (one might sell oneself into slavery, or engage in dangerous activities that cause an injury which eliminates one’s ability to do various things).

Before discussing the situations and drawing conclusions from them, let us recall the distinction between constitutive and ongoing self-determination highlighted by Buchanan (Buchanan 2003). A right to self-determination strong enough to ground secession is a right to (at least) constitutive self-determination, because it is the group’s right to decide to become a separate political entity or not. A right to ongoing self-determination need not entail a right to

constitutive self-determination. Moreover, ongoing self-determination is something that a group has in degrees. Groups have more or less ongoing self-determination, rather than simply having it or failing to have it. Constitutive self-determination, meanwhile, is something a group has or does not have. Thus, the abilities to exercise constitutive self-determination and to exercise ongoing self-determination are also distinct: we can speak not just about *rights* to certain kinds of self-determination but also about whether groups have the ability to exercise self-determination, whether or not they have a right to it. So we can speak of a group having no constitutive self-determination (either as a right or as an ability) but of having some degree of ongoing self-determination in terms of having a right to make choices or in terms of having the ability to make choices (or both). With these distinctions in place, we can move on to the discussion of the inter-self and intra-self situations.

### **3.3.1 Inter-Self Conflicts**

First, take the inter-self situations. These are situations in which one group's right to self-determination might result in less self-determination, overall, for more groups, or for more people, or both. For instance, the Montagues might exercise a right to self-determination to secede from a state, taking some valuable resources with them, leaving the Capulets, a group comprising far more people, somewhat impoverished and less able to make political decisions about the future of the Capulet state. (This is similar to the situation in Sudan, where South Sudan seceded from the rest of Sudan, taking most of the oil with it.) Or the Montague secession may leave the Capulets and the Guermanteses less able to make political decisions. More specifically, we can say that the Montagues exercised a right to constitutive self-determination in a way such that the Capulets (or the Capulets and the Guermanteses) were

less able to exercise ongoing self-determination, although this of course does not mean that the Capulets or the Guermanteses have lost their *right* to ongoing self-determination (if they have one). It is just that the scope of that right is now more limited, because the Capulets (and the Guermanteses) have fewer choices. We can even imagine that the Montagues have not gained very much at all of an expansion of their ability to exercise ongoing self-determination. Perhaps the Montagues had previously been in charge of the combined Montague and Capulet state and their policies in the new state are not going to be very different at all.

This sort of example starkly demonstrates how a right to constitutive self-determination can do damage to the ability to exercise the right to ongoing self-determination. More specifically, a group's exercise of its right to constitutive self-determination can make it harder for other groups to exercise their rights to ongoing self-determination. It might also damage the ability for the other groups to exercise their rights to constitutive self-determination: perhaps neither the Capulets nor the Guermanteses are able to secede now that the Montagues are gone, because both would have been able to secede with a portion of the Montague territory and the natural resources available there, but with the Montagues gone, the Capulets and the Guermanteses are stuck in their existing state, which is the only remaining viable organization of power.

One response to this situation is to claim that self-determination is not reduced when the number of options is reduced. Rather, self-determination is only reduced when the number of options is reduced below some adequate set. So, a group may have just as much a right to self-determination if it gets to choose from three viable political decisions rather than seven viable political decisions. Thus if the Montagues secede, removing four options for the

Capulets and leaving the Capulets with just three remaining options, the Capulets have not had their self-determination limited at all, so long as the three remaining choices are adequate. This is the view of individual autonomy endorsed by, for instance, Michael Blake, according to whom “autonomy does not seem to demand a maximization of the number of options open to us... Autonomy, it seems, does not depend upon the sheer number of options available, at least above a certain baseline of adequacy” (Blake 2001, 269). So, we might think, there is no conflict between a right to constitutive self-determination and the right to ongoing self-determination, at least insofar as secession and other exercises of constitutive self-determination don’t reduce a group’s choices below some level of adequacy.

To adjudicate this dispute, we need to find what level of ongoing self-determination counts as adequate. If we set the limit as low as it can reasonably go, we are left with a theory like Altman and Wellman’s or Margalit and Raz’s. Altman and Wellman license a right to secede (that is, a right to exercise constitutive self-determination) in every case in which the rump state is “left politically viable,” which means that the rump state can “perform the requisite political functions involved in protecting human rights” (Altman and Wellman 2009, 46). If we set the limit higher, we are left with a different sort of theory. My own proposed theory sets the limit based on one’s conception of cosmopolitanism: the right to constitutive self-determination a group has is whatever would be best from a cosmopolitan point of view, which means the balance between constitutive and ongoing self-determination in any given case depends on one’s overall cosmopolitan view. The question is which method of setting the level of adequacy is most justified. Should we go with someone like Altman and Wellman, or someone like me?

To pick between these options, we need to think about what would cause us to endorse any given right to constitutive self-determination. Altman and Wellman defend their theory on the basis of intuitions about colonialism and group rights. Their approach, they say, makes sense of the wrongs of colonialism and it makes sense of the intuition that groups of people should be able to determine their own fates. My theory relies for its pull on one's intuitions that one's overall cosmopolitan theory delivers good answers on topics like immigration and distributive justice. One way to tip the balance in favor of my theory would be to address topics like colonialism. I do this below. Another way is to suggest that we might be wrong to treat group autonomy the same way we treat individual autonomy. That is the topic of this section, including the arguments above and below. It is also the topic of this particular argument we are in the middle of. That is, if I want to know how to set the level of adequate ongoing self-determination, it would help if I already knew how much I cared about constitutive self-determination, and about self-determination more generally. If I care a lot about constitutive self-determination, I will be happy with a low level of adequate ongoing self-determination, like Altman and Wellman. If I don't care very much, then I will find a theory like mine more attractive. So one might think that the best option to pick here is some kind of neutrality. One ought to be looking for reasons to set the limit of adequacy high or low, without first prejudging the issue. What follows, then, are arguments for thinking that perhaps one ought to set the limit of adequacy at least high enough to rule out certain exercises of constitutive self-determination, namely those that limit ongoing self-determination to some degree.

Altman and Wellman, and more generally those who endorse a low limit of adequacy for ongoing self-determination, might argue that the level should be low because when it

comes to individuals, we set the limit low. We allow individuals to exercise their self-determination even when this leads to many limits on the self-determination of others. Val may choose not to marry Adrien, even though this greatly restricts Adrien's options in the future because Adrien has no other options for a spouse.

This is a plausible response when it comes to rights for individuals. If Val exercises the right to free speech, and in doing so convinces people to stop donating to Adrien's charitable organization, leaving Adrien without the resources to print fliers or otherwise spend time and money advocating for Adrien's chosen issue, then Val has damaged Adrien's ability to exercise the right to free speech, but there is presumably nothing amiss about this. It would require quite authoritarian measures to restrict the exercise of individual rights such that individuals only exercised their rights in circumstances where this would not lead to a greater reduction in rights for others. The reasons to avoid this kind of authoritarianism are numerous: it would be difficult in practice to effectively implement, for instance. Surely the most relevant downside, though, is the vast infringement on personal liberty and autonomy that would result from these kinds of regulations. To endorse such restrictions would be to become something even more drastic than what Nozick calls a "utilitarian of rights" whose goal is "to minimize the weighted amount of the violation of rights in society," even if this requires "means that themselves violate other people's rights" (Nozick 1974, 30). A utilitarian of rights wants to minimize rights *violations*. But someone who is worried about the *capacities to exercise rights* rather than just the violations of rights, and who aims to maximize capacities to exercise rights even at the cost of denying others the exercise of the right, has gone quite far. Let us dub this view "utilitarianism of the capacity to exercise rights," or for brevity's sake "utilitarianism of capacities."

But it is precisely this kind of utilitarianism that we are left with if we endorse my theory of secession, because if we grant that constitutive or ongoing self-determination are not just important rights but important goods, we will endorse a right to secede (and thus a right to constitutive self-determination) only when, overall, this maximizes the amount of constitutive and ongoing self-determination for everyone, and if we *don't* grant that constitutive or ongoing self-determination are important, we will endorse a right to secede only when, overall, this maximizes whatever other rights we care about. All of this will happen at the expense of the right to constitutive self-determination, if limiting this right is required. Even if limiting the right isn't required, the possibility of doing so is at least on the table, because a group only has the right when this would be better, overall. If this utilitarianism of capacities strikes us as the wrong way to understand individual rights, even more so than the utilitarianism of rights strikes us as the wrong way to understand individual rights, why should we be drawn to it as a way of resolving inter-self conflicts between various rights to self-determination?<sup>43</sup>

Below, when I offer my positive arguments for my theory of secession in section 4, I will adduce reasons to think that conceiving of group rights in this less robust way is more compatible with taking individual rights seriously, so in fact a respect for individual rights tells against strong group rights. Here, I will offer a different argument based around the idea of who the 'self' in self-determination is and which 'selves' matter. The first point to note is that, as we have seen above, we do not have obviously delineated groups set out for us when

---

<sup>43</sup> If we are inclined to accept a utilitarianism of rights for individuals, or, more radically, a utilitarianism of capacities for individuals, the route to my theory of secession is much clearer, of course. So if one leans in that direction, or if one endorses an even broader sort of utilitarianism according to which something other than group rights to self-determination or group rights generally are what we care about, then my theory is at least *prima facie* far more tempting than the alternatives on offer, because my theory is happy to endorse a right to secede if and only if this would be good from the utilitarian point of view, whereas the other theories endorse rights that are more robust in the face of less than ideal consequences.

we begin to wonder which groups have a right to self-determination. Speaking of the Montagues, the Capulets, and the Guermanteses papers over the sorts of considerations noted above about how it is hard to figure out exactly who the ‘self’ in question is if we want to draw a clear line between the ‘self’ that is doing the theoretical work and the ‘self’ that ends up with the right to secede. But even granting we figure out some way to determine a stable group of ‘selves’ to which the right of secession can attach, there is now a further question to ask: why do we care about the self-determination of *these* selves? Why is the question presented to us one of whether we ought to buy into *this* utilitarianism of capacities, which would lead us to limit the right to self-determination of the Montagues in favor of the Capulets and the Guermanteses?

Why instead are we not asking whether we ought to limit the right to self-determination of the left-handed Montagues, the Capulets born within the past thirty years, and the Guermanteses with blue eyes, against the right to self-determination of everyone else? Once we conceive of the selves, we can begin to worry about inter-self conflicts and about how self-determination shakes out if one group or another has a right to secede. But how we conceive of the selves will of course make a huge difference in the answers that we get and in our commitment to the relevance of these answers to the creation of a plausible account of group rights.

If the selves are gerrymandered in some odd way like the one suggested above, we are not tempted to even worry about whether a right to self-determination for any of these selves is infringed upon for *any* reason. More relevantly, we are not going to worry about whether adopting a utilitarianism of capacities according to which a gerrymandered group’s right to self-determination is limited for the sake of the self-determination of other groups. It would



strike us as strange if someone even *raised the issue* of whether the self-determination of the left-handed Montagues is being trampled upon by the adoption of a utilitarianism of capacities (or by anything else) because we have no reason to care (unless this limitation is being generated on purpose, due to prejudice, which is a separate case). We wouldn't even bother checking whether some given distribution of power would work out well for left-handed Montagues, because whether it does or not, this does not strike us as a relevant criterion for judging power distributions.

Thus we must find out what it is about certain selves which convinces us that we ought to care about *their* self-determination enough that we can even ask the question whether the right should be limited so that it does not interfere with the exercise of the right by other groups (and of course we must also simultaneously find out why we care about these other groups as opposed to the gerrymandered groups we don't care about). In other words, we have to figure out why we might refuse to adopt a utilitarianism of capacities because it infringes on some groups while simultaneously accounting for the fact that we would have no problem adopting any sort of view (including a utilitarianism of capacities) just because it infringes on the right to self-determination of the left-handed Montagues. But, I argue, the sorts of answers we will give to why we ought to care about groups are not going to imply that we care about the rights of the groups in the way that the answers to why we care about individuals imply that we care about the rights of individuals.

Therefore, the sorts of answers we give will not tell against adopting a utilitarianism of capacities when judging questions of group rights in the way that they would tell against adopting a utilitarianism of capacities (and a utilitarianism of rights) when judging questions of individual rights. We care about groups and group rights because their rights, like the right

to self-determination, matter for the individuals comprising the groups, if we are liberal cosmopolitans, or because we care about nations, if we are communitarians or otherwise inclined to value groups. (Recall that, as noted above, the fact that we value nations does not straightforwardly tell us which groups ought to have a right to self-determination in the sense relevant for secession - a right to constitutive self-determination. We may care about the Amizagh nation but, on the basis of this, endorse a right to constitutive self-determination for a group comprising just some of the Touaregs, plus Islamists.) So in other words we care about the groups and the group rights for the sake of something other than the group itself.

This is not the case with individuals. We care about individuals because they are individuals, and we care about individual rights for the sake of the individual.<sup>44</sup> Balancing individuals and their rights against one another is a tricky proposition because a loss of rights for an individual is the sort of thing we want to avoid for its own sake.<sup>45</sup> Balancing group rights against each other for the sake of individuals (or nations), though, should be perfectly fine, because there is no reason to care about the loss of rights to any given group absent additional reasons. We don't care about the loss of rights for the group comprising the left-

---

<sup>44</sup> Any sort of consequentialism or other kind of morality that values maximization or something similar might not care about individuals at a fundamental level, but if individual rights can be justified under this kind of framework, then they are going to be conceived of as rights for the sake of the individuals because this on the whole leads to better consequences. If the "rights" in question are not truly for the individuals (even though the ultimate justification of the rights is not concerned with the individuals) then they simply are not rights. I take it that skeptics about individual rights are almost certainly skeptics about group rights and have thus excused themselves from the debate over the question of the right to secede from the very beginning, or they have instead instantly adopted my view, which is that the only "right" to secede worth talking about is a right to secede when this is better overall for everyone.

<sup>45</sup> We can say the same for the rights of nations, if we think nations have rights that sensibly adhere just to the nation rather than to groups like "some Touaregs plus Islamists" - rights like a right to the survival of the nation's cultural traditions or a right to inhabit the nation's ancestral homeland, for instance. Group rights like these are, I think, less subject to the sorts of objections I have been advancing against the right to self-determination strong enough to ground secession. It is not hard to pick out the group we care about and the reasons we care about the group, and the rights are more clearly tied to the group itself rather than to political considerations like where borders should be drawn, which is what the right to self-determination strong enough to ground secession involves.

handed Montagues, the Capulets born within the past thirty years, and the Guermanteses with blue eyes, because we do not think that this group's rights have relevance to the individuals the group comprises (or to any individuals, or to nations). So if we are reckoning our rights based on these odd gerrymandered groups, we will have no problem with a utilitarianism of rights. And we can go further: we can commit to a utilitarianism of capacities. There is no reason not to.

Why, then, might we have more of a problem when we move to more sensibly constituted groups, like the Montagues, the Capulets, and the Guermanteses? Can turning to these groups give us a reason to avoid a utilitarianism of capacities with respect to their rights to self-determination? The only reason we ought to be more wary of balancing the rights of these kinds of groups is if we can tell a story about how, on the individual (or national) level, a utilitarianism of capacities, and specifically a utilitarianism of capacities with respect to the right to self-determination for the groups in question, will have deleterious effects on individuals. (Or, if we are nationalists, if we can tell a story why this utilitarianism of capacities will be bad for nations.)

But when we ask this question we will not care at the outset which group the individuals (or nations) belong to. There is no reason to pre-theoretically care more about what happens to a Montague than a Capulet or a Guermantes. There is thus no reason to care particularly about the self-determination of the Montagues or the Capulets or the Guermanteses except insofar as we can get more self-determination for more people, or for more groups that matter, and it is hard to see what could make a group matter except that it matters to people (or to a nation) that the group have a right to self-determination. This is relevant because the topic we are addressing here is inter-self conflicts: cases where one

group's right to self-determination infringes on another group's right. And we now have a reason to throw up our hands and resolve the conflict by saying "forget about the groups - which answer to this question will be better for more individuals (or for more nations)?" We will be asking about *all* individuals (or nations), not about individuals insofar as they belong to one group or another, because the groups, as we have seen, are irrelevant, at least at the most basic level when we first ask the question. We don't want to turn conflicts of individual rights into a numbers game like this: we don't resolve a question of freedom of speech between two people by throwing up our hands and saying "forget about the people - which answer to this question will be better for more individuals?" The whole point of rights is so that we don't throw any individuals under the bus for the sake of others.

But there is nothing wrong with throwing groups under the bus, and in doing so on the basis of numbers (or anything else), because groups matter only because individuals matter, and throwing a group under the bus for the sake of individuals is not the same as throwing individuals under the bus for the sake of others. Of course, when a group is thrown under a bus, the individuals in that group also end up worse off, but the alternative is to hold that in decisions like this, which often involve hundreds of thousands (if not millions) of people, we cannot ever violate anyone's rights at all, which is an implausibly strict view.

The only way to salvage such a view would be to hold that individuals only have rights against things like death, torture, and so on - a perfect inviolable right to self-determination as a member of a group is not the sort of thing that each individual can plausibly have. What this reasoning looks like when applied to the question of a right to self-determination strong enough to ground secession should be clear. It looks like my theory, and it does not look like the other theories on offer. The other theories on offer reify one group or

another by elevating that group to a position where it can exercise its right to self-determination in order to secede, even if on balance this would lead to less self-determination for people (and groups) generally. Less self-determination for groups generally is not something to worry about. If we find out that, after the Montagues secede, the Capulets and Guermanteses with red hair will have less self-determination, we will not care. Less self-determination for individual people *is* something to worry about, at least to the extent that we think self-determination is an important value to be protected. (If we don't think this, it is hard to see how we would end up endorsing associationist or ascriptivist theories of secession as opposed to my own.) But the theory that makes sure that individual people do as well as they can is *my* theory.

There are two important things to note about this argument. The first is that sacrificing a group's right to self-determination for the sake of the self-determination of individuals does not necessarily mean that we are aiming to *maximize* each and every person's self-determination, such that we might radically infringe upon the right to self-determination for a small group of people for the sake of small gains in self-determination for a very large group of people. Rather, it means that what we are aiming to maximize is each person's *individual right* to self-determination, because it is each individual's right that, combined with the rights of others, explains the *value* of *group* self-determination. In other words, we are thinking in the mercenary terms of maximization and value when it comes to group rights, such that we countenance the possibility of infringing on one group's right for the sake of the group rights of larger groups, but this is because our reasoning is, in effect, stepping back from the groups and looking only at the individuals. What looks like a numbers game when applied at the level of groups looks instead like an effort to salvage the individual right to self-determination for

as many individuals as possible when we examine each separate person. The *value* of group self-determination arises from the individual *rights* of self-determination, so maximizing group self-determination is a way of respecting individual *rights* to self-determination.

The second important thing to note is that infringements on group self-determination are not necessarily at odds with theories of self-determination, which sometimes realize that there can be limits on one group's right for the sake of another group's right. So for instance Margaret Moore adduces various considerations that limit the exercise of the group right to self-determination in the context of secession, like a "principle of reciprocity," which requires secessionists to potentially pay restitution to the state they secede from, which "does not necessarily mean that self-determination, or indeed secession, is rendered impossible, but that self-determination has to be pursued in a way that is consistent with [the secessionist group's] duties to the remainder state" (Moore 2015, 133). If we endorse demanding principles of redistributive justice, these will likely also place limits on the exercise of self-determination. So the difference between the sort of balancing endorsed by my theory and the balancing endorsed by other theories of secession is one of degree, rather than one of kind. My theory, though, is in one way more principled, because my theory admits that once this balancing is taking place, the "right" to self-determination more or less vanishes from the picture, whereas other theories want to both endorse the strong right to self-determination and also somehow make room for balancing it with other considerations. This tension is not impossible to resolve, but once we are engaged in a balancing act, we should ask ourselves whether we ought to be giving a group right to self-determination pride of place, or whether we can do without it, at least when it comes to questions of secession. We're going to have to balance

everything no matter what: why not balance in a holistic manner, rather than prioritizing the group right to self-determination?

This argument is an implication of and extension of the common cosmopolitan conception of borders as morally arbitrary (see section 4.2 below). Borders, we might think, are accidents of history, and being born on one side of a border or another ought not to drastically impact one's life prospects absent some additional defense of the relevance of borders. Because there are few reasons to reify existing borders, or even borders more generally, cosmopolitanism militates in favor of conclusions that disregard borders when doing so is necessary to achieve justice or other important goals. This is not to abandon borders entirely: we could give a cosmopolitan justification for borders, perhaps by arguing that dividing the world up into states helps accomplish things that are important from the borderless cosmopolitan perspective. O'Neill's cosmopolitanism suggests as much.

We can say something similar about group membership. Most group membership is entirely morally arbitrary. Being a member of the group of left-handed people born on Tuesdays or the group of people with an even number of hairs on one's head are both examples of morally arbitrary group membership. The key question for secession is whether some groups can elevate themselves to a level of moral importance, either on the basis of the autonomous choices of their members, as with associationist theories of secession, or on the basis of a shared nationality, as with ascriptivist theories of secession. If the answer is yes, as these theories of secession claim, then we must take seriously membership in these groups when we formulate our political theories. But if self-determination is the route we choose in order to reach this conclusion, as it is with ascriptivist and associationist theories of secession,

we have to have some reason to treat these individual choices, when amalgamated into group rights, with the same respect we accord to individual choices at the level of individuals.

If we had some *other* reason to do this beyond adverting to the right to self-determination, this would be good for these theories. One reason offered by Altman and Wellman is that “individuals are disrespected in a morally objectionable manner when their group is denied self-determination” (Altman and Wellman 2009, 38). This is the general sort of approach: provide some reason to think that violations of group rights are as bad as violations of individual rights, and thus provide a reason not to balance group rights in a mercenary way with the excuse that this is not as bad as balancing individual rights. There are various reasons to think this is not the case, as noted above in section 3.2, when we examined the difficulties that arise when we try to figure out what the groups are in the first place, and below in section 3.4, when we will examine ways in which groups are relevantly different from individuals. For now, we can just note that the dialectic is such that proponents of a right to self-determination have the burden of establishing that violations of group self-determination are as bad as violations of individual self-determination, and to the extent that this argument cannot be substantiated, we will have reasons for endorsing my theory of secession rather than other theories of secession which are based on strong group rights to self-determination.

Let us back into the argument via another route. Say that we care about how the members of three groups fare. If we are cosmopolitans, we primarily just care about each individual. If we are nationalists, we also (or instead) care about the nations these individuals belong to. We are presented with two possible arrangements. In the first arrangement, each group has a right to constitutive self-determination that it may exercise however it chooses, no



matter how much this damages the capacities of the other groups to exercise their various rights (so long as the group does not violate any rights).

So for instance one of the groups may exercise its right to secede and leave the other two groups worse off along any axis we choose to measure, except the axis of rights violations, and also leave most of the individuals worse off in the same way. In the second arrangement, only one of the groups has a right to constitutive self-determination, the exercise of which will leave all three groups better off along any axis we choose to measure, and the same goes for all of the individuals, who are better off.

We are then asked which arrangement best resembles one in which the groups actually have a right to constitutive self-determination. Ascriptivist and associationist theories of secession cannot answer this question without more information. At first, we may be tempted to think the ascriptivist needs to know which of the groups (if any) is a nation, and we might also think that the associationist needs to know which of the groups (if any) comprises individuals who desire to associate together. But, as we have seen above in section 3.2, ascriptivist and associationist theories cannot give this simple answer, because something else must be doing the work when it comes to which particular groups actually have the right to secede. So we must have some other criterion according to which we make the decision.

One possibility is my theory: pick the second arrangement because it is better along any axis that we choose to measure, except whatever criteria the ascriptivist or associationist will pick. If, when we find out what the groups are, it turns out that we have denied two nations a right to constitutive self-determination or we have denied that right to two groups of people that desire it (and if we have thus rejected the main thrust of ascriptivist and associationist theories of secession) then we are unconcerned, because we were just aiming to

make things better in figuring out who has a right to constitutive self-determination. If instead it turns out we have denied two oddly gerrymandered groups a right to constitutive self-determination, so much the better. Nobody is going to be up in arms about a theory that says that, for instance, the left-handed Montagues have no right to constitutive self-determination.

What reason might we have for rejecting my theory? One possibility is that, prior to making this decision, we know that we want some groups to have a right to constitutive self-determination, and we are unwilling to infringe on this right, and thus we are unwilling to commit to a decision before we know if this will entail infringing on a right to constitutive self-determination that we endorse for other reasons. To say this is to already have abandoned the basic cosmopolitan viewpoint, at least partially, because we have added an additional, group-centric consideration into our thinking which occurs after, and which overrides, our judgments that are made without any view towards which groups people belong to.

This is not to say that group-centric thinking of this kind is always objectionable. It is just to note that it conflicts with the basic cosmopolitan approach, and if we are trying to determine a theory of secession from the point of view of cosmopolitanism, this added machinery should give us pause and cause us to examine whether it is really necessary, or if instead we can make do just with the basic cosmopolitan commitments, which is what my theory of secession does.

The recognition that self-determination for one group can conflict with self-determination for another group is the reason that supporters of nationalism often moderate their ascriptivist theories of secession, or at least advance claims that suggest that their theories of secession ought to be moderated. Miller, for instance, notes that a nation's "good claim to political self-determination" doesn't necessarily imply "that the institution" under which this

claim is satisfied “must be that of a sovereign state,” because “national self-determination *can* be realized in other ways, and... there are cases where it must be realized other than through a sovereign state, precisely to meet the equally good claims of other nationalities” (Miller 2000, 27). That self-determination must be limited like this is not necessarily a reason to discard the concept altogether - we might plausibly wish to maximize self-determination, or satisfy self-determination, or otherwise care about self-determination for nations or for other groups for various reasons.

When addressing the question of secession, though, the fact that self-determination is not always strong enough to get us secession raises the question of whether self-determination is *ever* strong enough to get us secession in the face of *any* (let alone many) countervailing interests. Could there ever be a reason to treat self-determination as strong enough to ground a *right* to secession, and thus a *right* to exercise self-determination even to the detriment of the self-determination of others? Or are there many reasons to avoid this? An ascriptivist like Miller is in the tenuous position of having to say that self-determination is sometimes strong enough to ground a right to secede even when the results are not great, on the one hand, and saying that self-determination can't ground a right to secede no matter how bad this is for other nations' self-determination. A principled stand on one side of the issue or the other would make more sense: either go the route that Altman and Wellman go, and hold that self-determination is a strong deontological right that can only be limited in cases of extreme emergency or something similar, or go the other way and abandon a right to secede in any sense stronger than that endorsed by my theory, according to which the “right” to secede really only exists if this would be better, overall, from the point of our more general evaluative framework.

Finally, of course, we might not think that self-determination is the be-all and end-all of political theorizing. If we have other values that we want to throw in the hopper, the temptation to compromise a right to constitutive self-determination gets stronger, if anything. My theory handles this with aplomb, but the other theories of secession have trouble with this, at least insofar as the right to secession is a right of any real weight whatsoever. The less weight it turns out to have, the less compelling these theories look compared to mine. The more weight it has, the less plausible these theories look, especially once we add in the other worries about self-determination adduced above. Sections 4.1 and 4.3 below address this topic in further detail.

### **3.3.2 Intra-Self Conflicts**

We have just examined situations where conflicts between various possible selves suggest that we should be wary of using the right to constitutive self-determination in the way that ascriptivists and associationists wish to use it. In this section we turn to intra-self conflicts: cases where the exercise of a right to constitutive self-determination can lead to reductions in the capacity to exercise either constitutive or ongoing self-determination, or both. Just as someone might exercise their individual right to self-determination to sell themselves into slavery, or, less drastically, to give away all their possessions and enter a monastic order that forbids them from undertaking various endeavors, a group might secede and leave itself in a position where it is less able to protect itself from natural disasters, less able to manage its economy, less able to prevent crime, less able to successfully negotiate treaties with other states, and so forth.

When it comes to individuals, there are mixed feelings on whether the use of a right in a way that restricts one's rights in these ways is possible, and there are also mixed feelings on whether, assuming it is possible, these exercises of the right are really ones that ought to be respected. When a person sells himself into slavery, Mill says, "he abdicates his liberty; he foregoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself... the principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom" (Mill 1989, 103). Mill, it seems, thinks there is not a right to sell oneself into slavery, and there are other answers we could imagine: there is such a right, but paternalistic violation of that right has consequences good enough to justify violating it (this is another way of reading Mill); there is such a right, and paternalistic violation of that right has consequences that are not good enough to justify violating it; or there is such a right, and regardless of the consequences of violating the right, paternalism is unjustifiable because rights must be respected unless violating them is necessary to prevent other rights violations.

Answers that lean towards paternalism may be more compelling for rights like the right to sell oneself into slavery than rights like the right to give away all of one's possessions and enter a strict monastic order, either because the balance of consequences shifts or because some rights are more conceivable than others (entering a monastic order does not seem quite as contradictory as exercising one's freedom to give up all of one's freedom). If paternalism of this kind is justifiable for individuals, then there is much more reason to think that it is justifiable for groups in cases of intra-self conflicts, because whereas individual paternalism paradoxically infringes on an individual's will for the sake of the individual's will, group paternalism infringes on the group's will for the sake individuals within the group, who are

potentially not in accordance with the group's will, and who, even if they are in accordance with the group's will, are not entirely subsumed by it, and are thus not as directly overridden by paternalism as an individual is.

This is most clear when we think of oppressed minorities in a group. Members of oppressed minorities may disagree with the group will's decisions in certain cases, and they may care much more about the disagreement than the rest of the group does. So for instance the group as a whole may decide to secede, because for the majority of group members secession is a moderately attractive option, while a minority of people within the group very much wishes not to secede. Even if self-determination is a strong deontological right which ought not to be violated for any reason or for almost any reason, we still here have a conflict between the self-determination of the larger group and the self-determination of the minority group. Asking whether a right to *secession* is justified by a right to self-determination papers over the fact that self-determination means more than just complete self-determination of the sort secured by secession, and focusing just on the larger group's self-determination will suggest a right to secede at the cost of the minority's right to self-determination which does not enter into the picture because the minority does not desire secession. This is a reason to avoid coming up with an overarching theory of the right to secede of the sort endorsed by ascriptivists and associationists, and rather adverting to my theory's deflationary account of the right to secede, according to which there's only a right if it turns out better overall. Certainly the idea that a group's self-determination might reasonably be frustrated for the sake of some members of that group is not at all alien to liberalism: Susan Moller Okin, for instance, famously argues that respecting the rights of a culture may conflict with respecting the rights of women within that culture (Okin 1999).

This argument works the same way when the people who lose out are not minorities, but rather the members of the group more generally, because just as an individual can exercise self-determination and end up worse from the point of view of self-determination, a group can do this too. It might just be a very bad idea to secede, and if the group is allowed to secede, it will later regret it. Because the reasons for refraining from paternalism with respect to individuals, and allowing them to screw up, are many, whereas the reasons for refraining from paternalism with respect to groups are far fewer, we might think that it is far less likely that we will endorse any sort of strong group rights that ought to be immune to paternalistic interference in various cases. In this case, “paternalistic interference” doesn’t necessarily entail literal restraints - it just entails the lack of a right on the part of the group to secede. So the picture is not necessarily one according to which groups are prevented from seceding against their will while being told that this is good for them.

Rather, the picture is that groups choosing to secede in such circumstances engage in an activity that they have no right to engage in. There are many practical reasons not to interfere with groups undertaking this sort of action, and there may even be countervailing moral considerations (like the consequences of interference) that suggest that overall, others ought not to interfere with secession, but this will not be because the group has a right to secede in virtue of its right to self-determination. If the group cannot avail itself of any such justification, because paternalistic reasons suggest that this would be bad for the group, then neither the ascriptivist nor associationist accounts of the right to secede can succeed, as they must posit a right to secede on the basis of self-determination.

Just as in the previous discussion of inter-self conflicts, we are looking for some reason to privilege certain groups in certain ways. Whereas before we were looking to

privilege the groups that match the ascriptivist or associationist picture as opposed to other groups comprising other people, here we are looking to privilege the groups that match the ascriptivist or associationist picture as opposed to some subset of these groups or as opposed to these same groups viewed from the perspective of ongoing self-determination rather than constitutive self-determination. We need one or both of these because otherwise we won't endorse the ascriptivist or associationist theory of secession, even given a concern for self-determination.

Rather, we will endorse whatever theory secures self-determination for the subsets of the groups, or for the groups viewed in terms of ongoing self-determination rather than constitutive self-determination. It is clear why, when confronted with individuals, we might privilege the individual rather than some "subset" of the individual, or why we might privilege the individual's "constitutive" choice about (for instance) becoming a slave. We saw these reasons above, and we will see more below: it's not clear that people have any "subsets," it is a large imposition on an individual's will to have it frustrated in certain ways, and so on. Since these reasons are at best attenuated when applied to groups, though, especially when it comes to the very particular question of secession, which is just one of the many forms in which self-determination can be actualized, we should at least find it easier to lean in the direction of my theory than we would if we were talking about individuals. This leads us to another way in which we might interrogate the difference between groups and individuals with respect to self-determination: the marriage analogy.

### **3.4 The Marriage Analogy**



Another reason for doubting that there is a right to political self-determination strong enough to ground a right to secession is that the comparison to an individual right to self-determination of the sort that grounds marriage and divorce actually tells against theories of secession based on rights to self-determination. This point has been explored by Hilliard Aronovitch (Aronovitch 2000) and Jason Blahuta (Blahuta 2001) who both argue that the differences between divorce and secession make divorce an inapt analogy for secession. The differences they highlight also illuminate some issues with treating political self-determination the same way we treat individual self-determination. There are two overarching themes in the criticisms presented by Aronovitch and Blahuta that are worth drawing out. The first is that the groups involved in secession are not individuals. The second is that the consequences of secession are different in kind and in scale from the consequences of divorce.

Secession and political self-determination are questions about groups and their rights, whereas divorce and individual self-determination are questions about individuals and their rights. It is helpful to keep this in mind and to think through its implications, because many arguments for secession, especially associationist arguments, rely on the intuition that divorce and secession are similar in order to bolster the argument. Wellman, for instance, notes that “any law requiring us to marry by a certain age, specifying whom we may or may not marry, or prohibiting divorce would impermissibly restrict our freedom of association,” which at least intuitively suggests that “it would not seem terribly difficult to construct a compelling argument in defense of unlimited, unilateral rights to secede: One need only appeal to the right to freedom of association” which also explains our intuitions about divorce (Wellman 2005a, 6). Surely restricting marriage and divorce is objectionable, so ought we not to think that restricting secession is similarly objectionable?

Aronovitch argues that “it is in general a mistake to look to the personal, individual domain for models applicable to the public, collective, institutional domain,” because “crucial variables change or are missing in the transition” (Aronovitch 2000, 29). These variables include the territorial aspect of secession, obligations to future generations which stretch much further than in marriage, an increase in complexity when dealing with countries rather than individuals, and the clear identities of the parties involved in divorce as opposed to questions about who the parties are when we address secession (Aronovitch 2000, 29).

I am sympathetic to some of these criticisms: the last one, which raises worries about who the parties to secession are, has been illuminated above in section 3.2. The other worries Aronovitch raises are ones we might think are navigable: territory is indeed crucial to secession in ways that it isn't crucial to marriage, but at most this suggests only that we must take care to be certain that the territorial question does not invalidate the analogy. Absent any reason to think it does, divorce still seems like it could be an apt comparison to secession. Worries about future generations and the complexity of country-level decisions might just suggest that our thinking about marriage and divorce is too limited: if we worry about many more future generations and many more variables when we address secession, it may just be that we are more willing to compass the relevant moral factors because we admit of greater detail in our political theory than in our examinations of marriage.

More relevant is the later point Aronovitch raises about how we think it can be reasonable to ask political organizations to change in ways that it would not be reasonable to ask people to change (Aronovitch 2000, 32). Aronovitch imagines a situation in which a group is about to secede, citing various grievances, and asks “if there are legitimate grievances, why not remedy or accommodate them? [...] What sorts of really insuperable

practical obstacles could there be if the demands are genuine and compelling enough to merit secession” (Aronovitch 2000, 32)? This is quite different from cases of divorce, where in order to remedy the grievances, “the needed change is bound to involve not just behavior but emotions and particular feelings directed toward a specific individual, things that may be beyond one’s control and are anyway of a very different order from impersonally oriented new powers, structures, or rules, namely the stuff of political life” (Aronovitch 2000, 32). It is reasonable to think that political organizations might be subject to certain duties, including duties to radically alter themselves in ways that are incompatible with a strong right to political self-determination - duties that individuals are almost certainly not subject to.

Notice that although the conclusion we might draw from Aronovitch’s point directly is that there may not be a right to secede, as opposed to a right simply to live under a different political arrangement, the further conclusion this suggests is one not about the rights of the prospective secessionists but the rights of the state being seceded from. We find that we might reasonably think that the state has duties to remedy the grievances, whereas someone who is being divorced surely has a right to continue being the person that they are, so long as they are not doing anything extremely egregious like engaging in violence. This conclusion is one about a limitation on self-determination, albeit not for the prospective secessionists, and thus it lends support to a view of the landscape in which self-determination has less importance than the ascriptivists and associationists must think it has.

A concrete example of this disanalogy is illuminating. In *Board of Directors of Rotary International et al. v. Rotary Club of Duarte et al.*, the United States Supreme Court ruled that the Rotary Club could not invoke its freedom of association to exclude women. The Court argued that “the intimate relationships” which have been “accorded constitution protection

include marriage; the begetting and bearing of children; child rearing and education; and cohabitation with relatives” (Board of Directors v. Rotary 1987, 545). Circumscribing the scope of the freedom required consideration of “factors such as size, purpose, selectivity, and whether others are excluded from critical aspects of the relationship” (Board of Directors v. Rotary 1987, 546). The Court then highlighted the ways in which the Rotary Club was “not the kind of intimate or private relation that warrants constitutional protection” (Board of Directors v. Rotary 1987, 546). Rotary Clubs varied in size “from fewer than 20 to more than 900,” membership fluctuated over time due to attrition and new arrivals, the members engaged in projects to benefit the community at large and “international relations,” activities of the Clubs were carried out in the presence of strangers and jointly with other organizations, activities of the Clubs were covered in local newspapers, and so on (Board of Directors v. Rotary 1986, 546). The lack of intimacy and privacy in this sort of association, compared to that present in families and other more intimate associations, serves simultaneously as the basis of the Court’s decision and as the evidence of the disanalogy between marriage and secession. The right to freedom of association and accompanying right to self-determination of the Rotary Club, at least according to the Court, was not strong enough to allow the club to exclude women. We might similarly think that the right to freedom of association and accompanying right to self-determination of states is not strong enough to allow the states to exclude arbitrary groups of people, or groups of people who are not members of a certain nation, which are both ways of describing what occurs in secession under associationist theories and ascriptivist theories, respectively.<sup>46</sup>

---

<sup>46</sup> Sarah Fine discusses the similar example of the 1984 case *Roberts v. United States*, albeit in the context of immigration rather than secession, and comes to the similar conclusion that the right to freedom of association cannot be as strong as Wellman conceives of it (Fine 2010, 351).

This difference is highlighted by inconsistencies in how Aronovitch and Blahuta approach secession. As Aronovitch puts it, “while we may grant that a seceding unit may somehow sensibly claim an equivalent reason [to no fault divorce] for leaving a country, surely there is no reciprocal right for the rest of the country to turn around against some part and by a majority decision simply opt to end its relationship to that part” (Aronovitch 2000, 30). Or, as Blahuta describes the situation, “the ability to leave is not held by both parties when it comes to secession. Were both parties able to remove themselves from their relationship with the other, it follows that a subunit confined to a specific territory and recognized as a people could be expelled from the nation against their will and without provocation (although the most plausible reason would be an economic one). Such an occurrence between peoples seems very counterintuitive” (Blahuta 2001, 246-7).

Despite how counterintuitive these results strike Aronovitch and Blahuta, this right to exclusion, either on the part of any group freely associating together or on the part of nations, is straightforwardly implied by associationist and ascriptivist theories of secession respectively, just like the right to exclude women is straightforwardly implied by the right to freedom of association cited by the Rotary Club in its unsuccessful attempt to combat integration. In fact, “exclusion” is just another word for secession - there is nothing that sets this ostensible “exclusion” apart except perhaps that the secessionists are larger in number than we traditionally think of when we imagine secession. Nothing in my definition of secession, though, requires that the secessionists be a minority, and there is nothing in the theories of secessionists that would generate this requirement either. Aronovitch and Blahuta have mistakenly generated a division where none exists.

Philpott, in his defense of the right to self-determination for groups, notes that the question of “exclusion,” which is the question of what happens when “the citizens of one state do not want to allow an outside group of citizens to join,” is “insoluble,” which he finds somewhat worrying because the question arises as a natural result of positing a right to self-determination like he does (Philpott 1995, 381 footnote 55). It is clear that, intuitively, there seems to be some difference between the secession of a group, on the one hand, and the exclusion of a group, on the other hand. But if secession is understood in the way that associationist and ascriptivist theories understand it, there cannot be any substantive distinction between secession and exclusion. A group that secedes because it wants to refrain from associating with others is practicing exclusion, and if its right to secede is based on a right to self-determination, then it may continue to exclude outsiders just like the Rotary Club could have continued to exclude outsiders if its right to self-determination had been upheld.

Indeed, both associationist and ascriptivist theories of secession also support limitations on immigration. As Altman and Wellman note, the freedom of association “includes the right *not* to associate, and even, in many cases, the right to disassociate” (Altman and Wellman 2009, 159). On their account, states have a “right to determine the criteria by which outsiders are permitted to enter their territory or become citizens, as long as the criteria are consistent with its obligation to treat all its citizens as equal members of the political community,” which leaves legitimate states “entitled to reject *all* potential immigrants, even those desperately seeking asylum from tyrannical governments” (Altman and Wellman 2009, 188). The case is even stronger for nations, because it is hard to imagine what the use of a right to national self-determination and secession would be if nations had to subsequently allow non-nationals in. Secession based on self-determination is just exclusion

by another name.<sup>47</sup> This does not necessarily make it morally impermissible or otherwise suspect, and both Aronovitch and Blahuta highlight the issue of exclusion to note that it is morally *different* from secession. However, if we want to capture this moral difference with a theory that allows us to make the distinction and support the possibility that secession might be wrong even though it is supported by a right to self-determination, we have to reject the right and perhaps adopt a theory of secession closer to mine. Mine allows us to treat secession differently from exclusion by incorporating whatever the moral difference is, even though this requires us to sometimes run roughshod over self-determination. In other words, in order to carve out a category of exclusion as distinct from secession, we would need to introduce additional machinery, and the only space to build this in would be somewhere in our general theory of cosmopolitan justice, which my theory adverts to.

The impetus to limit exclusion in cases of secession is much stronger than the impetus to limit exclusion in cases of divorce. One reason for this is the reason that we have been addressing thus far: states are not people, and it seems ridiculous to characterize a divorce or a refusal to marry as “exclusion” in ways that it does not seem ridiculous to characterize secession or limits on immigration as exclusion. Another reason for this difference is the second main reason why secession and divorce are disanalogous: the scope of the consequences are vastly different in the two cases. A right to political self-determination on the part of states, nations, and groups that desire their own state, whether this entails secession, restrictions on immigration, or anything else, can make a huge difference in the lives of many people. The damage can be far greater if groups exercise their rights to political self-determination in less than optimal ways compared to what happens if individuals exercise

---

<sup>47</sup> For more on this link between self-determination and exclusion, see Fine 2013.

their right to self-determination to break marriages they probably ought not to break or to otherwise engage in unwise and nonoptimal behavior. This alone militates in favor of at least considering restrictions on political self-determination that we would never place on personal self-determination.

Much more relevantly, though, a group right to political self-determination, because of the vast scale on which it applies, is, for each member of the group, very different from their individual rights to self-determination. As Aronovitch notes, “in a decent society, unlike a decent marriage, persons must expect to live with some others toward whom they may be far from well-disposed but must at least tolerate or learn to” (Aronovitch 2000, 33). Limitations of the group right to political self-determination, compared to limitations to individual self-determination, are both harder to avoid (because the scope of political associations makes it difficult to arrange them as optimally as marital associations can be arranged) and typically less burdensome, because when a group’s self-determination is frustrated this does not directly constrict the will of any one individual with respect to the most intimate and crucial parts of that person’s life.

This is why the Supreme Court looks at features like the size of the group, the privacy and publicity of the relationship, and the cohesiveness or lack thereof of the association in question to determine whether and to what degree important interests are violated if the freedom of association is limited. The Rotary Club is much closer to a state than to a marriage, and indeed states are further along with respect to every dimension the Court examines in terms of lacking intimacy and inviolability that require protection by a right to self-determination. The imposition if I am forced to marry against my will or prevented from



divorcing against my will is far greater than the imposition if my group is forced to admit outsiders against its will or prevented from seceding against its will.

First of all, I may not even be in agreement with my group on this matter. I may even welcome the fact that immigrants are let in or that my group does not secede. I might instead simply be ignorant: I may have no settled view on these questions, or if I do, I may not be informed enough about what is going on to know that immigrants are being allowed in or that secession is being blocked. It is hard to imagine me being ignorant of whether I have been married or divorced. Even if I know and care about whether my group is getting its way, situations in which it does not get its way are unlikely to be as onerous as situations in which I do not get my way with respect to marrying a willing spouse or divorcing a spouse I do not wish to remain married to. No matter how invested I may be in politics, it is unlikely that a frustration of my political will sits as heavily on me as the frustration of my personal will with respect to divorce or other situations that are meant to be analogous to secession.

Miller makes the same point: the idea that “we have a deep interest in not being forced into association with others against our wishes” is one that “applies most clearly in the case of intimate relationships,” and is one which “can be extended to certain larger groups such as religious communities,” and even “in a much weaker form it may also apply to clubs formed for social or recreational purposes,” but the reasons for thinking this do not “apply to political communities of the size of contemporary nation-states. These are not intimate associations. If I dislike encountering people with particular characteristics, I can arrange my life in such a way that I will rarely if ever come across them” (Miller 2007, 211). Even Wellman himself notes that “citizens are not connected to compatriots as they are to uncles (or contrapositively,

no one would posit associative allegiances to uncles if they were as numerous and interpersonally distant as compatriots in a modern bureaucratic state)” (Wellman 2005a, 18).

This is not to say that there is no reason at all to care about what happens when groups do not get their way. It is just to point out that we can have compelling reasons to limit political self-determination and compelling reasons to worry less about these limits, compared to marriage and other intimate associations, where there are fewer reasons to limit individual rights and compelling reasons to worry about any such limits we would want to impose. The Supreme Court saw fit to limit the self-determination of the Rotary Club in order to prevent sexism. My theory of secession maintains that we can similarly limit the self-determination of groups for any morally relevant reason. It is true that, if the Supreme Court were to expand beyond sexism to incorporate all sorts of interests, we would be left with a somewhat anemic picture of the Rotary Club’s autonomy, and it is also true that my theory of secession leaves us in this position with respect to the self-determination of groups at the level of statehood. If, however, we think that there are important causes beyond just sexism, as I think we do, and if we think that these causes are captured by whatever cosmopolitan theory we subscribe to, as I imagine we do if we subscribe to the theory in the first place, then I think there are good reasons not to worry about the damage we have to do to self-determination to capture the importance of these causes and the degree to which they limit acceptable forms of association at the level of states.

Note also that this is not to say that nothing bad happens, or nothing particularly bad happens, when the political wills of groups are frustrated. Rather, it is to say that the frustration of the political will is not the best description of the bad thing that happens. Rather, the bad results of the frustrations of a group’s political will are things like oppressive laws

imposed upon the group that limit the freedom of the individuals in the group, or economic discrimination against the members of the group, or other sorts of harms distinct from the harm of having one's group will frustrated. My theory of secession is *better* poised to capture *these* sorts of harms, because it looks not to the frustration of a group's political will (its right to self-determination) but rather to the results of this frustration. If indeed groups suffer when denied a right to self-determination strong enough to ground secession, my theory can still report that the groups ought to have a right to secede, because this will prevent the further wrongs. This is just to get clear on what is doing the work, though. Unlike in the individual case, where simply the frustration of one's will is enough to constitute a grave wrong, in the group case, we need to look further to see if the frustration of the group's will leaves the group worse off along any other axes.

One response to this line of argumentation is to respond that "to note the lack of intimacy among compatriots is to miss an important part of the story" - according to Wellman, "it is no good to tell citizens that they need not personally (let alone intimately) associate with any fellow citizens they happen to dislike because fellow citizens nonetheless remain political associates; the country's course will be charted by the members of this civic association" (Wellman 2008, 114-5). "The point," he says, "is that people rightly care very deeply about their countries, and, as a consequence, they rightly care about those policies which will affect how these political communities evolve," and these policies include policies about how to associate with, which shows us why we should endorse a strong right to self-determination of the sort defended by Wellman (Wellman 2008, 115). There are three replies to this.

The first is to note that this brings along with it the idea of some sort of irreducible good linked to democracy, or something like it: unless one's participation in and ability to shape the course of one's state is good beyond the good consequences that this brings, there is no reason to think that my desire to shape the future of my state is any more compelling than my desire to shape the future of a state I don't live in. Why should my preferences about the future of my state be relevant to the question of my self-determination unless there's something special about the fact that I'm participating in that state as opposed to some other? This is not an objection unless one objects to the intrinsic value of democracy, and indeed Altman and Wellman count it as a benefit of their view that it captures what is important about democracy beyond simply results, but this adds an additional layer to the defense of a strong right to self-determination, and it gives us another potential reason to object to it (Altman and Wellman 2009, chapter 2).

Moreover, this defense of democracy is a defense of a very specific kind of democracy: a democracy of existing political entities, or of their various subunits, should they choose to secede. This is because Altman and Wellman take for granted existing borders and allow alteration only by those on the inside of the borders. It may sound natural that only those currently inside a state ought to have the right to chart the course of a state, and thus we naturally afford a right to self-determination to the existing citizens while simultaneously allowing them to exclude outsiders, but to accept this conception of democracy is already to take one step back from the basic cosmopolitan picture according to which the say I have in my government depends not on an accident of birth but rather on my choices as an individual, if we are a Kantian sort of cosmopolitan, or on good results, if we are a consequentialist sort of cosmopolitan.

So even a defender of democracy might reject the Altman and Wellman picture and argue that although everyone ought to have a right to shape the character of their state, this is not a right that allows them to exclude others from having a right to shape the character of that state, if this exclusion is done on the basis of morally irrelevant factors, like skin color or gender or place of birth. This is related to the issue raised by Robert Goodin of enfranchising all affected interests in a democracy (Goodin 2007). Rather than taking for granted existing borders, we might think that the people who get votes in a democracy are those who are influenced by the democracy's actions, which may include many people outside the borders.

The second and more powerful reply is that the fact that some people "rightly care" about a state and its policies does not show that this group of people has any sort of right to put these preferences into action unless we already assume what we are trying to prove, namely, that these people have a right to self-determination on the basis of this care that they hold for the future of the state. Thus at this point it comes down to one of two things: bare intuitions, or some sort of accounting of the positive and negative reasons to endorse such a right. The bare intuition that groups of people have a right to self-determination as strong as Wellman defends is, I think, not the strongest bare intuition, especially compared to the intuition that individual human beings have a right to self-determination strong enough to choose their marriage partners.

Any choice on this matter is likely to leave us with conclusions we find at least somewhat implausible on their face - Wellman's approach to secession is far more accepting of secession than we are likely to be, and his approach to immigration, an endorsement of "the stark conclusion that every legitimate state has the right to close its borders to all potential immigrants, even refugees desperately seeking asylum from incompetent or corrupt political

regimes that are either unable or unwilling to protect their citizens' basic moral rights," is unlikely to gain much purchase at the level of bare intuition either (Wellman 2008, 109).

This is not to say that the alternative, which is to reject the right to self-determination, fares much better - without this right, we are bereft of reasons to explain why annexation is always necessarily wrong, for instance. It is just to point out that we might hope to do better than simply asserting that such a right to self-determination exists. If we go past the bare intuition and start counting up reasons for or against endorsing such a right, the considerations I have already adduced come into play in ways that they don't come into play in the marriage case: giving large groups of people a right to determine what happens can have much worse consequences over much longer periods of time for many more people; restricting the will of a group is not as onerous as restricting the will of an individual; and so on.

This sort of balancing is not inimical to the idea of rights themselves or the particular rights in question - Wellman himself engages in it when discussing the difference between individual rights to association and group rights to association, noting that a "reason to doubt that an individual's dominion over her private property takes precedence over the state's control of its territorial borders stems from the twin facts that (1) an inability to invite foreigners onto one's land is typically not an onerous imposition and (2) bringing outsiders into the political community has real consequences for one's compatriots" (Wellman 2008, 133). Looking at the characteristics and consequences of the various rights we might endorse is part and parcel of evaluating the sensibility of endorsing them. Thus we have good reasons for thinking that the lack of intimacy in the relations between citizens can be very relevant to the question of self-determination.

The third reply, which is a variation on the second, is to note that the people who “rightly care” about the future of the state may not all agree on what they want that state to look like, including whether it ought to include certain outsiders or exclude certain insiders. Val and I may rightly care about the future of our state and on that basis oppose the admittance of immigrants from a certain part of the world. Adrien and Robin may rightly care about the future of the same state, but on that basis desire the admittance of those same immigrants, and also desire the exclusion of Val and I (via secession from the territory Val and I inhabit, if possible).

Wellman’s response to this is clear: if Adrien and Robin can secede, then they can do so, and then everyone gets the state they want. Or, if Val, Adrien, Robin, and I all come to an agreement, we can remain as one state, now with a univocal response to questions about the future of the state, and on this basis do whatever we want about immigration. But it is the third situation, one in which no secession is possible (because we all live mixed together, or because it is only together that we all have the capability to constitute an effectively functioning state) that is problematic, because this state of affairs matches up much more closely with how actual states function in the real world. Although one could plausibly reject this state of affairs as merely actual, as opposed to something that we have to make room for in our political theory, and although one could, in doing this, reject the need for any group of people to live together in a state which they take to be suboptimal unless this association is required by the exigencies of the situation, this is to take a very strict view of the right to self-determination such that it gets pride of place in our political theorizing.

Discussions of toleration, political liberalism, multiculturalism, and so forth all fall into the ‘optional or regrettable’ category according to a view like Wellman’s: either it is

always possible for us to secede so as to avoid dealing with people with whom we disagree, or the circumstances in which we must deal with these people are forced upon us by our inability to leave. It's important not to overstate the point: Wellman is not against the possibility or necessity of, for instance, tolerating others, organizing a government such that it does not denigrate or exclude certain conceptions of the good, and so forth. His point is merely that groups of people who wish to avoid this sort of thing have a right to form their own state if it is possible, thus avoiding the need to worry about these problems.

If, however, we think that our theories of toleration, political liberalism, and so forth are solutions for circumstances that are not just suboptimal but which can rightly be required even in situations where they could be avoided, then we must reject Wellman's strong right to self-determination. One might think that part of the impetus to develop these sorts of theories is not that the world is suboptimal, such that groups can't secede when they desire to, but rather because the world is such that living together with others who disagree to some extent about the future of the state is a necessary fact of political life. To posit a right to escape this sort of situation on the basis of a group's desire to lead a political life that involves less compromise is to reject the legitimacy of groups being forced to compromise, except in situations where compromise is the only option. Perhaps this is the right way to view these compromises, but if one leans in the direction of thinking that these compromises could be required by duties of justice or other sorts of duties that outweigh a group's right to self-determination, then one will lean towards my theory of secession rather than one based on a strong right to self-determination. Adverting again to Goodin, this time we might look at his argument that we can treat the state as a moral agent that lets us avoid individual responsibility by having our state take care of things that we can't take of ourselves (Goodin



1995, 28-44). If we can be duty-bound to form states to carry out certain crucial processes, then we might be required to do so with people we are not huge fans of, because there is no plausible arrangement of borders such that everyone is happy. Section 4 below covers additional reasons for thinking that compromise is an essential component of political philosophy in ways that should make us wary of very strong rights to self-determination.

Thus there are reasons for thinking that, in many ways, divorce is not relevantly similar to secession when it comes to the question of a right to divorce or secede grounded on a right for an individual or a group to exercise self-determination.

### **3.5 Begging Questions in Political Philosophy**

The above discussion of the difference between divorce and secession raised the issue of restrictions on immigration. A right to self-determination strong enough to ground secession is almost certainly a right to self-determination strong enough to ground restrictions on immigration: any group that is allowed to secede but not to limit immigration could simply secede again once the immigrants arrived. This would perhaps require ceding some territory to the immigrants, but the basic idea, which is that self-determining groups would not have to rule over those they do not want to any more than they would have to be subject to the rule of those they do not want to be subject to, is clear. Conceptions of self-determination strong enough to ground secession have similar implications when applied to international distributive justice, criticism of illiberal or otherwise potentially sub-par governments, and other key cosmopolitan bugbears. At the very least, it would be good if our theory of secession did not beg the question with respect to these other important issues. To the extent

that we can manage it, an acceptable theory of secession ought not to commit itself to rejections of many cosmopolitan theses.

Like the other arguments I've provided against the right to self-determination, this does not constitute a decisive blow. It is always up to ascriptivists and associationists to respond by saying that a strong right to self-determination is needed for various reasons in the development of our theory of secession, and if this conflicts with other considered convictions or with cosmopolitan intuitions more generally, so much the worse for these other things. We do not beg the question with respect to them if we have strong arguments in favor of self-determination, they could say. The response to this would have to include adverting to my other arguments against the right to self-determination. So, as with the other sections, this section forms just one part of the overall attack on self-determination.

The general point is less of an argument and more of an illumination of the dialectic as it currently stands. On one side are the proponents of a right to self-determination strong enough to ground secession, who advance their arguments in defense of a theory of secession or as part of a more comprehensive vision of the rights of nations, as with Miller, or the rights of groups that choose to associate together, as with Altman and Wellman. These approaches straightforwardly endorse strong rights to self-determination and on this basis derive positions contrary to many cosmopolitan commitments with respect to immigration, international distributive justice, and tolerance of illiberal or undemocratic societies. On the other side are classic cosmopolitan theorists like Beitz, who reach opposite conclusions about questions like immigration, international distributive justice, and so forth, but who often do not highlight the damage done to the right to self-determination if we are to endorse these cosmopolitan conclusions.

Sometimes theorists are more clear about the limitations they set on self-determination, but not about the implications of this with respect to secession, annexation, colonialism, and other issues, like for instance when Freiman and Hidalgo argue that self-determination cannot be a strong right because to say so would lead to limits on immigration without noting that this serves just as well for an argument against secession or against resisting annexation (Freiman and Hidalgo 2016). Christian Schemmel notes that luck egalitarianism as a principle of global redistributive justice “does not give any consideration to... the self-determination of communities” (Schemmel 2007, 63). My goal here is simply to set the anti-self-determination position in the context of the debate about self-determination as opposed to the debate about immigration, international distributive justice, or other questions. This highlights why one might endorse a theory of secession like mine rather than those supported by stronger conceptions of the right to self-determination.

Consider a theory of marriage and divorce that entailed substantive conclusions about distributive justice, because for instance a married couple could exercise their right to self-determination by spending their money on things of their choosing rather than paying taxes designed to support those with less wealth. We might wonder whether a right to self-determination this strong is a fruitful basis upon which to build a theory of marriage. If we can find some way of accounting for marriage and divorce without such a strong right to self-determination, this at least would not rule out a wide variety of theories of distributive justice. This would be doubly helpful if we found stringent theories of distributive justice convincing. If this were the case, we would be faced with a choice between a strong right to marriage and divorce self-determination, on the one hand, and a demanding theory of distributive justice, on the other hand. The less likely we are to give the latter up, the more reason we have for

abandoning the former. This is not to say that distributive justice concerns should settle our beliefs about marriage and divorce. It is just to note that it would be good if our beliefs about distributive justice were not held hostage by our theory of marriage and divorce. Certainly the idea that distributive justice concerns might shape our understanding of the proper organization of the family is not alien to liberal thought. It shows up for instance in Okin's *Justice, Gender, and the Family* (Okin 1989). If this sort of critique is acceptable on the level of familial relationships, we might think it's much more appropriate at the level of secession and borders.

When it comes to distributive justice, immigration, humanitarian intervention, environmental justice, and other grand issues, my theory of secession entails no substantive conclusions that are not otherwise entailed by a more overarching cosmopolitanism. Overarching cosmopolitanism presumably *is* the sort of thing that we would want to use to decide these sorts of questions. Theories of secession based on a strong right to political self-determination, like associationist and ascriptivist theories, at least potentially (and often actually) entail many substantive conclusions in opposition to an overarching cosmopolitan framework. This is clear when they are presented in the form of comprehensive theories of global political theory, as with Altman and Wellman's theory, but when the focus is specifically on secession, it is easy to miss the fact that committing to an ascriptivist or associationist theory of secession, based on a strong right to political self-determination, brings along with it a variety of commitments in tension with cosmopolitanism of the kind we otherwise find plausible.<sup>48</sup> When this fact is brought to light, we may find ourselves with

---

<sup>48</sup> It is difficult to find anyone saying this, because the phenomenon occurs when the consequences are not spelled out in detail, so when it occurs, it occurs silently, with no acknowledgment that it has occurred. As noted above in footnote 23, Kit Wellman has suggested to me that the value of a project like mine is to make everyone realize what they are in for if they reject the strong right to self-determination at the basis of his theory of

reasons to adopt my theory of secession (or, alternatively, reasons to abandon many key cosmopolitan commitments).

So, the argument here is more or less just a signpost. It urges us to take stock of the various commitments we think are plausible and to see whether they fit together, and how. If it turns out some things must budge, which I and others argue is the case if we endorse both some sort of liberal cosmopolitanism but also any sort of strong right to self-determination, at least when it comes to secession, then we have to decide how to make that choice. How do we weight the various factors? The point here is that secession is enough of a downstream question that we ought to be reluctant to let other considerations hang or fall on what we think the right answer to secession is. This is doubly true when we realize that framing secession in terms of a right to secede makes the choice starker than it needs to be, if all we are concerned about is some role for self-determination to play, because self-determination can exist in forms short of complete constitutive self-determination, which is what we get in a theory of secession. So we might realize that where before we thought we had to have some answer to the question of when there is a right to secede, in reality we can be more or less uninterested in the question, which is the position we arrive at with my theory. We can place more importance on our other commitments and simply let those tell us what to think about secession on a case by case basis.

This completes my main presentation of the negative arguments against the strong right to political self-determination. There are two further sections on this topic. The first, section 3.6, aims to demonstrate some of the above arguments in a more particular setting by arguing against Gauthier's defense of self-determination. The second, section 3.7, addresses

---

secession and international relations more generally.

one possible weakness of the above arguments, which is that they are potentially less applicable to ascriptivist theories of secession than associationist theories.

### **3.6 Against Gauthier's Defense of Self-Determination**

For an illustration of how a strong right to political self-determination leads to questionable results, we can examine the specific implications of Gauthier's endorsement of what he calls a "weak right" to association (Gauthier 1994, 360). Gauthier's weak right to association is "weak" because its exercise "must be coordinated with that of other persons in such a way that, other things equal as many people as possible will find themselves in mutually desirable association" (Gauthier 1994, 360). There are two limitations here. The first is that one person's right to exist in a mutually desirable association is not any stronger than another person's right to exist in a mutually desirable association. So for instance I cannot secede from a state and take five other people with me if those five wish to stay in the state rather than secede. This is the limitation imposed by the phrase "as many people as possible."

The other limitation is that the associations in question must be mutually desirable, such that each member of the association desires to be in the association. On Gauthier's account, there is no right to be in an association in which the other party desires to end the association. This explains both why Gauthier "may have the right to marry the woman of [his] choice who also chooses [him], but not the woman of [his] choice who rejects [him]," and it also explains why a state typically cannot stop a group of people from seceding if this group does not wish to continue to associate politically with the state (Gauthier 1994, 360-1).

Each limitation on this weak right highlights an issue with a group right to political self-determination.<sup>49</sup> Take the first limitation, which is the requirement that the exercise of the right be limited by coordination with others such that, other things equal, the largest number of people possible end up in mutually desirable associations. This can either be read as a strong constraint or a weak constraint. The way of reading it as a strong constraint is to read Gauthier as saying that the right to association and the right to secession that it grounds exists only when the secession would result in more total freedom of association for everyone in the world, no matter who they are. If the constraint is this strong, it is not clear that there is any sort of right to political self-determination in the first place, or even a more limited right to political association. Instead, there is just a requirement that when we act, we must act in a way that does not put more people out of mutually desirable associations once all the numbers are added up, so to speak.

In other words, if we are going to undertake an action that moves some people from mutually desirable associations into no associations or into undesirable associations, this must be outweighed by the fact that more people, overall, have ended up in mutually desirable associations. Put in terms of groups and their rights, a group would only have a right to political self-determination strong enough to ground secession on the condition that exercising this right would not cause third parties to end up worse off from the point of view of political self-determination. At this point, once we admit that the exercise of the right turns simply on a numbers game, we might ask what the relevance of the right is in the first place. In other

---

<sup>49</sup> Gauthier does not conceive of himself as arguing for a group right. He says the rights to freedom of association that ground the right to secede are “strictly individual rights” and that he has “no place for group rights in [his] account” (Gauthier 1994, 360). It is not clear what Gauthier takes to be the distinguishing features between group rights and individual rights, but my conception of a group right to self-determination is just the right of a group of people to secede, which Gauthier certainly compasses, so although Gauthier would not want to call the right in question a group right, I take it we are discussing the same right in both cases.

words, why is association simultaneously so important that it is the subject of a right to political self-determination strong enough to ground secession but also the sort of thing that a group has no right to just so long as other groups with more members have a veto on the right's exercise? This route seems to annihilate the right to self-determination and collapse into my theory of secession when applied at the level of states. Even more drastically, when applied at the level of individuals, we end up with a theory analogous to my theory of secession except about marriage and similar associations. Each individual person, before forming a mutually desirable association, must make sure this will, on balance, lead to more rather than fewer mutually desirable associations among people generally.

At some points Gauthier seems to countenance the possibility of a theory akin to mine, one in which freedom of association and the right to self-determination turns into a numbers game rather than an actual right. He cites the example of Northern Ireland (the Six Counties), and after summarizing the views of the Catholics and the Protestants, who generally wish to join or to remain outside the Irish Republic, respectively, he notes that, "given that there are significantly more Protestants in Northern Ireland than Catholics (the ratio is about 5:3), if the Six Counties were to be united with the Republic, more persons would find themselves in association with those whom they did not want to be in association than at present. And this would be contrary to the *prima facie* requirements of the weak right - the number of persons whose right of association was effectively exercised would diminish" (Gauthier 1994, 361).

There is, however, a way to save Gauthier's theory from collapsing into a numbers game, and thus from holding that the "right" to self-determination is no more of a right than that defended by my theory. This is by noticing that Gauthier is not concerned, or at least is not explicitly concerned, with all involved parties when asking the question of who has a right



to self-determination. Rather, Gauthier is focused on the members of the associations that will be formed by secession and the members of the association that exists prior to secession. Gauthier does not want to move from associations that are better to associations that are worse, from the point of view of what justifies the specific associations in the first place, which is mutual desirability for as many people as possible in the associations in question. This does *not* mean that people outside of the associations in question get a say, even if the secession has some sort of impact on whether these people end up in *other* mutually desirable associations.

A marriage analogy will make this clear. Val and Adrien are married, as are Robin and I. In the first situation, if Val divorces Adrien and marries Robin and I, Adrien will be unhappy while Val, Robin, and I will be happy, and nothing else happens. The second situation is the same, except that if Val divorces Adrien, this will also prevent seven other happy marriages from occurring (or break up seven existing happy marriages) because fourteen people who would have become happy couples will never meet (or save their marriages from collapsing) at the dinner parties Val and Adrien would have hosted. A theory of marriage akin to my theory of secession would treat these two situations as very different. If for the sake of the argument we say that the rights to marry and divorce are similar to the right to secede, Val has a right to divorce Adrien in the first case but not in the second according to my theory.<sup>50</sup> The question is whether to read Gauthier similarly, or instead to read Gauthier as saying that the two situations are the same, because the associations that matter from the point of view of Val's right to associate are the ones which Val is either entering or leaving, and Val has a right to associate with whomever, regardless of what

---

<sup>50</sup> Of course, as demonstrated above, I do not think the rights to marry and divorce are the same as the right to secede in this sense.

happens to a bunch of third parties. In the case of marriage it is of course sensible to hold that the two positions are the same: surely Val's right to divorce Adrien cannot be contingent on other what happens to other couples. Associationists like Gauthier, who view marriage and secession as similar in this way, can similarly think that one's right to secede can't possibly depend on what is going to happen in countries on the other side of the globe or anything like this. Remember that Gauthier says that "just as secession may be compared to divorce, so political association may be compared to marriage" - in fact, the same right, the right to freedom of association, forms the foundation of both, according to him (Gaither 1994, 360).

So we have reason to think that Gauthier, although he sometimes talks as if secession is a numbers game, is likely thinking of it as a numbers game in which only the people involved in the associations count, rather than a numbers game in which everyone counts. So the first constraint on the right to freedom of association that he lists, the constraint that the exercise of the right be limited by coordination with others such that, other things equal, the biggest number of people possible end up in mutually desirable associations, is most likely not the strong constraint suggested above, according to which Gauthier's theory more or less collapses into mine (and also makes a hash of rights marriage and divorce such that Val cannot divorce Adrien in the second case).

Rather, it is a weaker constraint: any alteration of existing associations (or creation of new associations) ought to be coordinated such that *the resulting associations* do not contain more people unhappy with the association than they otherwise could. We can safely ignore the desires of the people who are not in any of the associations in question. This explains why, in elucidating this concern, Gauthier discusses how borders "might be drawn to accommodate the exercise of right of association by even more persons" in a way "so that almost everyone

could be accommodated in the association of his or her choice” (Gauthier 1994, 362). If the people in question who we are worried about are just those who end up in the associations being formed, then drawing borders to encompass them or leave them out will be an effective remedy to potential issues. If instead we are meant to be worrying about *all people, everywhere*, then we would not stop at figuring out how to draw borders that catch the right people. (In other words, we would not just worry about borders drawn through secession that allow people to be “accommodated in” their association of choice by way of being encompassed by their preferred borders as opposed to other possible borders drawn by secession.) We would also ask whether drawing borders in this way versus that way would impact people who, either way, will end up outside the borders, just like we might ask whether marrying this person or that person will impact marriages involving third parties. That is no way to handle marriage, and it does not seem like Gauthier thinks this is the way to handle secession.

So if instead we read Gauthier’s constraint as a weak constraint, this salvages the right, so to speak. It allows for exercise of the right to self-determination when the results are less than optimal on the global scale, just so long as the results are not worse for the people who end up in the redrawn borders. This is much more like how other rights operate, like the right to divorce: if rights are not inviolable, then they are at least the sorts of things that protect one’s choices even if the results are non-optimal, just so long as the rights of others are not violated. We might think that my right to form mutually desirable associations is not violated simply because my opportunity to form an association disappears subsequent to Gauthier forming his own association, and we might think the same thing if my opportunity and the opportunities of five other people are also eliminated, perhaps because Gauthier

marries someone who would otherwise have married all six of us had Gauthier not shown up. It would be strange to imagine people having to coordinate their associations with each other such that Gauthier's conditions literally apply: before entering any association we would have to check to see that, as far as we can tell, this won't result in fewer people ending up in mutually desirable associations. So the weak version of this constraint is probably more charitable to Gauthier. It at least prevents his theory from simply collapsing into a version of mine that goes even further by generating implausibly strict claims about the permissibility of marriage and divorce in cases involving third parties.

If we read Gauthier as saying this, though, we must ask what makes this weaker right to self-determination compelling. More specifically, why apply this weak constraint across the board to all instances of the freedom of association, including secession, rather than just applying it to cases like marriage? The move to the weaker reading of the constraint is one that we are tempted to make because the consequences at the level of individuals are implausible if we go for the stronger constraint. But the consequences at the level of states, with the stronger constraint, are not so implausible. Because Gauthier's focus is on secession, rather than marriage, this perhaps explains why his wording often suggests the strong constraint according to which everyone counts, as opposed just to the people inside the borders that are being redrawn. Limiting freedom of association at the level of states such that one has a "right" to it only if this turns out better for everyone is sensible because giving groups of people a right to associate with each other (and thus a right to secede) no matter what kind of damage this causes to other associations is too drastic. The things we aim to protect with freedom of association on the personal level, like an individual's right to marry whomever they choose, are not as important when we move to the level of states, because

forcing groups to compromise over political realities so as to reach a more beneficial outcome is much more acceptable than forcing individuals to do the same thing.

I have above (in section 3.4) given various arguments for thinking this, and Gauthier perhaps is assuming that something like this is the case without realizing that this doesn't match up with his position on marriage and divorce, and also without realizing that the implications of this are that the "right" to association, when limited in this way, is barely a right at all. Because its exercise is limited such that it can only be invoked when the results would be better for everyone, the resulting theory of association, and thus of self-determination and secession, looks like mine. This is not to say that Gauthier would be wrong to reject my above arguments and hold that we should treat the right to political self-determination like the right to marriage by restricting the scope of the first requirement so that the only people who count are those who are in the associations in question. That, indeed, is the party line for associationist theories of secession. It is just to highlight that associationists often do not address the sorts of issues I have raised above. Gauthier himself simply holds that secession and marriage are, in effect, the same question, without noting that this sounds most plausible when we equivocate between reading his first limitation as strong (in the case of secession) and weak (in the case of marriage).

That Gauthier's theory is most plausible we read the first limitation as strong in the case of secession, in which case Gauthier's theory more or less collapses into mine, can be seen by the considerations Gauthier adduces in the later parts of his article. He cites questions of distributive justice as providing additional limitations on a theory of secession based on the weak right to freedom of association (Gauthier 1994, 362-8). He argues that "the members of a group are not entitled to secede from an existing political community in a way that

redistributes the goods achieved in that community in their favor, at the expense of other members” (Gauthier 1994, 366). He defends this requirement because it “is intended to rule out the taking of advantage,” in the sense that “a particular allocation of resources and pattern of mutual complementarity in economic development has been rationalized in part by the existence of boundaries that the secessionist party proposes to alter,” and allowing to secessionists to change the circumstances in their favor by seceding would undermine “the value and effectiveness of political association” which means “the character and form of political association will be affected adversely if each party thinks of itself as entitled to terminate it by secession merely in order to improve its relative position” (Gauthier 1994, 367-8). The plausibility of this additional consideration requires us to understand secession as entirely different from marriage and divorce, even though Gauthier claims that the right to secede is built upon exactly the same right to association that marriage and divorce is built on. A divorce (or a marriage) can disrupt relationships which have displayed a “pattern of mutual complementarity in economic development,” but allowing people to divorce even when this is better economically for the person who wants the divorce does not undermine “the value and effectiveness” of marital relations. This is because marital relations, even in the cases where they are purely economic ones, are so intimate and tied up with an individual’s life that their right to association allows them to exit for basically any reason.

Political association is not like this: distributive justice considerations, or any other requirements of justice, can be legitimate reasons to require people to remain in associations which they do not desire to remain in. The only reason Gauthier’s theory does not threaten to collapse into mine when these distributive justice requirements are added in is that Gauthier thinks the scope of distributive justice requirements is fairly limited (see Gauthier 1994, 364-

8). The internal tensions in Gauthier's theory are hard to resolve, perhaps because he characterizes his "permissive view of secession" as having "no structure in any way comparable to Buchanan's within which [he] can defend this more permissive view. All that [he] can hope to do is to sketch; if the sketch has some appeal then it might seem promising to construct the theory that will be conspicuously lacking from [his] account" (Gauthier 1994, 358). It is hard to see what theory could be built up from precisely the same freedom of association that underlies marriage and divorce but which is also limited by distributive justice concerns in the case of secession but not in the case of marriage and divorce. Any coherent theory along the lines of Gauthier's sketch either needs to accept that the marriage and divorce connection is tight enough to reject distributive justice considerations as being decisive when it comes to questions of secession just like they are not decisive in matters of marriage and divorce, in which case the theory looks much like the other associationist theories; or, alternatively, abandon freedom of association and the associated strong right to political self-determination and accept distributive justice considerations as decisive, in which case the theory collapses into mine.

So much for the first requirement in Gauthier's theory, which is about making sure as many people as possible end up in mutually desirable associations. Another worry about a right to self-determination as the basis of a theory of secession like Gauthier's arises if we look at the second limitation that Gauthier places on the exercise of the right. The second limitation is the requirement that the association be mutually desirable. There is no right to associate, and thus no right to self-determination or secession, held by groups that do not mutually desire to associate. Mutual desirability, or something akin to it, is a necessary constraint for associationist theories like Gauthier's to be plausible. The point of an

associationist theory of secession is that just the desire to associate together, along with some secondary conditions like the requirement that the seceding state not infringe on human rights, is the source of a right to self-determination strong enough to ground secession. If we place any requirements on the characteristics seceding group, like requiring that all members belong to a nation or otherwise have some sort of characteristic, we have moved to the realm of ascriptivist theories of secession. The choice to associate together and to secede is what lies at the basis of associationist theories of secession, and presumably choosing to associate together entails at least some kind of mutual desirability, because otherwise the members of the group would not be associating with each other, but rather with other people. So it does not add much to an associationist theory of secession to say that the secessionist association must be a mutually desirable one

However, there are two sorts of issues with this. The first, which has been noted above in section 3.2.1, the discussion of how to pick out who the “self” is, is that it is not clear that we can easily delineate the groups involved, and therefore it is not clear that we can say that the groups are mutually desirable in the strong sense of everyone wanting to be in the association with everyone else. The second is that if we value mutually desirable associations and think that this kind of association forming can ground a right to self-determination strong enough to secede, this can sometimes tell *against* the associationist theory of secession and in favor of my theory of secession. This is a reiteration of the worries raised above about which “selves” matter - specifically, the worries about inter-self conflicts. Sometimes the formation of mutually desirable associations by way of secession will break up other mutually desirable associations, and it is hard for Gauthier to explain why we should prefer the mutually desirable associations protected by his right to self-determination rather than the mutually



desirable associations that would flourish if other groups did not have this right, because Gauthier does not have a compelling reason to conceive of mutually desirable association as something that ought to be protected by a right to self-determination strong enough to ground secession.

Gauthier's conception of mutuality is that "I do not have a right to enter into or continue in association with those who do not want to associate with me, however much I may think such association desirable. There are of course circumstances in which persons may be held to political associations with those whom they would avoid, but not because those whom they would avoid want them as political associates" (Gauthier 1994, 360). It is very easy to see how this works in situations like marriage or divorce. It is easy to say whether someone does or does not want to marry me and thus to determine whether the association in question would be mutually desirable. There are few mysteries when we query any given potential marriage as to the status of each spouse with respect to mutual desirability.

Matters are not so simple when we ask whether groups of people, and specifically the groups comprising the secessionists and the members of the rump state, mutually desire to associate with each other. If the borders of the proposed secession encompass some people who do not want to secede, or fail to encompass all the people who wish to secede, what do we say about mutual desirability? In the case of marriage, we only have to look at the associations, but in the case of secession, we also have to look at the territory specified by the borders, because the association in the sense of people coming together who desire to secede is not necessarily the same as the association formed by the group within the borders of the newly-seceded state. A potential secession may be mutually desirable from the point of view

of the secessionists only insofar as it encloses in the seceding state a number of people who feel no mutual desire to associate in the seceding state. These are the people who do not want to secede but who occupy territory that the secessionists want, either because the secessionists value the territory itself or because some of the secessionists themselves live on the territory and thus it must be included in the seceding state for the secessionists to form a majority or for those secessionists in particular to end up where they want to.

Marriage is not like this: Val and I do not need to rope unwilling participants into our marriage to maximize the number of people in mutually desirable relationships. If Val and I *did* need to rope someone in to our marriage in order to make it mutually desirable, perhaps because neither Val nor I want to marry each other unless Adrien is also in the marriage, we are inclined to reject the permissibility of the marriage if Adrien refuses, whereas with secession it seems like people who are outnumbered are simply out of luck. We do not give individuals a veto over proposed secessions, and thus mutual desirability turns into a numbers game in secession in a way that it does not in marriage.

The confusions multiply when we consider the epistemological limits on the idea of mutual desirability at the level of secession rather than marriage. Approximately 2.3 million people in Quebec voted in favor of seceding from Canada in the 1995 referendum. About the same number voted against secession. Did each of the 2.3 million who voted in favor of secession mutually desire to associate with the 2.29999 million others who voted in favor of secession? Or with the millions who voted against? What if we knew for a fact that three of the people who voted in favor of secession hated five others who voted in favor of secession, and the three voted yes simply because they thought (rightly or wrongly) that the hated five would not be members of the new state, perhaps because they would be kicked out, left on the

other side of the newly-drawn borders, or would soon die from some sort of disease? And what if we further knew that the three voters would have voted no if they had learned that the five would remain in the newly-seceded state?

The larger point that this example illustrates is that people can have incompatible conditional desires with respect to mutual association when the numbers involved reach the level of secession as opposed to marriage. Moreover, it is not clear that we can even sensibly attribute desires to people in the case of secession that are the same as the desires we can attribute to them in questions of marriage. The people in question may have no settled desires, especially no settled desires about mutual association, and if the legitimacy of the political association ostensibly depends on these desires, this is odd. The mutual desire of two people to marry each other is much easier to comprehend, and forms a much more secure basis for a right to associate, than the “mutual desire” of millions of people, many of whom do not know each other, some of whom likely hate each other, some of whom perhaps do not quite comprehend the situation, and so on. Imputing mutual desirability to groups of people gets even fuzzier in light of the typical results of these sort of referendums - with respect to the Quebec vote, “some polls showed that one quarter of respondents mistakenly thought they could vote ‘yes’ and still stay in Canada,” which might make us hesitant to assume that people are forming coherent views about these questions (Palmer 2012).

The situation grows even murkier if we realize that questions of political association, in addition to occurring at a larger scope than questions of marriage, also occur over a longer period of time, to the point where the people involved at one point in time can be partially or even entirely different from the people involved at a subsequent point in time, which is hardly the case with marriage. The degree to which a relationship is mutually desirable will vary as

citizens are born and as citizens die, and as citizens immigrate and emigrate. This is little more than an interesting complexity until we examine the relationship of this fact to the specific right to self-determination that Gauthier is defending. One of the later limits Gauthier places on the right is that a lack of mutual desire cannot *always* be decisive, because states may sometimes have duties with respect to groups within the states on the basis of the previous existence of a mutually desirable relationship even if one no longer exists.

So for instance Gauthier notes that “the UK chose to acquire and subsidize St Helena; it can have then no grievance in justice against the existing arrangement,” and thus even if “the United Kingdom were to propose to cut St Helena loose,” which would of course be a clear symbol that the relationship is no longer mutually desirable, the UK would not have a right to secede from St Helena (which is effectively the same thing as kicking St Helena out) (Gauthier 1994, 366). The reason for this is that the current arrangement, under which St Helena is incorporated into the rest of the UK, is taken as “part of the background normative considerations” (Gauthier 1944, 366). For this to be true, it must be the case that when the association was formed, there was no violation of the basic provisos Gauthier mentions, namely a respect for the number of people involved and, more relevantly in this case, mutual desirability. Gauthier is aware that it may not be the case that any actual states fulfill these conditions, the UK included, but he assumes for the purposes of the argument that the UK passes this test. If it doesn’t, we could of course just imagine a hypothetical UK that passed the test and ask whether it could kick out St Helena (Gauthier 1994, 358).

But why should people today, who wish to break a mutually undesirable arrangement, be bound to a mutually desirable arrangement made by people who no longer exist? There are many possible answers to this question, but it is hard to see how self-determination of the

associationist sort, like the kind defended by Gauthier, can give a satisfactory answer. Indeed Gauthier's discussion of issues of justice largely abstracts from his earlier defense of self-determination, because, as he puts it, "the weak right" to self-determination "is certainly not the only consideration relevant to the justification of secession" (Gauthier 1994, 362). This was the basis for my criticism above that Gauthier's theory equivocates between viewing freedom of association as the freedom that supports marriage and divorce on the one hand, and freedom of association as the freedom that supports secession on the other hand. I argued that one way to make Gauthier's theory consistent is to abandon freedom of association and the divorce link, and to instead focus entirely on distributive justice, at which point his theory collapses into mine. This is the move urged by the realization that mutual desirability isn't doing the work in at least some cases, because a lack of mutual desirability between the UK and St Helena does not suggest that the UK can simply kick St Helena out.

Instead, distributive justice considerations do the work. If they are doing the work in the present day, when the association is no longer mutually desirable, why couldn't they also do the work back when the association was first formed? Why privilege mutual desirability when we first draw the borders if this is going to force us to abandon mutual desirability as soon as distributive justice considerations come into play? Similarly, why stick with the borders that were originally drawn in a mutually desirable form if this tells *against* distributive justice considerations? The groups of people that make up states are not the sorts of things that can sustain or break mutually desirable relations as easy as people can sustain and break relationships. If one or both spouses changes such that a relationship is no longer mutually desirable, divorce is the obvious choice. If a group of people changes such that the relationship is no longer mutually desirable, secession is far from the obvious choice. We

have to consider the number of people involved, because we cannot give every single person a veto over the borders of a state, and we must also consider questions of justice.

These are worries about the sensibility of mutual desirability as the basis of a right to secede. The second set of worries takes for granted the importance of mutually desirable relationships between groups of people as a basis for the drawing of borders and then asks whether the result is an associationist theory of secession akin to Gauthier's, or, instead, a theory of secession akin to mine. I argue that the latter is the case. This is because if mutual desirability is treated not as a veto, which is the way it is treated in marriage, but rather as a consideration that needs to be balanced by looking at the numbers of people involved, this can tell against secession just as easily as it can tell in favor of secession. I made this point above when I discussed inter-self conflicts of self-determination in section 3.3.

If we resolve these conflicts in favor of borders that provide more constitutive self-determination to more people, or, in other words, in favor of borders that maximize the number of people who find themselves in mutually desirable associations, there is no reason to think that this will suggest that people have a right to secede on the basis of their own right to association. Any given person's freedom of association might be on the chopping block for the sake of freedom for more people. The same goes for any given group of people's freedom of association in the form of secession. Effectively, we have to run the numbers for any given case of secession to see what impact it will have on freedom of association more generally. Once we are doing this, we are simply using my theory of secession. This fact is cloaked by the way Gauthier attempts to link marriage and secession. Running the numbers before each marriage to ensure that this results in more happy marriages overall is nonsensical because we don't think individual lives should be balanced like this. This kind of balancing on the level of

states and large groups of people more generally is almost impossible to avoid. My right to marriage ought not to be limited for the sake of other marriages, but my freedom of association at the level of secession might sensibly be limited like this.

Gauthier recognizes, briefly, that a conception of freedom of association as a right that can be exercised even with this lessens the freedom of association of others is perhaps not the right way of thinking about the issue. He notes that one might instead hold that freedom of association, at least in the case of secession, does not rise to the level of a right and that we should have no problems trading off freedom of association in a manner akin to what my theory proposes. Gauthier has little to say in response to a challenger who advances this argument directly. He notes that he draws his theory from his contractarian account of morality and of political association, and that “a contractarian justification of political association, in terms of a rational *ex ante* agreement, need not *in principle* justify a contractual society - a society in which the freedom to relate to others by contract is central” (Gauthier 1994, 360).

In other words, we could endorse strong individual rights, including rights to freedom of association, without going so far as to think that these rights, when amalgamated at the level of groups, suggests a right to secede of the sort endorsed by Gauthier and other associationists. Gauthier notes that although he proceeds in the opposite direction and endorses a right to secede built on the rights of individuals to association, his argument “is advanced as a supposition, not a conclusive argument... for present purposes I am simply assuming there is such a justification; I do not deny the size and significance of the assumption” (Gauthier 1994, 360). What I have been doing is challenging the assumption by way of explaining why it leads to implausible results, and more generally by showing that the

alternative assumption is not an objectionable one to make, especially because this alternative assumption is implicit in many cosmopolitan theories already. The recognition that inviolable individual rights do not necessarily lead to inviolable group rights like a right to secession is an important one. It is easy to assume that a right which is well-understood and which has clear implications at the level of individuals must apply similarly when the groups of people involved are large. Gauthier at least realizes that this is not necessarily the case, although he does go on to assume that, when it comes to secession, it is indeed the case. My aim has been to show that for the right to self-determination there are reasons to think it is not the case.

### **3.7 Associationists and Self-Determination**

To some extent my arguments against a right to self-determination strong enough to ground secession have less bite against ascriptivist theories of secession than against associative theories. Whereas associative theories have nothing more than self-determination to fall back on, the ascriptivist has something more fundamental, which is the importance of nations. As I have noted above, there are reasons to think that perhaps the link between the importance of nations, on the one hand, and self-determination as a good grounds for a right to secede, on the other, are hard to draw. For this reason and because of many of the other worries about self-determination that I have raised, it may behoove nationalists to abandon ascriptivist theories of secession and move to weaker positions according to which some right to self-determination less than that necessary for secession is grounded by virtue of a group's being a nation.

This is the route some nationalists take. For instance, although Moore endorses something close to an ascriptivist theory of secession (her 'peoples' differ a little from nations



- see Moore 2015, 52-62) she spends almost the entirety of her discussion of secession focused not on a right to secede but rather on less drastic rights that a group might have, like a right to some degree of autonomy within the state, and duties that secessionists might owe in virtue of their secession (Moore 2015, 128-34).

The more general point that is highlighted by this strategy is that secession, although it is on the surface a reasonable topic for political philosophy, is in some ways a very oddly-specified question. Secession raises the issue of complete constitutive self-determination - the right to become an independent, sovereign, traditional Westphalian state. This is just one of the two kinds of self-determination: recall that the other is ongoing self-determination. Moreover, an independent, sovereign, Westphalian state is just one kind of arrangement of sovereignty. Federations and other arrangements of partial independence allow for groups to exercise some degree of autonomy without being able to achieve the sort of complete independence represented by secession. In many ways, unless we start directly from the question of secession and thus presuppose that a complete break with the rump state is in the cards, it is unlikely that secession is going to be a natural answer to many of the questions we ask. Because the underpinning of an ascriptivist theory of secession is an ascription of importance to the nation as such, and because there's nothing in the concept of a nation that has anything in particular to do with independent, sovereign, traditional Westphalian states, the best we should hope for is something like the argument advanced by Margalit and Raz, which is that nations have a right to secede simply because it typically works out best when nations have their own states (Margalit and Raz 1990).

This is in large part an empirical question, and one option would be to simply leave the question to the social scientists. Should they tell us that, in some cases, things don't go

better for nations if they get their own state (or if things don't go better for smaller nations that are brought along during the secession), then even supporters of ascriptivist theories of secession will have reasons to move to my theory of secession, with the one caveat that instead of picking their favorite brand of cosmopolitanism as the evaluative standard used to determine whether there is a right to secede, they will instead advert to the results described in terms of the flourishing of nations. When we factor in the existence of possibilities apart the full statehood required by secession, we may find that we were overly hasty to think of self-determination as all or nothing in the way that secession has us think of it.

An approach that simply replaces the cosmopolitan standard with a nation-focused standard, however, doesn't treat secession as a *right* in any strong sense. This has been emphasized above, of course, but one might think that one cannot capture the moral importance of nations without ascribing to them a right to secede even when the case cannot be made in terms of benefits to nations, just like one could not properly respect the moral importance of individual persons without ascribing to them various rights even when the exercise of those rights does not turn out for the best.

One response to this is to say that even a strong ascription of moral importance to nations does not commit us to treating them like individuals in this sense - perhaps groups are not the sorts of things that need inviolable rights because groups don't have rational wills in the sense that people do, or perhaps the scale of the question is such that the same rights can't possibly apply to groups (especially because not all nations can have their own state), and so forth. I advanced arguments along these lines above. Here I want to offer a different response which follows from the point that secession is an odd sort of question to ask if our starting point is just the importance of nations. Secession, although analogous to marriage and divorce

in a certain sense, is also very different in light of the many options between secession, on the one hand, and zero independence, on the other. It is not a common practice to codify and explicitly recognize various degrees of togetherness short of marriage - cohabitation and engagement are perhaps examples, but a better analog would be legally recognized partnerships that contain some but not all of the aspects of marriage. This would more closely mirror the political situation because self-determination can be realized on a spectrum, and secession is the situation on the very end of the spectrum. Marriage does not easily admit of this sort of spreading out, but political self-determination obviously does, in light of federations and constitutions that delineate special rights for minorities, like language rights or special dispensations for religious freedom, education, and other issues that are important to nations.

With these sort of power sharing or power devolving relationships on the table, it becomes less clear why nationalism and secession should be closely linked in such a way that suggests that nations should or shouldn't have a right to secede just in virtue of this right being linked to a nation's moral personhood, so to speak. Secession is not a natural answer to the question of what rights nations ought to have unless one of two possibilities is correct: either nations have a right to more or less whatever sort of arrangement of sovereignty they desire, including secession; or, secession, despite not automatically occupying any sort of privileged position with respect to the way in which we ought to cash out a nation's moral importance, nevertheless makes sense as the subject of a nation's right for some specific reason.

The first possibility can be justified by saying that a right to self-determination on the part of nations just allows the nation to actualize its self-determination in any form

whatsoever, up to and including its own state. The issue with this approach is that it is not clear that we can justify this strong of a conclusion on the basis of the considerations we advert to when we defend a nation's right to self-determination. As noted above, defenders of national self-determination often either qualify their arguments by showing that nations are often entitled to something like partial independence via federal autonomy, or by saying that complete autonomy in the form of secession is justified as a result of the good effects this typically has. The first answer might be fine, but it doesn't get us secession, of course. The second answer is to some extent an empirical claim, and in light of the ways in which complete constitutive self-determination can lead to intra-self conflicts as described above, it's not likely that secession is always going to be the best option.

A better way to read the nationalists would be to think that respect for a nation's decision making capacities (a respect the importance of which is perhaps derivatively based on the moral importance of nations more generally) requires letting the nation make the decision rather than letting the decision hang on the facts of the matter in any given situation. However, it's not clear that this represents an objection to my theory, because it's possible that letting nations decide is not the same as being committed to the view that nations always have a right to secede. We might describe it like this, as for instance Margalit and Raz do, but a different way of describing it is that we have reasons to allow nations to act in ways they have no right to act because (for instance) it would express disrespect to override a nation's wishes even when it is mistaken. Because part of what respect entails is the expressive power of the endorsement or lack of endorsement of a right, we might hope to capture this not at the level addressed by my theory, which evaluates whether the right in fact exists, but at another level, the one where we decide how we ought to talk and act in everyday discourse about

secession. Just as Laura Valentini argues that colonialism might be wrong not because of anything about it as such but rather because colonialism implies disrespect (even though it does not require it), we might think that a national right to secede does not have any actual justification but that instead we should sometimes act as if it does for the sake of respecting nations (Valentini 2015).

So much for the first possibility, which is that nations should get their way all the time. The second possibility was that there is in fact something about secession as an arrangement of self-determination that makes it a particularly salient or apt right for nations to have. Perhaps the thought is that secession is particularly useful because complete sovereignty is a special kind of self-determination the benefits of which can't be attained in a federation or some other arrangement of self-determination. In virtue of what does secession typically have good results? How good do the results of a process need to be before we generally afford the right to nations? What sorts of evidence are we looking for? What stops us from engaging in a holistic calculation for edge cases rather than simply affording them a right to secede? Why not engage in this holistic calculation all the time? What are we worried about? The plausibility of this argument turns as much on contingent features of international society as it does on anything fundamental about self-determination or secession. It's not obvious what we gain from endorsing a theory that commits us to the view that statehood is always going to secure the benefits or cure the ills that it has in the past been able to.

Finally, recall that even the ascriptivist needs some answer in cases where secession does not involve a nation: either part of a nation is seceding from the rest of the nation, or a non-nation is seceding from a non-nation. It may be that the ascriptivist is happy to simply say there is never a right to secede in these cases, but it's not clear that this is a commitment that

the ascriptivist ought to have. Especially if we think the prospects of the importance of nationhood strong enough to ground the ascriptive approach are minimal or at least up in the air, we will want to answer the question of what to say about secession if nationalism is off the table. If we narrow the field of view like this, hopefully the arguments I have provided against remedial and associationist theories show why my theory is preferable.

#### **4. Positive Arguments for my Theory**

This concludes the negative arguments against remedial, associationist, and ascriptivist theories of secession. In this section I will discuss three positive arguments in favor of my theory. To some extent these arguments have been compassed by the preceding negative arguments against other theories of secession, because in the course of explaining why I think my theory is preferable, I have adverted to ways in which the answers it gives are more attractive and more coherent in light of other commitments we might have. In this section I will therefore focus on making these points more cohesive by way of directly outlining and arguing for them. The first argument (section 4.1) is that a general skepticism about group rights is a useful methodological approach to political philosophical questions like secession. The second (section 4.2) is that my theory of my secession is implicit in, and more supportive of, various approaches to cosmopolitanism, so to the extent that cosmopolitanism is convincing and attractive, my theory inherits these virtues. The third (section 4.3) is that my theory can better accommodate itself to various empirical realities and their implications than other theories of secession, and this flexibility is a virtue. I will also respond to the objection that my theory is not a very workable theory because it requires us to know things that we cannot feasibly know in order to determine whether a group has a right to secede (section 4.4).

##### **4.1 Wariness About Group Rights**

The first is an argument which is meant to raise skepticism about the attribution of rights to groups of people. The point of this argument is *not* to raise ontological or other related issues about the possibility of attributing rights, agency, or responsibility to a group of

people or anything like this. Rather, the argument aims to show that there are reasons in political philosophy for being reluctant to endorse the existence of any given group right without very strong arguments in its favor, especially a group right with implications for big questions like secession. The idea is that we should prefer a theory of secession that serves up a right to secede for groups of a certain kind only after we are convinced that it makes sense to commit ourselves to such a sweeping claim.

Broadly, this point is the positive accompaniment to my argument earlier that our position on secession ought not to beg questions about immigration, international distributive justice, and so on if we can avoid it (section 3.5). My theory of secession, I will argue, does well along these lines, because it is hardly about groups at all: it looks at everyone in the world to decide whether a given group has a right. Indeed, one might question whether my theory provides any *right* to secede at all. If rights are supposed to be the sorts of things that mark out areas of individual or group freedom with respect to a certain choice, regardless of the other considerations, then my theory hardly provides this except in the trivial sense that a group gets the right only when the other considerations tell in favor of the right. This would not be a mistaken way of viewing my theory.

This positive argument, then, aims to highlight reasons why we might be so skeptical of a group right to secede that we would say it does not exist, even if we are willing to endorse other group rights that have a much firmer basis, like a group right to preserve a culture, a language, or a religion, or a group right to inhabit ancestral territory. If these group rights can make it over the hurdle of justification (as I think they at least potentially can), we have no reason to be suspicious of them. I will argue that suspicion should attach to any claim



of group rights at the stage at which we ask whether it exists in any strong form, not at a stage where we ask if groups are the sorts of things that can have rights.

The first claim to defend is the latter: there is no particular reason to be a skeptic about group rights *qua* group rights. One might think that groups of people simply are not the sort of thing that could conceivably have rights. Rights are things that agents have, or that specific sorts of agents have, and groups either are not agents or are not the sort of agents that can have rights. Perhaps groups, metaphysically speaking, don't exist in any interesting way from the point of view of rights, or perhaps they exist but their characteristics are such that they can't or typically don't have rights. Here I largely bracket this question. As noted above, in response to the tenth question about what I mean by a right to secede (section 1.1), the question of group rights is a thorny one, and there is (I claim) nothing wrong with talking generally about group rights without worrying what metaphysical grounding we might give them, especially because this is the approach taken by many others who address secession and related group rights.

I take that response to be adequate, but it is worth saying a bit more to potentially alleviate concern somewhat. One reason to take this avoidance of the metaphysical question as legitimate, as opposed to simply a check I've written that is going to bounce as soon as any sort of attempt is made to cash it, is that there are good moral reasons for positing the possibility of group rights in the political realm, moral reasons which are akin to the reasons we have for positing individual rights too. These moral reasons sit apart from, or perhaps above, the metaphysical morass that characterizes most objections to group rights as a concept (as opposed to objections to specific group rights). Here then I will briefly relate a way of

understanding group rights that one ought to find compelling if one finds the moral claims of liberalism generally compelling.

The basic notion is this: to claim that a group right exists is to claim two things. First, it is to claim that a right exists and that a group is the right holder. This might imply the existence of one or more Hohfeldian incidents that make up the right, like a privilege or a claim or an immunity. (This is how I have described the right to secede.) Or it might imply the existence of what Carl Wellman calls “a system of moral positions that, if respected, confer dominion on one party in face of a second party in a potential confrontation over a specific dominion, and that are implied by the moral norm or norms that constitute that system,” where the party with dominion is a group (Wellman 1995, 79). Or perhaps it entails something different, based on some other specification of what rights more generally are. Following Wellman we might call this the constitutive aspect of a group right (Wellman 1995, 124). Second, it is to claim that there are moral reasons weighty enough to explain why the group has the right in question. Again following Wellman we might call this the grounding aspect of a group right (Wellman 1995, 124). Thus, when there actually are such weighty reasons, a group right exists, and we ought to endorse its existence.<sup>51</sup>

Which reasons they are or why they are weighty is a question I leave unanswered here, not because it is an intractable question but because various answers have been proposed, and I aim to remain neutral between these options at the level of arguing for the possibility of the

---

<sup>51</sup> By “endorse” I only mean “recognize its existence when we are engaged in the project of figuring out which group rights, if any, exist.” I do not mean that we ought to shout it from the rooftops or publicize our findings widely or anything like this. It is perfectly sensible to say that one ought to endorse the existence of a group’s right to self-determination, for instance, yet also think that it would be good to keep this quiet, because political exigencies make it a bad idea to publicize the right’s existence. Synonyms for endorsement in this sense include “recognize,” “acknowledge,” and so on, and the same caveats apply to these terms: philosophical recognition or acknowledgment does not compel (or necessarily even count in favor of) public recognition or public acknowledgment.

existence of group rights. Whichever are the correct reasons (if any) are the ones we would want to ultimately select, but while the jury is out, my group right endorsement procedure can accommodate all the various possibilities. My theory of secession is a suggestion with respect to the group right to secede: it is an account of the sorts of reasons that exist which suggest that there is a right to secede in certain circumstances. Other accounts of other group rights (including other accounts of the right to secession) may be preferable, or we may incline towards a more general theory of group rights that does not focus specifically on one right at a time, like the right to secede, but rather on a larger framework. My theory of secession is also a version of this latter option, because it just passes the buck for the right to secede on to a more general cosmopolitan theory, which will also tell us about moral reasons weighty enough to endorse other group rights, if any other such rights exist. In any case, there are various defenses of the claim that weighty moral reasons exist which ground group rights of certain kinds.

The two main options when it comes to candidate weighty moral reasons that ground individual rights are interest theories of rights and will (or choice) theories of rights (Wenar 2011). According to an interest theory of rights, rights arise when there is some interest weighty enough to ground duties with respect to the interest, like a duty not to frustrate pursuit of the interest or a duty to aid in pursuit of the interest. Group interests seem like an obvious choice for weighty moral interests that would ground group rights, but we need not limit ourselves to group interests. Individual interests can ground group rights. The individual interests of each member of the Navajo tribe may ground a group right to political self-determination for the Navajo more generally. According to will theories of rights, rights arise when some chooser has a protected choice, like the choice to sell or refrain from selling a car.

Again we might look to the will of a group and say that a group right exists when a group's choice is protected, but the protected choices of individuals may together form a group right, as when women as a group each have a protected choice to vote or not which together constitute the right of women to vote.

None of this constitutes a fully adequate response to a skeptic about group rights who thinks that group wills or group interests are just as much nonsense as group rights are. It does, however, highlight the sorts of things we have to make good on to endorse the existence of a group right. It also equally highlights the sorts of things we have to make good on to endorse the existence of an individual right: individual wills or individual interests of the sort that are weighty enough to individual rights. The existence of individual wills or individual interests are far less contested than the existence of group wills or group interests, but there are good reasons to attack strong conceptions of individuals that reach down to the metaphysical depths, so to speak. Actual human beings are far from ideally rational agents, and there are reasons stemming from the socially situated and socially constituted nature of the self, deflationary theories of personal identity, and systematic irrationalities fundamental to our psychological makeup that all suggest that people, whatever we are, aren't endowed with the sorts of wills that we might straightforwardly derive human rights from. As Nicolas Cornell puts it, "the will theory... creates an illusion that we only relate morally to one another as separate individuals... This ignores the fact that we live in communities and often have a stake in what is done to one another. The will theory can thus seem to underappreciate the social web in which we reside" (Cornell 2015, 135). Meanwhile, interest theory may find itself bereft of any way to explain why the interests of the atomistic individual are the relevant interests, especially given the socially constituted nature of the individual, the irrational

structuring of that individual's preferences, and questions about what exactly the individual is, metaphysically speaking.

One response to this is a wholesale abandonment of liberalism and related Enlightenment notions of the atomistic self. One might move towards communitarian conceptions of the self that put the society at the center, abandon any kind of rationally derivable universal morality, or at least any universal morality thick enough to give us interesting conclusions, read more Hegel and Herder, and so forth. A second option would be to salvage some kind of metaphysical individual strong enough to get us what we want. A third option, though, is to deny that anything interesting about individual human rights rests on anything deeply metaphysical. Perhaps what people are fundamentally shouldn't hold such sway over our moral thinking. Whatever is interesting and useful about human rights is interesting and useful because of its role as a moral posit and as a basis for further moral theorizing. Clearly there can't be anything deep in the metaphysics of personhood that rules out human rights if we want to endorse them, but when we turn to metaphysics we should just be looking for an all clear signal, rather than for the firmament of our theory of rights. This is a lesson easily swallowed by the consequentialist, for whom rights have never been anything other than a morally useful shorthand. Deontological moral theories move moral theories up the ladder in terms of importance, but this doesn't mean they have to make metaphysical claims about who we are.

Admittedly, this is all extremely brief and underdeveloped. Perhaps the best hope for individual rights is some kind of deep metaphysical grounding, rather than a defense of individual rights as a key moral posit justifiable on the basis of our moral conception of ourselves and on the basis of the sense we can make of our moral theorizing if we adopt

individual rights. Even if one finds the former sort of defense more compelling, one can still adopt the second sort of defense as an additional reason to endorse individual rights. If one adopts the second sort of defense for individual rights, one can for the same reasons adopt the defense for group rights. If in fact there are good moral reasons for positing group rights, we can bypass the metaphysical worries and focus simply on the moral results of positing group rights. Do group rights help us capture what we take to be important truths about the moral landscape? Do we find that group rights help us create, explain, and defend compelling accounts of the world?

Note that this is different from asking whether *specific* group rights are helpful in this way. As I have been arguing throughout, the group right to self-determination is one that I think *doesn't* provide a compelling account of the world, if it is afforded the degree of strength necessary to support other theories of secession. The group right to self-determination *does*, however, help us explain our thinking about secession, either because its strength leads us to other theories of secession than mine or because its weakness explains why we ought to endorse a theory of secession like mine. So although on the level of direct moral theorizing we might accord minimal weight to the right in question, this will be for the substantive moral reasons I have advanced above, not for conceptual reasons related to the implausibility of group rights generally. A similar process can be undertaken for any candidate group right. The point is that the process ought to be a moral one undertaken on the basis of theorizing about which moral reasons are weighty and why they are weighty, rather than a conceptual one designed to rule out the bare possibility of these sorts of rights.

So, we have now cleared space for the possibility of group rights, and also broadly sketched the sorts of reasons that should lead us to endorse or reject particular group rights,

like a right to secede or a right to self-determination more generally. Having left open the possibility that we will endorse all sorts of group rights, why then might we be wary (for substantive moral reasons) of endorsing various group rights? The basic idea is that rights are powerful and restrictive, or weak and overly general. In both cases we have reasons to do our best to describe the normative landscape in political theory without committing to particular rights, if possible.

The more respect we afford to rights, the more we have to make sure these rights give us the results we want, and the more difficult it is to fit in other rights. A strong right to self-determination for a group butts up not just against the right to self-determination of other groups, but against other rights, like rights to freedom of movement, freedom of occupation, freedom of religion, and so on. The Montagues, with a right to self-determination, either have a right to prevent the Capulets from taking up residence in the Montague territory, speaking a language other than those chosen by the Montagues, practicing a religion other than the Montague religion, and so on, on pain of being refused entry into the Montague state or excluded from the Montague state, or the Montagues do not have these rights. We might, like Altman and Wellman, bite the bullet and accept that the former is the case, but instead, because we think that language rights, religious rights, movement rights, inhabitation rights, and so on are important, we might reject the Altman and Wellman picture and compromise the Montague right to self-determination for the sake of these other rights, which is the route Freiman and Hidalgo pursue (Freiman and Hidalgo 2016).

One helpful way to see this is to look at Will Kymlicka's defense of minority group rights, which is mounted in the face of, rather than on the back of, the rights to association that grounds the Altman and Wellman picture of self-determination. Kymlicka frames a view

that one could possibly hold as one which “accommodates cultural differences, by allowing each person the freedom to associate with others in the pursuit of shared religious or ethnic practices. Freedom of association enables people from different backgrounds to pursue their distinctive ways of life without interference. Every individual is free to create or join various associations, and to seek new adherents for them,” and so on (Kymlicka 1989, 107). This is the basic liberal freedom of association picture that grounds and Altman and Wellman sort of self-determination. Rather than taking it to support what Kymlicka dubs the “strict separation of state and ethnicity,” though, Altman and Wellman take it that freedom of association allows the state to act in a somewhat illiberal manner by acting in an exclusive manner towards various ethnicities if this is what the inhabitants of the state, collectively, wish to do (Kymlicka 1989, 107). This is because Altman and Wellman elevate the right to freedom of association to a level where it can trump more traditional liberal considerations like state neutrality with respect to conceptions of the good life. Thus it is interesting that Kymlicka, himself a proponent of group rights, provides a defense of minority group rights by way of remedying the fact that freedom of association does too little for minority groups, whereas for Altman and Wellman the point of freedom of association is that it does everything for group rights, be they minority or majority group rights.

The divide between Kymlicka and Altman and Wellman is an odd one. The classic liberal neutrality position is in effect in the middle, where freedom of association is a right each individual can use in order to associate with others but not to a degree extreme enough to allow these associations to secede, or prevent immigration, or otherwise act in ways inimical to the classic liberal picture. On one side of the scale rest Altman and Wellman, who hold that freedom of association can get groups basically any right they want, so long as, in exercising



their right to freedom of association, they don't infringe anyone's basic human rights. On the other side of the scale rests Kymlicka, who holds that freedom of association does not get minority groups enough protections, which means that the liberal state must provide certain group rights to minority cultures above and beyond what they can get simply with freedom of association. What are the implications of this divide for self-determination and for secession, especially in the context of the argument I am advancing here about when we should endorse group rights?

The answer is that we are looking at two different bases of group rights and thus two different pictures of self-determination and secession. Altman and Wellman hold that the basis for practically every important group right, including the right to self-determination, is the right to freedom of association. Groups can associate or refuse to associate with whomever they so choose, and this right is strong enough to ground secession. Freedom of association is thus a very strong right for Altman and Wellman. It is doing all the heavy lifting. For Kymlicka, the opposite is the case. No matter how much freedom of association we give to people or to groups, this right is not going to get us things that we want, including equal treatment of citizens and freedom of citizens to make meaningful choices and live meaningful lives. In order to get these things, we need specific group rights for minorities, but, crucially, these rights do not include secession. Rather, they include "self-governing powers or veto rights over certain decisions regarding language and culture" and potentially a right to "limit the mobility of migrants or immigrants into [minority] homelands" (Kymlicka 1989, 126). These rights don't include secession because secession, in Kymlicka's eyes, simply isn't the sort of right that minority groups need in order for their members to be equal citizens or in order for citizens to have various options to choose from in living their lives.

The oddly focused nature of Altman and Wellman's approach is clear. All of their eggs are in one basket, so to speak: the freedom of association basket. Moreover, this basket's importance is raised so high that it justifies a right to self-determination strong enough to ground secession, limits on immigration, and so on. This is not to say that Altman and Wellman's approach is implausible, but it is to highlight what happens when we conceive of group rights in this way, by basing them on one central important right to freedom of association, rather than in Kymlicka's way, which is to base them on other important rights, like a right to equality or a right to choose one's life from a range of options.

When faced with a divide like this, how ought we to proceed? I think that the best way to proceed is caution: the stronger we make the group right in question and the more we base it on a single central principle that exists in partial isolation from the other principles we think are important, the more warped our result will be compared with what we may have pre-theoretically thought was the case. So for Altman and Wellman, with just a strong right to freedom of association we end up with some fairly surprising results. Kymlicka's broader base of rights and the diminished importance of each individual right, given each right's picture in the larger spectrum, leads Kymlicka to more moderate conclusions. For instance, Kymlicka notes that his "equality-based argument will only endorse special rights for national minorities if there actually is a disadvantage with respect to cultural membership, and if the rights actually serve to rectify the disadvantage. Hence the legitimate scope of these rights will vary with the circumstances" (Kymlicka 1989, 109-110).

This, I think, is the right way to approach the question of group rights. We take what we think are important values, like equality or autonomy, and we check to see what group rights we can defend on the basis of these values. If we are too quick to posit rights right off

the bat, we can end up with a very strict view, in the sense that the posited right, which is doing most if not all of the theoretical work, begins to look perhaps implausibly strong, or at the very least not as well-supported as we might hope. This is, I suggest, the case with Altman and Wellman. They can derive a strong right to secede only from their very strong right to freedom of association and its attendant right to political self-determination. If we aimed to derive a right to secede this strong without starting with something like Altman and Wellman's right to freedom of association, we might meet with less success.

Better, then, to see what can be done with the resources already on hand, the concepts and commitments that we are already most comfortable with. If don't start off assuming that we need to find a right, and especially a group right, at the heart of every question, then we may be able to reach conclusions that are more concomitant with our existing commitments. This is particularly the case for issues that are both thorny and in some sense secondary, like secession. Secession already assumes a framework of states and borders, and it sits in a web of related concepts, like other group rights, federalism, territory, and so on. If we try to resolve secession by positing a general sort of right to secede, we may find that we have to come up with rights for everything else, or, more minimally, we may find that we have been forced to abandon the most perspicuous framing of the issue in order to frame secession as a question of a right.

This is why my approach is attractive. Rather than come up with a right to secede, my approach passes the buck to an already established cosmopolitanism, which already comes with whichever rights we think are important. This leads to a clearer picture. As Nicolas Cornell puts it, "positing rights runs amok in political discourse. The serious injustices in the world lead to a proliferation of rights talk. But not every wrong - serious though it may be - is

founded upon a right that has been violated. The proliferation of rights comes at the expense of confusing what obligations we really have and to whom we really owe these obligations” (Cornell 2015, 142-3). *Perhaps* secession is one of the many issues which ought to be solved by figuring out which group rights exist, but isn’t it nicer to be able to resolve the question by adverting to considerations that are already settled, so to speak?

Is this all too cavalier about group rights? Aren’t rights fundamental aspects of the moral universe, such that abandoning rights is a terrible idea which is liable to cause us to miss the morally significant features of the situation? This sort of objection is much more plausible when addressed towards someone aiming to eliminate individual human rights (to the extent that this objection is plausible at all). Any time we remove a right from the list of individual rights, some sphere of human agency is deprived of sacrosanct protection. However, as noted above, the sorts of harms attendant to a violation of an individual right to self-determination are not necessarily attendant to a violation of a group right, especially a group right to self-determination and *especially* a group right to self-determination strong enough to ground secession. When an individual’s will is directly overridden, this chafes, so to speak. One’s direct desires have been thwarted. It is not clear that this is what happens when a group’s will is overridden, or, if this somehow occurs, it is not clear that we care about this, morally, in the way that we care about an individual’s will being overridden.

It is true that violations of a group’s right can filter down to members of the group in a way such that they chafe at the restriction. If my gardening club is denied a plot of land in the community garden patch, my individual will plausibly chafes at the restriction to a degree nearly as large (or perhaps even larger) as it would chafe if I personally were refused a plot of land. But it’s not at all clear that the best way to make sure individual rights are protected is to

construct analogous group rights. Altman and Wellman construct group rights to freedom of association and self-determination to capture what's important at the individual level, but because the results of positing a group right to self-determination occur on a scale distinct from and have results much broader and potentially more dire and longer lasting than the results of positing an individual right, we may find ourselves tempted to back away from such a strong conception of group rights. This at least is my suggestion when it comes to the group right to secede.

Indeed, respect for individual rights requires running roughshod over group rights. The stronger we make individual rights the more likely it is that a group right is a bad summary of the situation and we'll need to violate the group right for the sake of one or more individuals. Consider a group right to one's land of the sort defended by Kymlicka, according to which the right imposes "restrictions on the members of the larger society, by making it more costly for them to move into the territory of the minority" (Kymlicka 1989, 109). If we say that no individual ought ever to be subject to these sorts of restrictions because they have an inviolable right to freedom of movement, that's the end for the group right. The reason Altman and Wellman can keep their strong group right going is that they build unanimity into the structure of the group just by definition: anyone who wishes to exercise their individual rights against the group can just be excluded by the group, because the group can refuse to associate with that person. Any sort of strong individual rights to freedom of movement or immigration would render the Altman and Wellman picture unworkable.

Moreover, the weaker we make individual rights, the less plausible it is to think that there are strong group rights, because why not balance group rights the way we balance weak individual rights? In other words, if Altman and Wellman pull back on the strength of their

right to self-determination, it is unclear that the right will be strong enough to ground secession in every instance that the secessionists desire to secede, which is how it stands right now for Altman and Wellman. So someone who posits strong group rights faces a dilemma. Either they must do this in the face of strong individual rights, in which case it is implausible that there are no individual rights that would trump the group rights, or they downplay the strength of individual rights, in which case it's not clear why we shouldn't similarly downplay the strength of group rights to the point where they are no longer so important. Either way we are pushed in the direction of my theory of secession, which either elaborates the many cases in which strong individual rights override the right to secede, or which engages in the balancing process each time to see whether the right to secede truly does emerge out of the various considerations.

This is all in service of saying that accounts of a right like the right to secede must climb a large hill. I of course think the hill can sometimes be climbed, because I have offered a theory of the right to secede. The point is merely that we might sometimes lose sight of what the existence of the hill represents: it shows us that the endorsement of any given right on the scale of and with the consequences of something like secession implies many things, and that we must be careful to take note of the degree to which a theory loses plausibility as it takes on the various commitments necessary to underlie its defense of the right in question.

#### **4.2 This is How to Conceive of Cosmopolitanism**

The second positive argument I will raise is a more thorough explanation of remarks I have made above about what liberal cosmopolitanism is committed to. This argument will clearly lay out the case for thinking that cosmopolitanism, at least in its most plausible forms,

is likely committed to something like my theory of secession. This argument will focus more on the relationship between cosmopolitanism, political self-determination, and secession than on specific alternative theories of secession, and it will serve as an elaboration of themes that will have been raised in the negative arguments against the associationist and ascriptivist theories. The goal is to show that cosmopolitanism, properly understood, ought to lead us to think about borders and secession in the instrumental way that my theory leads us to think about them.

Lea Ypi says that approaching the question of distributive justice “from a more inclusive perspective,” considering “these issues in tandem with delimitations to the right to jurisdiction” and thus the right to secession, is a position “implicit in many cosmopolitan theories of global justice,” even though these theories do not make it explicit that they take the questions to be “directly linked” (Ypi 2013a, 251). This is exactly the case, and a failure to attend to the ways in which traditional cosmopolitan questions about things like distributive justice interact with questions of territory, secession, and borders can suggest that these topics are not linked or that answers to one set of questions are not particularly relevant to answers to another.

Take for instance Andrea Sangiovanni’s argument that egalitarian principles of distributive justice apply only within the context of a reciprocal arrangement of the sort found in the modern state. According to him, “we owe obligations of egalitarian reciprocity to fellow citizens and residents in the state, who provide us with the basic conditions and guarantees necessary to develop and act on a plan of life, but not to noncitizens, who do not” (Sangiovanni 2007, 20). This explains why cosmopolitanism conceived of as “globalism,” or the thesis that “equality as a demand of justice has a global scope,” is false (Sangiovanni

2007, 6). If Sangiovanni is correct, one of the most radical implications of cosmopolitanism can be avoided, and the fact that vast inequalities exist between, for instance, America and Botswana will not provide any reason to think that Americans, and the American government, have to take any steps to remedy these inequalities unless they so desire.

Sangiovanni pays no attention to questions of borders, except at the very end of his argument, where he notes that, when it comes to the question of open borders, his view is “in fact most compatible with a prima facie claim in favor of open borders, subject to the proviso that an open immigration policy not undermine the capability of both the receiving and the sending state to provide those basic goods and services necessary to develop and act on a plan of life” (Sangiovanni 2007, 37). If by “prima facie” Sangiovanni means that the right is easily defeated, then there is not much going on here, but it seems clear that he is not saying this: that the prima facie right is subject only to one proviso suggests that he has compassed possible reasons for closing borders and found only one that is likely to be generally applicable, and Sangiovanni takes it as “one of the strengths” of his view that it supports open borders of the sort endorsed by Joseph Carens, but for distinct theoretical reasons that do not imply a more wide-reaching global egalitarianism (Sangiovanni 2007, 37-8). So it seems clear that the prima facie right to open borders that Sangiovanni talks about is a right that we ought to take seriously.

But if this is the case, then to what degree has Sangiovanni actually established what he was trying to, namely, an alternative to global egalitarian redistributive justice duties? If the residents of Botswana, apprehending the inequalities that currently exist in the world, desire to move to America, then on Sangiovanni’s view this ought to be their right (so long as neither America nor Botswana will collapse as a result of migration). As soon as they arrive in



America, the migrants will be a part of the reciprocal arrangement that grounds duties of egalitarian justice according to Sangiovanni.

Even worse, though, Sangiovanni's view has zero resources to explain why the residents of Botswana must first emigrate to America in order to become subject to the principles of egalitarian redistributive justice. What is to stop everyone in Botswana from declaring that they are now residents of America and that Botswana is now the 51st state? Sangiovanni may plausibly explain why egalitarian redistributive justice duties exist only within the borders of a state, but if there is no reason to hold fast to existing borders rather than different borders, and if on his own view people are already able to go anywhere they'd like, why should we think that Sangiovanni has any way of blocking the claim on the part of Botswana that it be allowed to join the reciprocal arrangement currently in place in America? Any individual resident of Botswana could take it upon themselves to join the reciprocal arrangement by moving, and it is not clear why physical proximity should decide the issue - indeed, if physical proximity provided some reason to limit duties of redistributive justice, Sangiovanni would hardly have had to do so much work to establish that cosmopolitan globalism about redistributive justice is false. He could have simply pointed out that most people are far away, and thus America has no duties to those people.

Perhaps Sangiovanni could respond that physical proximity is important because states cannot function across great distances. The existence of Alaska and Hawaii (and, we might think, Iraq, Afghanistan, and other countries America has substantially occupied) suggest that this is an implausible claim, especially when it comes to a country like America that has the capabilities to do quite a bit, but no matter. The objection could be recast such that rather than Botswana declaring itself the 51st state, Tijuana does. Tijuana is just on the other side of the

United States - Mexico border, so surely there is no geographic obstacle there. On Sangiovanni's view, residents of Tijuana can already join the American egalitarian redistributive justice program by walking across the border. What is to stop them from joining by shifting the border rather than shifting themselves?

This is not to say that there is no principle Sangiovanni could advert to in order to block this sort of thing. It is just to say that he would have to advert to some principle governing border alteration, something which explains secession and related issues (in this case, the opposite of secession - "accession" - because territory is joining, rather than leaving, the state). What sorts of principles are available? A right to self-determination would of course do the trick - if America has a right to self-determination, it can refuse to allow new territory into the state, just as individuals with a right to self-determination can refuse to marry. But of course a right to self-determination would be incompatible with Sangiovanni's open borders, and it would likely render much of the rest of his argument otiose, because a state with a right to self-determination presumably cannot be on the hook for egalitarian redistributive justice duties to the entire world unless the self-determination is a very odd sort of right that lets the state make decisions about some things but leaves it powerless to spend tax dollars on its own citizens unless it first ascertains that there is nobody else in the entire world with a justice claim that overrides the state's desire to (for instance) build a bridge or a museum.

Of course, in any world other than an egalitarian paradise, it is very unlikely that a state will be justified in doing anything for its own citizens unless either that state itself contains people who are quite badly off, or the state has a right to self-determination stronger than that we are imagining right now. The second option is what theorists like Altman and

Wellman avail themselves of, and in virtue of this they reach anti-cosmopolitan results in ways that are not vulnerable to questions of border alteration in the way that Sangiovanni is vulnerable. Without, however, something like their strong right to self-determination, it is hard to see how we can stop the slide to cosmopolitan globalism about redistributive justice. Conversely, it is hard to see how we can be globalists about redistributive justice without abandoning the strong right to self-determination defended by people like Altman and Wellman, and instead endorsing something akin to my theory of secession.

Giving up this right to self-determination is not costless. Without it, we cannot explain why colonialism and annexation are necessarily wrong, for instance. (This will be addressed below.) But this is the route we must take if we are to be cosmopolitans that are at all radical, and this is the route that one of the foundational texts of cosmopolitanism has already taken. As noted above, in *Political Theory and International Relations*, Beitz (briefly) rejects a strong right to self-determination and notes that our overarching cosmopolitan theory should decide questions of border alteration. Our opposition to “intervention, colonialism, imperialism, and dependence” should be based not on self-determination (which he terms “autonomy”) but on the fact that “they are unjust” in light of his theory of cosmopolitanism (Beitz 1979, 69). Assertions that a colony ought to have the right to secede from the colonial power governing it are “properly understood as assertions that the granting of independence would help reduce social injustice in the colony” - a view in stark opposition to one based on a right to self-determination for the colonized people (Beitz 1979, 104).

One response to this sort of issue would be to say that we start with the existing borders because there is no other place to start. We should take borders at the status quo and

work with those, rather than worry about what things would look like if borders were different. There are two issues with this response.

The first is that it is obviously inadequate once we are discussing secession specifically. If the question is what cosmopolitanism has to say about secession, we cannot first hold existing borders fixed and then look at what the implications of our cosmopolitan theory are. Holding borders fixed would rule out secession by fiat.

The second problem is that this response loses out on one of the key insights of cosmopolitanism, which is the prima facie moral irrelevance of borders. One of the main reasons to adopt cosmopolitanism in the first place is the realization that borders and the effects they have on our lives represent contingent accidents of history rather than morally crucial inevitable divisions. Cosmopolitanism must include either some defense of borders, as given by O'Neill, for instance, or even some alternative to borders, as with the world state suggested by Caney. Thus we cannot just rest content with existing borders, from a cosmopolitan point of view, without giving some defense of these borders. By failing to provide any such defense, Sangiovanni leaves himself open to the criticism that there is no principled way for his view to keep from sliding into something close to, or identical to, global egalitarianism.

Once we accept that cosmopolitanism must tell some story about the borders we have and the borders we ought to have, it is clear why my theory of secession is an attractive one. My theory simply reads off the appropriate borders from the more overarching cosmopolitan concerns, whatever those might be. Just as we might read off the appropriate laws in a society from a more overarching set of concerns like those provided in Rawls' *A Theory of Justice*, we might read off the appropriate stance towards borders from Beitz or O'Neill or Caney or

any other sort of cosmopolitan theory. Although it is of course possible to think that we ought to be much more specific, and that we ought to determine laws not just by aiming at the overall goal given to use by Rawls but by a series of particular considerations about, for instance, self-incrimination or double jeopardy, it is important to think about whether and why we should take these additional steps. It may be that the additional detail and precision we get from making more specific prescriptions and the confidence with which we endorse the source of these prescriptions gives us reasons to place limits on what society must look like beyond just those set out by our overall theory. So for instance if we think that each individual human being has inalienable rights, it makes sense that we won't want to just say that any set of institutions that fulfills Rawls' principles of justice represents an acceptable way of organizing the state.

In the realm of international relations, we face the same decision. Here, though, even if we think that there are things akin to inalienable human rights, like for instance the right of a nation to the preservation of its language or the right of a group of people to inhabit their homeland, it is worth thinking generally about how many limits we want to place on our overarching cosmopolitanism and more specifically about what we should say with respect to secession.

In the first place, do we think that any set of international institutions, borders, and so on that meets the standards set out by our chosen cosmopolitanism will be insufficient to capture everything important about international relations? Or do we think we can say more? Can we say, for instance, that some groups have a right to self-determination that overrides, must be balanced with, or limits the acceptable forms of the prescriptions given by our cosmopolitanism more generally? Must we take the results given by Beitz, O'Neill, Caney,

and so on as one set of considerations among many others? I think that there are reasons for holding that our chosen cosmopolitanism tells us everything in terms of how things *must* be, or how things ought to be in the sense that deviation from this represents an injustice.

This is not to say that our chosen cosmopolitanism answers every question. Indeed, it is to hold precisely the opposite. The more we think that cosmopolitanism alone is the proper way of thinking about moral prescriptions, the more we think that the proper outcomes in any given situation will be left open. There may be many ways for the world to fulfill the vision set out by Beitz or O'Neill or Caney if that vision is the only requirement the world must meet. Once we start adding additional considerations, we narrow the range of morally acceptable states of affairs, such that being in accordance with our chosen cosmopolitanism is no longer enough, just as adding rules about what a criminal justice system has to look like narrows the range of just states beyond the limits set out by Rawls.

Second, whatever we think our answers should be in general to questions about whether cosmopolitanism alone is a sufficient account of our duties, of what a just world looks like, and so on, when it comes to secession specifically, it makes sense to think that we should want the question decided on a case by case basis according to our overarching cosmopolitan concerns, rather than decided by some sort of general right to secede akin to a right not to incriminate oneself. This is for two reasons. First, the moral arbitrariness of borders is fundamental to cosmopolitanism, and an instrumental approach to borders, which sees them as justified only so long as they serve the cosmopolitan project, is sensible and is the one endorsed by my theory of secession. Second, it is not clear what other approaches to secession compatible with cosmopolitanism would look like, aside from either a bare stipulation that we keep the status quo, which as noted above is clearly inadequate, or some

sort of right to secede based on self-determination, which, as I have noted, has clear anti-cosmopolitan results.

Thus, to the extent that the liberal cosmopolitan project can be made to work, there are compelling reasons to think that its approach to border alteration and specifically to secession ought to follow my theory rather than a different sort of theory that aims to come up with *sui generis* conditions to address border alteration.

### **4.3 Empirical Facts and Political Philosophy**

The third positive argument I will raise is the degree to which my theory can accommodate the empirical facts of the matter and their moral implications in a more elegant way than other theories. There are three points. The first is that other theories of secession set out conditions under which groups have a right to secede, but also typically contain some kind of stipulation that, if the consequences of secession would be bad enough, then the right is overridden. Following up on points raised in the first positive argument about what it means to endorse group rights in political philosophy, I will argue that theories of secession face a dilemma: either they are serious about how “rights” ought to function in making decisions, which commits them potentially to licensing too much secession and almost certainly to difficulties in reconciling rights to secession with various other rights that we might be tempted to endorse; or, they admit that the right to secession, even if we endorse it, ought not always to play a key role in our evaluation of circumstances more generally, in which case it is unclear why these theories of secession make more sense than mine (section 4.3.1).

The second point is that my theory is better positioned to adopt radical changes that political theory may need to make in order to accommodate traditionally ignored issues, like

endemic sexism or our duties to non-human animals (section 4.3.2). The third point is that my theory is broadly more flexible: when engaging in reflective equilibrium, my theory has plenty of places to budge, whereas other theories of secession, because they are stricter, give us less leeway in sorting out our considered judgments (section 4.3.3).

#### **4.3.1 Inviolable Rights**

The first point to raise is the dilemma faced by theories of secession about whether the right they posit is an absolute, inviolable right - an “absolute-side-constraint” of the sort suggested by Nozick - or a right that admits of violations when the consequences of respecting it would be too dire (Nozick 1974, 47).

This is not quite the difference between a *prima facie* right, on the one hand, and an all things considered right on the other hand. An all things considered right could still be violable if by “all things considered” we mean only to signal that to have the right to secede is to *have* the right, not just to have weighty considerations in favor of the right. To have the right would mean (for instance) that if the right must be violated, this entails duties of compensation or something similar. If I have a *prima facie* right to X, but the way things shake out, I ultimately cannot permissibly X, this does not necessarily suggest that I’m missing out on something that I have a right to do. I have only a *prima facie* right to X. If instead I have an all things considered right to X, but we prevent me from Xing in order to save five thousand lives, one of my rights has been violated, and I have something to complain about. This is not to say that *prima facie* rights are weak. If a *prima facie* right to X is the only relevant moral consideration, or even the only relevant moral consideration apart from the five thousand lives that in this idiosyncratic case are on the line, this might be just as good as saying I have an all



things considered right to X. Perhaps it is only when specific circumstances (apart from the bare utility calculation involved in saving the five thousand lives, for instance) obtain that my *prima facie* right to X does not transform into a full on all things considered right to X.

This is also not quite the difference between adopting some kind of consequentialism or adopting some kind of deontology as our basis for political theorizing. If a right goes out the window when circumstances are bad enough, this does not imply that all rights go out the window, or that bad circumstances ought to be cashed out in terms of consequences rather than rights, or even that the right that goes out the window is not a proper right. The right to secede may be a sort of secondary right compared to more important political rights or more important individual rights, such that we might conceivably endorse strong (even inviolable) rights to some things without endorsing an inviolable right to secede. The dire situations in which the right to secede fades away may not be situations in which bad consequences loom, but rather situations in which certain rights are at stake which are so important that we think the right to secede fades out of the picture entirely rather than being part of the balancing. This is especially important for the question of secession, because a right to self-determination can be actualized in forms short of secession, meaning we can deny that a group has a right to secede without denying that the group has a right to self-determination more generally in a form that is sometimes less than secession. Finally, it is not clear that a proper conception of rights as actual rights, in a deontological sense, must be committed to the inviolability of those rights, as is noted below.

What we are concerned about, then, is that whatever kind of right the right to secede is, either it is literally inviolable or it goes out the window in extreme situations. To hold that it is literally inviolable is to take a pretty harsh tack, but if one wishes to bite this bullet, even

in light of all the reasons not to bite it that have been compassed above, my argument ends here. Inviolable rights are more compelling when they are individual rights, like a right not to be tortured, than a group right to something less clearly important, like a right to secession. Thus I conceive of a position that endorses an inviolable group right to secession to represent a horn of a dilemma rather than an attractive option. If one can understand the option in some way that makes it attractive, that will be the clear choice, I think, when faced with this dilemma. The other horn of the dilemma is to hold (more reasonably, I think) that the right to secession is not inviolable. This is either because in extreme situations there is no such right, or because secession is the wrong form for an inviolable right of self-determination to take, or because of a combination of these two reasons. Altman and Wellman endorse the former view. They argue that “threshold deontology,” the view that “below the ‘deontological threshold’ there is no weighing of the consequences” whereas above “some extremely high threshold of bad consequences” deontological restrictions break down, is “more plausible than an absolutist” approach to deontology (Altman and Wellman 2009, 210).

The question, then, is how we conceive of the spectrum between, on the one hand, the cases where the right to secede inheres, and, on the other hand, the cases where the circumstances are bad enough such that the right to secede goes out the window. What is it about the situations that are not quite bad enough, despite almost being bad enough, that makes the right to secede a plausible constraint in those situations? What sorts of considerations can we adduce in favor of a right to secede in circumstances where the results will be very bad, but not horrifically bad? Clearly they will be something like a right to self-determination or one of the other considerations supporting the other theories of secession. But, as I have pointed out, one cannot simply advert to a right to self-determination in order to

get a right to secession - one must advert to a right to complete constitutive self-determination. As argued above, there are multifarious reasons to endorse a weaker right than this when we are asking the question of secession, and with these considerations in mind we face a threshold question about when to abandon the right to secession in light of serious consequences.

This is not a new or surprising objection. Every theory that posits a right which goes away at some point when the consequences are bad enough has to deal with someone who asks why we draw the line in one place rather than another. This objection is stronger, though, when the question is about a right to secede, which is the most extreme actualization of a right to self-determination. One natural response to worries about where the line is drawn is to say that there is no mathematical formula to decide this sort of question - decisions need to be made in a holistic fashion and some kind of judgment is ineliminable. A right to secession is likely to fare badly in this sort of procedure, though, when alternatives are introduced, like some degree of autonomy in a federation or specific group rights for the group that wants to rule itself.

Although he is not quite anti-right-of-secession, Kymlicka definitely leans towards measures less than a right to secession because “in general, there are more nations in the world than possible states” and thus “we need to find some way to keep multinational states together” (Kymlicka 1989, 186). Thus self-determination rights short of secession, like linguistic rights, are often a better choice for securing self-determination in Kymlicka’s mind. Stiliz similarly is skeptical of secession as an answer to the question of self-determination: she notes that “to argue for a right to secede, we must show that this value [of self-determination] is of sufficient weight to hold others under a duty to allow the formation of a new state,” a

process which “involves comparing the interests protected under the proposed right against countervailing considerations, such as other people’s interests in the territory, the costs of secession to their expectations, the risk of civil war, instability, and so on. And it involves comparing secession with other possible arrangements for protecting the interest in self-determination, such as internal autonomy, special representation rights, federalism, or devolution” (Stilz 2015, 4).

One might object that this is the wrong way to go about understanding the right to secede. How, for instance, can something like “the costs of secession” to anyone, or “the risk of civil war,” impact whether a group has a *right* to secede? It may be unwise or even wrong to exercise one’s right to secede if the likely consequence is civil war launched by those who oppose secession, but this can’t be evidence against the existence of a *right* to secede, can it? It’s just evidence that sometimes one cannot permissibly exercise one’s right, or, perhaps even stronger, it’s just evidence that if one exercises one’s right, other people will do bad things, and that’s just life. We wouldn’t say I have no right to marry Val simply because my parents threaten to cut off contact with me for marrying Val. So how can Kymlicka or Stilz think that these sorts of considerations are relevant for secession?

The answer is twofold. The first point is that thinking about the right to secede already gerrymanders our evaluation of the situation in a way that occludes the key point that Kymlicka and Stilz are highlighting, which is that the morally salient question is *not* secession but rather self-determination, and self-determination comes in forms other than secession. Marriage, we might think, is not like this: there is something especially salient about marriage such that losing a right to *marry*, even if one has other options like cohabitation or a civil union, is unacceptable. Perhaps marriage has symbolic social value unattainable through

cohabitation or civil union, or perhaps there are typically few (if any) good reasons to prevent people from marrying each other should they so choose, or perhaps marriage, as an individual right, is simply much more sensibly treated as inviolable than a group right like secession (see for instance Callahan 2009). I have compassed arguments like this above in section 3, where I noted that a group does not have a morally valuable will that is directly and badly thwarted when its desire to secede is overridden, that politics requires compromise, and so on. Most relevantly to the issue at hand, the sorts of compromises that politics requires are exactly the sort of compromises that provide groups self-determination in forms other than secession: groups can have language rights, some degree of autonomy in federal arrangements, and so on.

The second point is that there is a real choice to be made here, a choice that Kymlicka, Stilz, and I come down on one side of, and Altman and Wellman, Margalit and Raz, and others potentially come down on the other side of. It is the choice of whether secession, and specifically the right to secession, is something of supreme importance, or whether we are going to allow the right to secede to turn on a series of calculations and balancing acts that we conduct on the basis of various other values, like stability, justice, and so on. Kymlicka, Stilz, and I are happy to throw everything into the hopper to see whether a right to secede comes out in the end, keeping in mind that we might get other forms of self-determination, like autonomy in a federal arrangement or linguistic rights or other options, rather than secession. Theorists more focused on secession instead want clear and inviolable rules about secession, such that groups either have it or don't in a specific set of circumstances.

Why might we lean in the direction Kymlicka, Stilz, and I have chosen? The answer is clear, I think, from the fact that, as I've framed the debate, we have already rejected the horn

of the dilemma according to which secession is a *perfectly* inviolable right which can *never* be overridden. Any reasonable approach to secession, like Altman and Wellman's, approaches it as the sort of right that could at least *potentially* get thrown out if things were to be *very* terrible. So in effect, everyone who rejects the inviolable right horn of the dilemma ends up on the other horn, which is the horn where one says that a balancing act is *sometimes* appropriate when it comes to deciding whether there is a right to secede.

It should be clear why this is a horn of a dilemma for someone who disagrees with Kymlicka, Stilz, and me: once someone is on this horn, what is to stop them from switching sides and accepting that secession is just not the sort of right that we should endorse except after we've jumbled together all the various possibilities in order to see whether a right to some other form of self-determination would be more appropriate because it would be better from the point of view of justice, or consequences, or anything else? Why, for instance, would someone endorse O'Neill's account of global justice but then answer the question of secession by throwing that out the window and taking an Altman and Wellman sort of approach, or endorse libertarianism about global justice but then settle questions of secession by adverting to Margalit and Raz?

At this point, someone who defends a strong right to secede along the lines of Altman and Wellman could admit that, because they reside on the second horn of the dilemma, they do indeed need to engage in the sort of balancing process described here. They might argue, though, that the outcome of this balancing process will be as described in (for instance) Altman and Wellman: it will almost always give us a right to secede in cases where any group desires to exercise the right. Margalit and Raz would say that the balancing process will almost always give us a right to secede in cases where a nation desires to secede. Buchanan

would say that the balancing process gives us a right to secede in cases where the state has acted unjustly.

I think the response to this is that a holistic jumbling together of the possibilities is simply unlikely to endorse a stark right to secede in cases where the results actually are pretty bad, albeit not so bad as to trigger the escape clause built into these theories. Certainly this seems to be the lay approach to the question. When a group desires to secede for what are perceived as selfish reasons and this secession would leave many worse off, the common sentiment is that the secessionists are acting unreasonably and that they ought not to be trying to secede. (In America, opinions are still somewhat mixed about the American Civil War, but one very common view is that the South, even though it plausibly argued that it was being mistreated by the North, had no right to secede because, for instance, secession would have perpetuated slavery and especially because the secession triggered a horrific war. If secession were a right that was close to inviolable, it is not clear why the badness of the war ought to factor into our calculations: it's not the South's fault that the North went to war to keep the Union together, after all.)

Once we've decided this, we can now wrangle over the right to secede in cases where the consequences are not *pretty* bad but are just *somewhat* bad: does Scotland have a right to secede even though this would make things messy and (among other things) potentially leave my friend Casey without his new job in Edinburgh? Without simply adverting to a worked out theory of cosmopolitanism (which would just amount to agreeing with my theory of secession) I do not think there is really any principled way to sort out this question. We are left with making up our own minds about things like the strength of a right to self-determination, and whether it really is as strong as people like Altman and Wellman would

have us believe. I think that, for the reasons I've mentioned many times above, it is not this strong - others may disagree. We have, at least, identified the inflection point about which the debate turns, and my hope is that I have made it at least plausible that someone might reject a right to self-determination of sufficient strength to deliver a right to secede in cases where the results are bad according to one's more overarching cosmopolitan theory.

This, then, is the first way I think my theory of secession is superior to others: because of the balancing act that we have to engage in when thinking about any sort of rights on the scale of states, we should pick my theory of secession, which is effectively just a large sign pointing to that balancing act plus a promissory note that reads "check your favorite theory of cosmopolitanism," rather than a theory of secession that commits us to the existence of a very strong right even when endorsing this right would force us to accept the crummy results that can often result from secession and thus force us into the unintuitive position of sanctioning secession in instances where it seems objectionable.

#### **4.3.2 Incorporating Injustice**

The second advantage of an approach to secession like mine is that it leaves political theory in a much better position to radically alter itself in response to longstanding grave injustices that might require us to radically reorganize things in order to correct the injustice. The three most obvious examples I have in mind are endemic sexism, racism, and speciesism. Discrimination against women has been constant and unrelenting for as long as humans have lived in society. Martha Nussbaum's description of Metha Bai, a widowed woman who cannot work outside the house to get money to feed her children because cultural norms dictate that she and her children be beaten should she try to work, is one instance out of



billions that could be cited (Nussbaum 1999, 29). The effects of racism and more generally hostility and even just indifference towards out-groups can be seen in the horrors of colonialism, slavery, and in the Holocaust and other genocides. Humanity's treatment of animals amounts to what Isaac Bashevis Singer dubs an "eternal Treblinka" - unending slaughter, medical experimentation, displacement from their homes, and so on.

It may be that all of this is largely irrelevant from the point of view of political theorizing, at least when it comes to political theorizing at the abstract level that this project represents. Any plausible political theory, we might think, will straightforwardly entail that all the bad results of sexism, racism, speciesism, and so on are either obviously bad or somehow justified, and that is all there is to say about the matter. As O'Neill puts it, "the demand that justice abstract from the particularities of persons seems legitimate. Is not blindness to difference a traditional image of justice, and guarantee of impartiality" (O'Neill 2000, 144)? (O'Neill refers just to persons - we might also add non-persons into the mix.) As she goes on to say, though, "principles of justice that are supposedly blind to differences of power and resources often endorse practices and policies that suit the privileged... abstract approaches are sometimes uncritical of privileges from which they abstract" (O'Neill 2000, 144-5).<sup>52</sup> Moreover, "a deeper problem is that many abstract approaches to justice are not merely abstract. They indeed propose abstract principles of universal scope, but they also... import idealized conceptions of certain crucial matters... abstract principles alone will not be empty, but they may be too indeterminate; an adequate account of justice will need to link abstract principles to particular cases" (O'Neill 2000, 145). Her point is that our account of justice

---

<sup>52</sup> Charles Mills and Carole Pateman similarly argue that the social contract tradition in political theory is inherently racist and sexist, despite overtly claiming to recognize the equality of all people (Mills 1997; Pateman 1988; Mills and Pateman 2007).

must “combine abstract principles with context-sensitive judgement of cases” (O’Neill 2000, 145). It is clear that my approach to secession naturally lends itself to this procedure, because on my account we answer the question about the right to secede not just with abstract principles (like a right to self-determination) but instead with abstract principles (a conception of cosmopolitanism) plus attention to the specifics of the situation.

How does this approach help us with sexism, racism, and speciesism when it comes to secession? Consider the analogy of marriage and divorce. In abstract terms, we might think that a personal right to self-determination and freedom of association answers the question decisively. Individuals ought to have a right to marry and divorce at will. It would be illegitimate for a state to limit freedom by preventing marriage between consenting adults or by restricting divorce for various reasons. Imagine, though, a society like that described by Nussbaum, in which women are forbidden from working by powerful social norms (but not any laws). Women are expected to take care of children and to refrain from embarking upon careers. In a society like this, we might think that a concern for self-determination and freedom of association might be outweighed by other concerns in cases where a wife and children depend on the husband for support.

Ideally, one’s right to self-determination would allow one to sever a marriage and all the ties that marriage represents, but if the husband’s departure leaves the woman and the children high and dry, we might sensibly keep the husband from severing the ties of marriage. One might object that this is not a limitation of the husband’s self-determination, because he chose to get married in the first place, so any subsequent limits on his freedom are ones that he himself signed up for. In response, we could imagine a situation in which this is not true, because marriage, at the time the couple married, did not include any sort of economic ties.

Instead, it consisted of things like a right to name each other as beneficiaries of life insurance, a right to make medical decisions for one's spouse in emergencies, a right to partial custody of children in the case of a divorce, and so on. Would it be wrong to subsequently impose limitations on married couples so as to limit the man's freedom to financially abandon the wife and children? I think it would not necessarily be wrong to do this, even if we grant the premise that, in an ideal world, husbands are under no duty to financially support wives and children if they have not agreed to do so in the past.

When arranging rights in the non-ideal situation, though, we cannot leave husbands as free and unencumbered as they would be if women were able to earn a living as easily as men. Claudia Card argues along similar lines that the realities of marriage and divorce are such that endorsing same-sex marriage is actually objectionable, because marriage as an institution is so tied to domestic violence that we ought to abandon marriage as a right, at least for the foreseeable future (Card 2007).

Or, consider non-human animals. Sue Donaldson and Will Kymlicka describe a political theory that incorporates human duties to non-human animals, including duties to respect wild animal sovereignty over undeveloped land and duties to treat non-human animals that live among us in ways akin to how we treat fellow citizens (Donaldson and Kymlicka 2011). If Donaldson and Kymlicka are correct, then ascriptivist and associationist theories of secession are unworkable for two main reasons. The first is that self-determination, conceived of as a right held by groups of people, wildly fails to capture the moral basis upon which choices about governance ought to be based, because choices about self-determination exclude non-human animals that live amongst the humans in the territory in question. The

second is that territory alteration must take into consideration the territory that is not subject to human rule but which instead belongs to wild animals.

Consider the responses that ascriptivists and associationists might make to these charges. One option would be to include non-human animals that live amongst humans when determining questions of self-determination. Rather than asking what a group of people wants to do or what a nation wants to do, we would ask what a group of people and non-human animals wants to do, or what a nation plus the non-human animals that live amongst the nation want to do. To do this would be to largely vitiate the impetus behind these theories, though. It is the choices of people that matter to associationists, because people are autonomous individuals with wills that ought not to be frustrated if possible. Sublimating the wills of the people in light of the desires imputed to non-human animals is no more appropriate from the point of view of the theory than sublimating the wills of the people in light of the desires of people external to the territory who would be harmed by the secession.

The picture is even worse for ascriptivists, because non-human animals are not part of the nation, and thus limiting the choices of the nation based on the desires of non-human animals makes as much sense as limiting the choices of the nation based on anyone else, like humans who aren't part of the nation. Once these sorts of modifications are made to our theories of secession, there is little reason not to slide to something like my theory of secession, because self-determination as an overriding value has dropped out of the picture under the pressure of having to add non-human animals to the self. If we are willing to add the concerns of non-human animals into the mix, even though they are not part of the collective will in the way that matters morally to these theories of secession, why not add the concerns of other humans into the mix?

Moreover, adding non-human animals into the groups that have a right to self-determination fails to remedy the second worry, which is that the rights of wild animals must also be taken into account. This could be done by affording wild animals rights to self-determination strong enough to explain why they have a right to sovereignty over their territory, and this is what Donaldson and Kymlicka suggest. For similar reasons, though, this response is a hard one for ascriptivists and associationists to accept, because the ascription of self-determination in this case is made not on the basis of the considerations the ascriptivists or associationists think are relevant but rather as a way of achieving the result that we want to achieve, namely, the accommodation of non-human animal rights into our political theory. Donaldson and Kymlicka don't think that non-human animals literally have a right to sovereignty in the sense that they themselves can make decisions about international trade, airspace, war, immigration, and so forth. Rather, they propose that agents act on behalf of wild animals, and that these agents be invested with the powers of sovereignty so as to give them the ability to do what is best for the non-human animals, which consists of keeping them free from human interference (Donaldson and Kymlicka 2011, chapter 6). Thus Donaldson and Kymlicka posit a right to sovereignty - a right to complete political self-determination and thus exactly the kind of right at issue in secession - for the sorts of reasons my theory posits a right to secede, rather than on the basis of any deeper fundamental right based on the nature of group wills or nations or anything like this.

In fact, any sort of addition to our political theory which is of utmost importance has the potential to destabilize a rights-based approach to secession like the ascriptivist and associationist approaches. In order to accommodate some grand alteration in our values, these theories of secession have two options. The first is to sit tight and not alter themselves, hoping

that they still fit in to the overall picture of political theory that emerges once we have changed things to (for instance) better account for duties towards animals, or duties to remedy sexism or racism, or similar duties. This response faces the worries that it is either not very convincing, to the extent that the right to secede is still supposed to be an important one, or not very relevant, to the extent that the right to secede is often outweighed or otherwise ignored in light of new considerations. The reason the associationist or ascriptivist theory of secession may not be very convincing if it remains unchanged and of utmost importance is that, by hypothesis, we have added an additional crucial consideration into our theorizing, and the more this prompts alteration in our arrangement of values in other areas, like questions of distributive justice or retributive justice, the more likely it is that we will feel pressure to alter what we think about borders and the effect the right to self-determination ought to have with respect to borders.

The second response ascriptivist and associationist theories of secession might give to an altered set of values is to change the theories of secession themselves to better accommodate the new landscape. As noted above, though, this can result in a vitiation of the exact sorts of considerations that led us to endorse these theories in the first place. Moreover, theories of secession are badly poised to alter themselves, because, as noted above, the framing of the question of secession privileges a certain answer to a certain question: the answer is complete constitutive self-determination and the question is which groups have the right - specifically, whether it's any given group of people, or nations.

If we change the answer, we no longer have a theory of secession, and if we change the question, we do not end up with an associationist or an ascriptivist theory of secession. The simplest way to see this is to take our libertarian cosmopolitan theory, which is radical in

that inviolable negative rights for every person commits us to anarchism or something quite close to it when presented with all existing states. This is effectively Michael Huemer's argument (Huemer 2013). This means grave injustices are being committed on a daily basis against practically everyone, especially those who are being badly mistreated by their governments. There is effectively no way to both remedy this sort of injustice and also endorse an ascriptivist or associationist picture of secession, because the creation of any sort of state through any process other than Beran's complete unanimity will be unjustified (Beran 1984).

This is not to say that the attractiveness of my theory of secession relies on endorsing Donaldson and Kymlicka's position on animal rights, or any other radical conclusions about animals, or racism, or sexism, or anything else. (I think Donaldson and Kymlicka are largely correct, and on this basis I think my approach to secession is much more attractive.) Nor is it to say that absent any radical conclusions about how political theory needs to change to accommodate injustices that have been insufficiently addressed, we have no reason to endorse my theory of secession. It is just to say that *if* political theory has any gaps that need redressing in a radical fashion, my theory of secession can emerge unscathed, whereas other theories are unlikely to do so, because these sorts of radical changes will entail modifications both to the structure of our political theorizing and to the sorts of intuitive judgments that we use to generate our theories of secession. An intuitive result for a political theory that cares only about human beings is potentially a quite unintuitive result for a political theory that cares about all animals, and other theories of secession get much of their support from intuitive judgments that issue from our current theorizing, not from a radically altered landscape. Perhaps adding very radical theses onto my theory can't add anything in terms of

plausibility, because these theses are bound to be more controversial than the theory I am defending. To the extent that any of these theses are right, though, we will be pushed in the direction of a theory of secession like mine.

### **4.3.3 Reflective Equilibrium**

The final argument in this section is that my theory is quite amenable to reflective equilibrium, both narrow and wide reflective equilibrium, in ways that other theories of secession are not (Daniels 2013). The point is a fairly pedestrian one: the fewer additional rights we have in the mix, and more generally the fewer additional considerations we add to our overall theory of cosmopolitanism, the easier we will find it to budge on any given issue in order to make things fit better. Wide reflective equilibrium especially is the context in which my theory shines, because everything about secession is up for grabs with a theory like mine. Wide reflective equilibrium is the process during which one's theory is open to revision in light of competing theories: rather than holding the theory of secession fixed and trying to answer a specific case, which would constitute narrow reflective equilibrium, in wide reflective equilibrium we open ourselves up to the possibility that our theory of secession could need revision. The flexibility described above in my other two arguments manifests itself in an openness to the changes that might be suggested to a theory in the process of wide reflective equilibrium, because there are no places at which my theory refuses to budge that aren't also places that one's overall theory of cosmopolitanism refuses to budge. Other theories of secession, meanwhile, in order to even *count* as other theories of secession rather than mine, cannot budge on whatever it is that makes them competing theories of secession: for associationists and ascriptivists, they cannot budge on the strength of the right to self-



determination either for any given group or for nations, because to do so would be to give up the game.

Another way to put this point is that it's not quite clear what to do in narrow or wide reflective equilibrium once we've loaded ourselves up with a series of theories about a right to X, where X includes things as specific as secession, unless we adopt some sort of overarching theory that tells us why we have endorsed rights to X and Y and so on. So for instance, to shore up Wellman's rather radical account of a right to secede, we could adopt the entire theory of international justice provided in Altman and Wellman, but of course to do this we would have to think that Altman and Wellman are right about most things or everything. Moreover, when we engage in reflective equilibrium, if we don't like their approach to (say) secession, we will have to ditch much of the overarching framework.

An approach like mine, which doesn't deliver any sort of interesting analysis about the right to secede except to say "just check your other commitments," is similarly unable to deliver a theory of secession that we find implausible without implicating something that we find plausible, namely, our overarching theory of cosmopolitanism. So, this does not tell in favor of (or against) my theory. It just points out the space it occupies in the debate. My theory is the theory of secession for one's preferred theory of cosmopolitanism just as Altman and Wellman's theory of secession is a theory for their preferred theory of international justice. The contention here is just that, to the extent one finds anything in Altman and Wellman's overarching theory that is hard to accept, one will be pushed in the direction of my theory, so long as one is broadly cosmopolitan. This means that if the Altman and Wellman picture is not airtight (and one might reasonably think it is not airtight), the alternative is a theory of secession like mine.

My theory can also be more attractive if instead of developing some sort of overarching theory (like Altman and Wellman's) that attempts to deliver answers to all sorts of questions, including the question of secession, we instead have a piecemeal theory of secession, like the one provided by Margalit and Raz (or by Wellman absent the framework in Altman and Wellman). One can be tempted by the arguments in Margalit and Raz, and on this basis endorse a right to secede for nations, just as one can be tempted by various other arguments for various other rights, like rights to linguistic self-determination, rights to a share of the world's natural resources, rights to occupancy in a territory, rights to freedom of movement and immigration, rights to fight wars in self-defense, rights to engage in humanitarian intervention, and so on. Probably the only process we have for making sense of a series of rights like this is reflective equilibrium, both in the narrow sense, when we try to decide any given question of political morality, and in the wide sense, when we're trying to figure out which rights to endorse and why. The more rights in the running, the more unclear the process is, and the more likely it is that the various rights will conflict and we'll have to give at least one up.

My theory of secession can effectively give up secession. Because secession relies in large part on the right to self-determination, and because, as I have argued above in section 3, there are many issues with hewing to such a strong right to self-determination, we are likely to find ourselves pressed to give up secession, and to give answers to the question of secession like the ones delivered by my theory rather than like the ones delivered by stricter theories of secession. So, assuming I am right to argue above that the very specific right to *secession* (complete constitutive self-determination) is hard to justify on the basis of a right to self-determination, then an approach that consists of building a picture out of various individual

rights will want to leave the right to secede out of it, at which point we revert to something like my theory of secession.

Thus, whether we aim to construct large, intricate, internally cohesive systems, on the one hand, or instead start with some foundational rights that we think are certainly justifiable, the prospects for my theory look better than the prospects for others. From the system-building perspective, my theory is relatively open about which systems can work, and more importantly it does not go out on any particular limb, like Altman and Wellman, who are out on many limbs. One's final system will of course have to answer questions about each particular limb, but there is room in my theory to give uncontroversial answers to other questions, like immigration, distributive justice, and so on, room that competing theories do not have, because they rely on a strong right to self-determination. From the other perspective, we have similarly seen how if we want to start with some fundamental group rights that we think are likely justified, we should not start with secession, because the strong right to self-determination necessary to get a right to secede off the ground is not likely to be forthcoming.

One might ask why it is important to think about reflective equilibrium as a separate consideration. If we need to judge theories by how well they hold up in our web of beliefs and how well they do when matched up with our intuitions, isn't this taken care of by the arguments offered for and against the different theories of secession? Presumably if the arguments for any given position are effective, then it has survived reflective equilibrium, and if not, then it hasn't.

The response is that the advantage to considering reflective equilibrium as an additional consideration to be used when judging theories against each other is that it treats political philosophy as work in progress. An answer to a question that does not load itself up

with other commitments is more open to the possibility that we aren't "done," so to speak, with coming up with answers to the questions at issue. This might seem to assume that whatever broad, overarching cosmopolitan position that my theory adverts to is less comprehensive than the alternative theories of secession on offer. If this assumption is required, then my argument won't work very well, because it's not clear that, for instance, Beitz's theory has fewer commitments than Altman and Wellman's or similar theories built on a strong right to self-determination. Here the point is a higher order one: looking just at my theory of secession rather than at the particular cosmopolitan theory we attach to it, my theory has few set anchors. Any old cosmopolitanism will do, so long as (for the reasons I've adduced above) we don't pick a cosmopolitanism which just results in a theory of secession like Margalit and Raz's or Altman and Wellman's. Different cosmopolitanisms will give us different answers: a libertarian cosmopolitan will have a very different understanding of what counts as a bad or a good situation caused by secession than a consequentialist cosmopolitan. The argument here is just a suggestion that secession, of all the various questions facing us in political theory, is not a place to tie ourselves down. It is not the sort of right that should have us drawing lines in the sand.

#### **4.4 Unfeasibility**

A worry one might have about my approach is that it is very unfeasible. Whatever our candidate cosmopolitanism is, it is going to be very hard, if not impossible, to know if secession would be better or worse according to the lights of that cosmopolitanism. If we can't answer the question of whether there is a right to secede, because it's just too hard of a question, then my theory is not a good theory. There are four replies: I can deny the worry,

advance a partners in crime argument, adopt a conciliatory approach, or point out that in some ways my theory fares better than others.

The first reply is to deny the worry. Certainly I would not be the first person to blatantly ignore questions of practicality with respect to figuring out the right answer. Many forms of consequentialism clearly face the objection that it can be very hard, if not impossible, to know what sorts of consequences we are likely to engender with our actions. One solution to this sort of problem is to switch to talk of expected consequences, or reasonably expectable consequences, or something like this. My theory is perfectly amenable to this sort of move. If on the global scale the best we can do is to make some predictions with the best tools of social science, then so be it: this approach to secession, for the reasons described above, is better than the others on offer, I argue. Moreover, it's not obvious that this sort of objection has any traction. It may be that the degree to which a theory is action guiding can be divorced from the degree to which a theory correctly describes the evaluative situation. My theory of secession may rightly tell us when a right to secede does or does not exist despite our inability to work through the calculations my theory asks us to work through. The theory, after all, is a conditional theory: if things would be better from the cosmopolitan point of view, then there is a right to secede. Figuring out whether the antecedent obtains is not a question for the theory itself, so long as it's at least in principle determinable, which it is if the cosmopolitanism we pick is coherent. So perhaps this objection can be ignored, either because the expected outcome is the only thing worth worrying about or because the evaluative question is divorced from the action-guiding question.<sup>53</sup> Certainly this would mean that my

---

<sup>53</sup> For a discussion of this strategy in the context of justice, as opposed to secession, see (Wiens 2014).

theory of secession is not the last word on secession, but that may not be a black mark against it.

The second reply is to argue that other theories of secession face similar issues. This is most clear with respect to ascriptivist and associationist theories. Recall the worries above about who the self is, for instance. Few if any of the extant theories of secession can plausibly tell us, in any given real life case, whether the group in question does or does not have the right to secede, even assuming we can figure out what the right group is. On the most pedestrian level, the associationist likely has to advert to a plebiscite or something similar, and even if we limit ourselves simply to cases where this is plausibly done and the vote is carried out, presumably there are all sorts of conditions that attach to the vote in order to make sure it's fair. All the proper parties must be enfranchised, the voting must be carried out in a fair manner, and so on. None of these issues is insoluble or perhaps even difficult in the subset of cases that are the easiest for the associationist, like states that are able to carry out votes without much trouble (think of Canada, for instance). The point is just that the bare theory tells us practically nothing, and that we have to investigate using the best tools available to us in order to ascertain what the actual facts of the matter are.

Things look worse when we move to cases where the plebiscite is not such a simple task: if it is impractical to conduct a plebiscite, then can associationist theories tell us anything at all practical about secession? Ascriptivist theories must either also advert to a plebiscite or come up with some convincing way of identifying a nation's wishes, which is hardly an easy task. Ignoring all the questions about what it even means to attribute a desire to secede to an entire nation when there are invariable individuals in the nation who don't have an opinion, have a confused opinion, or oppose secession, figuring out what to do in the real world

requires addressing issues like whether the natural spokespersons for the nation are in fact representative of the nation's desires on the matter. Nations often form or become strong in situations where there is an opportunity to seize political power, and it is the elites of these nations that take advantage of these opportunities (see Whitmeyer for a review of the social science literature that makes these sorts of claims) (Whitmeyer 2002, 323-6). The elites, though, do not always represent the interests of the masses, which means that nationalist secessionist movements cannot always be taken at face value and an ascriptivist theory of secession might require to ask empirical questions which are at the very least hard to resolve.

Even the remedial theorist is perhaps not off the hook, because there can be edge cases in which it's not clear whether human rights violations have occurred, or whether the government is responsible for these violations in a way that legitimates secession, and so on.

Perhaps the objection could be sharpened somewhat in response to this reply. We know how to resolve the above questions, in principle if not in practice, but we don't know how to resolve the question of "better from a cosmopolitan point of view," even in principle. One response is that if "in principle" is allowed to be general enough, then we *do* know how to resolve the questions, because our theory of cosmopolitanism will tell us what we need to know. If it *doesn't* tell us what we need to know, then this is a flaw with our cosmopolitan theory which needs remedying, but there is no reason to think that an overall theory of cosmopolitanism will have more issues telling us whether some state of affairs is or isn't better, or more issues telling us what things we should look to in order to resolve the question, than we would have when we query the other theories of secession to decide whether there is or isn't a right to secede in any particular case. So at worst, I think my theory does not fare worse than other theories of secession with respect to this objection.

Third, it may in fact be the case that being not very useful or even entirely useless, on its own, is a flaw in a theory of secession, and our theories of secession ought to be more relevant to actual decisions we might want to make and actual questions we ask in the context of concrete decisions as opposed to political theory. In other words, perhaps political theory is misguided when it addresses questions in a way such that its answers are not immediately or almost immediately applicable. If this is the case, then my theory of secession can rather easily pivot to adopt a conciliatory approach such that “right to secede” does in fact mean a right to secede right now, practically speaking. The way to do this would be to understand “better from a cosmopolitan point of view” in a very practical sense, according to which our cosmopolitan point of view is a very practical, usable one. Take for instance Wiens’s failure analysis approach to designing political institutions (Wiens 2012). Wiens proposes an approach to institutional design according to which one ought to identify and diagnose failures, and then design solutions that aim to avoid the failures. A cosmopolitanism built on this model would link “better from a cosmopolitan point of view” with approaches that properly address failures like this, along with some basic normative claims about not prioritizing failures that are geographically closer simply because they are closer, failures that effect one’s co-nationals simply because they are one’s co-nationals, and so on (so as to retain the cosmopolitanism). “Worse,” from this view, would be approaches that do not address these failures that we have identified. Then we simply have to ask ourselves, with respect to any given instance of secession, whether this secession would help avoid the failures that we have identified and diagnosed.

If the answer is yes, then there is a right to secede, because this secession will (hopefully) move us away from failures. If the answer is no, then there is no right to secede. If



one is inclined to think that criticisms like those lodged by Wiens are effective, then this will tell in favor of adopting a cosmopolitanism that takes these criticisms to heart (see also Wiens 2015a and 2015b for criticisms of traditional approaches to political philosophy). A similar process could be applied for any other practical way of evaluating political theories: whatever our practical goal is, achievement of that goal is “better from a cosmopolitan point of view,” and the failure to achieve that goal is not better.

If adopting one of these practical methods collapsed my theory into any other available theory of secession, this would not be a good solution, but this is not likely to be the case. Other theories of secession face larger issues with adapting themselves to a more practical approach like this such that we should not expect that adopting the practical point of view to cash out “better from a cosmopolitan point of view” will turn my theory into one of the other theories on offer.

For one thing, this sort of adaptation would entirely vitiate the justification for associationist and ascriptivist theories, because these theories are built around a strong right to self-determination that ought not to hang on empirical exigencies like how best to move away from identifiable and remediable failures. The sorts of arguments given in favor of associationist and ascriptivist theories rely on the importance of affording this right to the relevant groups and the justifications offered are not the sorts of things that we would expect to fade away in the face of realizing that this may not lead to practical results. As Altman and Wellman put it, “estimating gains and losses as a way to assign which groups are to be self-determining does not capture the deontological character of the principle of self-determination: if the group can adequately perform those functions, then it has a right of self-determination that does not hinge on any estimation of gains and losses” (Altman and

Wellman 2009, 52). They are not satisfied with any understanding of the right that hinges on the sorts of considerations my theory readily admits of, and thus saddled with this commitment to a strong deontological right to self-determination, it's not obvious that they can give much ground to the empirical situation, let alone give up as much as my theory can.

Similarly for ascriptivists, if we make the shift to a political theory that is more tied down by the exigencies of the particular situation, then it is unlikely that all and only nations are going to be the groups that have the right to secede, at least not unless an argument for this is forthcoming, because there will always be the possibility that a nation will find itself in a situation where its secession would not readily serve the practical considerations that are relevant, whatever those happen to be. For instance, there is no guarantee that the way to remedy failures is to always grant self-determination to nations that so desire it. The case for ascriptivist theories of secession, like with associationist theories of secession, is purposefully divorced from the particulars of each case, because these theories posit a strong right that cannot be overruled simply because (for instance) the exercise of the right would be impractical or would not help achieve a goal that is more easily evaluated.

In other words, if political theory must focus on delivering results that are actionable, then to the extent that it is going to be able to answer questions about secession, it is unlikely that it will answer them in the pattern set out by the ascriptivist, which requires a "yes" answer any time a nation wishes to secede, or the pattern set out by the associationist, which requires a "yes" answer any time a group of people wishes to secede. This is another facet of the point made above, which is that my theory is in a better position to adapt itself to empirical facts than other theories. Just as above I argued that an inviolable right to secede for specific groups is liable to cause conflict in situations where we are inclined to think the

results are too extreme for the right to secede to have any force, here the point is that strong rights to secede for particular groups are unlikely to be plausible if political theory focuses on delivering specific solutions that are actionable in our present situation.

The fourth reply is to note that in some ways my approach is more feasible than the alternatives. This too echoes an argument made above, namely, the argument about reflective equilibrium. Just as I argued there that my theory has more places to “give” compared to other theories, here the idea is that at least in some cases, the right answer may be clear simply in virtue of some factor being particularly salient. This is one of the intuitions remedial theories pick up on. They argue that when a group has been badly mistreated by the government, it has a right to secede, and this is plausible because presumably secession is going to be a helpful remedy that will get the oppressed group out from under the control of the oppressive government.

Putting aside worries about whether this mechanism functions in every case (worries that I noted above), this sort of advantage also obtains with respect to my theory versus the other two sorts of theories, the ascriptivist and associationist theories. If we grant for the sake of the argument that sometimes it will seem clear that secession is justified for whatever reason, then my theory can deliver the result unless there is somehow some part of our overarching cosmopolitanism which rules out secession. If this is the case, though, one would think either that we are not looking at a case where it’s clear that secession is justified, or the overarching cosmopolitan theory needs to be adjusted because it is delivering implausible results. So if by “feasible” we have in mind the idea that a theory should give us results that we can live with, rather than asking us to undertake impractical actions on the basis of the determinations made by the theory, it’s easier to see how my theory could be feasible in this

way, because it doesn't commit itself to a strong right to secede even in cases where our intuitions clearly rebel against secession, nor does it limit the right to secession just to nations like the ascriptivist theories do, at the cost of potentially giving us odd results in a case where we might think a group that is not a nation ought to be able to secede.

Thus, for these four reasons, I think my theory does not have to worry about feasibility concerns any more than other theories of secession do, and perhaps it has much less reason to worry. Another important point to note is that the unfeasibility that is particularly relevant here is epistemic, as opposed to moral, unfeasibility. That is, my theory does not require assumptions like full compliance with moral norms on the part of individuals for it to work. One of the key reasons to worry about whether a political theory is feasible is that it requires us to accept counterfactual situations that will in fact never obtain. We might think a theory built on these sorts of counterfactuals is of limited usefulness. My theory is not built on these sorts of counterfactuals, except to the degree that they are present in our overall cosmopolitanism, but of course as noted above, if these sort of counterfactuals are suspect, this simply suggests that we ought to pick a different overall cosmopolitan theory.

## 5. Biting Bullets

This concludes the arguments for my theory of secession. This leaves some bullets to bite. In virtue of the fact that I have denied any strong right to self-determination, I am on the hook for some conclusions that strike most people as unintuitive. Namely, I have to claim that there is nothing wrong with colonialism or annexation, *per se*. Colonialism, which consists of ruling a geographically distinct group against that group's will, and annexation, which consists of ruling a geographically nearby group against that group's will, are violations of the right to self-determination, to the extent there is such a right, but I of course have denied that there is any such right of any particular strength. One thing I could try to do is show that there is a right to self-determination strong enough to show that colonialism and annexation are wrong but not strong enough to show that secession is justified for the reasons associationists or ascriptivists claim, but this route is not likely to be fruitful, because any right to self-determination that blocks colonialism or annexation would presumably allow that same group, which is potentially subject to colonialism or annexation, to secede if it found itself part of a government it did not consent to. The only difference between colonialism and annexation, on the one hand, and secession, on the other, is whether the group that wishes not to be subject to the government in question is already subject to that government (in the case of secession) or is not (in the cases of colonialism and annexation). One could try to craft an argument that lends normative weight to borders that already exist or to the lack of borders, and in doing so draw some distinction between the two sorts of cases, perhaps by adverting to something like a right to rely on existing borders and the administrative situations they create, but this is a route that I do not think would be fruitful and which I will not pursue here.

Instead, I will try to show why we should not recoil from the conclusion that there is nothing necessarily wrong with colonialism or annexation.

### **5. 1 Colonialism**

The first main bullet my theory has to bite is the colonialism bullet. According to my theory, colonialism is not necessarily wrong. Colonialism is the process by which one group of people rules over another, geographically distinct group of people without securing the consent of the group being ruled. This is clearly a violation of the right to self-determination of the group that is colonized, if the group has such a right. Because I have argued that the right to self-determination, to the extent that it exists at all, is not strong enough to ground secession, which is the removal of a group of people from the authority of the state, the right to self-determination must also not be strong enough, at least in many or most cases, to prevent the incorporation of a group of people within the authority of the state, which is what occurs in colonialism. This is a bullet to bite because colonialism strikes people not just as wrong but as obviously wrong. Indeed, the self-evident wrongness of colonialism is used as support for a strong right to self-determination by Altman and Wellman, who argue that “principles of political self-determination cohere well with, and help explain, important considered convictions relating to colonialism” which therefore gives us a reason to adopt these principles (Altman and Wellman 2009, 16). If, without a right to self-determination, we cannot explain the obvious wrongness of colonialism, mustn’t we then retain a right to self-determination?

The first response is to point out that we have many ways of explaining the seemingly obvious wrongness of colonialism that do not at all advert to self-determination. Colonial

regimes throughout history have been uniformly terrible. They have exploited the natural resources of the colonies for the sole benefit of the colonizing group; they have carried out genocide, ethnic cleansing, enslavement, discrimination, and disenfranchisement against the citizens of the colonies; they have governed in systemically racist ways; and so on. Even a fraction of the wrongs committed by the typical colonial government would suffice to show why the practice it was engaged in was wrong. However, just like the existence of awful governments like the Khmer Rouge does not suggest that all governments are unjustifiable, the existence of awful colonial regimes does not suggest that all colonial regimes are unjustifiable. These are not reasons to think that colonialism *itself* is wrong, because colonialism is not exploitation of natural resources, genocide, ethnic cleansing, or anything else, and showing that these things are wrong and that colonial regimes have done these things is not the same as showing that colonialism is necessarily wrong. But these *are* reasons to think that our intuitions about colonial regimes rightly judge these regimes to be entirely illegitimate. It would be hard to argue that, whatever the moral status of colonialism itself, certainly colonialism as it has been practiced historically has been accompanied by actions that are unequivocally wrong. If this is true, it might be cloaking the relatively banal fact of colonialism, which is not necessarily wrong, under the clearly illegitimate fact of the things colonial regimes have done.

The second response is to point out that this may not be quite as radical as one might have thought, because it has, all along, been an implication of cosmopolitan theorizing. Beitz's seminal defense of cosmopolitanism argues that colonialism is wrong not because of anything inherent in a colonial form of government, but rather because colonial governments are typically unjust. He notes that "we are prepared to regard non-voluntary political

institutions as legitimate provided they conform to appropriate principles of justice” (Beitz 1979, 96). “Claims of a right to self-determination,” he argues, “when pressed by or on behalf of residents of a colony, are properly understood as assertions that the granting of independence would help reduce social injustice in the colony” (Beitz 1979, 104). In cases where the colonial government reduces injustice or would reduce injustice (cases that perhaps have never occurred in the real world but that are at least possible), there is no right to resist colonization.

The third response is to note that if colonialism is wrong not because of the horrible ways that colonial governments rule the colonies but because violations of self-determination are always wrong, we are on the hook for more than simply a strong theory of secession. We also have to admit that most (or perhaps all) existing governments are wrong, because almost no country came into existence in a manner that was compatible with the right to self-determination for the people it governed. Even governments that were formed through a process of decolonization under which they gained freedom from their external oppressors often consist of rule by the elites, often in the form of dictatorships or juntas. It may not be too much of a bullet to bite to admit that existing governments are wrong, or that after time passes, the violation of self-determination no longer vitiates a government’s legitimacy, but there are two issues. The first is that perhaps it *is* a large bullet to bite, a bullet at least as large as saying that colonialism is not wrong. The second is that if the reason we are willing to bite the bullet is that we think time has rendered most governments acceptable, we must come up with some reason for thinking that time either will not heal the wounds of secessionists who do not get their way, or will do so in a way that still lets us confidently say the secessionists have a right to secede. This is an odd place to be in, partially because it is a difficult place for



the self-determination proponent to be in and partially because questions about injustices that are superseded by time are tough for any theory. Short of a comprehensive theory of when, why, and how illegitimate governments become legitimate without making us question our original judgment of illegitimacy, all I can say here is that it is not clear that the right way to come down on this question is one that allows us to preserve all of our intuitions about the wrongness of colonialism in the form of a right to self-determination that grounds a right to secede in many cases.

Fourth, there may be ways of explaining what is wrong with colonialism *per se* without having to advert to a right to self-determination. So it may be the case that colonial regimes are bad not only because of the bad things they have done but also because they are colonial, but not because in being colonial they violate any right to self-determination. On the surface, a number of arguments along these lines have been advanced. Lea Ypi, for instance, argues that colonialism is wrong not because it violates a right to self-determination but because it represents a “violation of standards of equality and reciprocity in setting up common political relations, and the consequent departure from a particular ideal of economic, social, and political association” (Ypi 2013b, 174). The idea is that colonial regimes do not treat the colonized group as equal, either when the colonialism is first instituted (because it is done against the will of those who are colonized) or as it is practiced (because the colonized individuals are not granted full citizenship). One clear objection is that the colonized individuals *could* be granted full citizenship, thus remedying one of the chief ills, and when she considers this possibility, Ypi retreats just to the idea that, whatever the status of the colonial regime with respect to political representation, clearly it must be unjust because its imposition was unilateral. However, why think that unilateral imposition of colonial rule is

unjust, especially when the colonial rule meets the strictest requirements for just rule in terms of how it treats the citizens?

The clear answer must be that the colonized group has a right to political self-determination that is violated when the group is colonized against its will. This is clear from how Ypi argues that the imposition is unjust: she uses the analogy of being forced into a good marriage by one's parents, and points out how this is just as objectionable as being forced into a bad marriage (Ypi 2013b, 185). The issue is not how good the marriage is but whether you get to choose to enter the marriage. Just as the character of the marriage is irrelevant in the analogy, the character of the political association is irrelevant in colonialism. It's just the imposition that matters, and the imposition can only matter if we posit a right not to be imposed upon, namely, a right to political self-determination strong enough to remedy colonialism unjust. So Ypi's attack on colonialism is not successful here, and in fact I think very few are. Laura Valentini, though, does offer one argument which may succeed. She suggests that colonialism is "de facto disrespectful" because colonialism is a breach of the norms that constitute a political community, and this breach expresses disrespect (Valentini 2015, 329-30). This does not mean colonialism always has been and always will be wrong, because there could perhaps exist (and perhaps there once existed) norms according to which colonialism does not or did not express disrespect. It is unclear whether Valentini has in mind norms specific to the colonized community or norms that apply more generally on the international level, but whatever her solution is, it may tell us why colonialism is wrong now without having to commit to a right to self-determination strong enough to resist colonialism (a right which Valentini herself also rejects).

For these four reasons, then, I think it is acceptable that my theory of secession cannot deliver a reason to think that colonialism is *per se* impermissible.

## **5.2 Annexation**

The second bullet to bite is the annexation bullet. Annexation is the process by which one group of people asserts rulership over another group of people without securing the consent of the group that comes to be ruled. To some degree, the question of annexation is just the same as colonialism, and the answer is thus the same. Annexation is effectively colonialism without an ocean in the middle, so to speak. Colonialism is annexation at a geographic distance. (This usage of terms is stipulative, but it generally captures their usage in other contexts.) If colonialism is not necessarily wrong, then annexation is for the same reason not necessarily wrong. However, it is worth examining annexation in detail because biting the annexation bullet is a good opportunity to highlight some key issues related to self-determination and related topics that have yet to be covered in detail.

My treatment of self-determination throughout can be fairly characterized as rather mercenary. There is a right to self-determination strong enough to ground secession only on the basis of further considerations, namely what would be better from the point of view of cosmopolitanism. This might naturally lead someone to conclude that in general, questions of sovereignty and political authority should be decided on the basis of who can do it best, where “best” here still refers to whatever is better from a cosmopolitan point of view. This is a mistake. My arguments throughout have only aimed to establish that this approach is the correct one to take with respect to a very narrow question: whether any given group does or does not have a right to secede. Many of the above arguments would not work for similar but

distinct questions, like whether any given group does or does not have a right to resist annexation.

Take for instance the argument that it is difficult to determine who the “self” is in order to accord the right of self-determination to the group in question (section 3.2, above). With respect to secession, this is a worrying problem, because there needs to be a special, separate, distinct self that secedes and that thus has the right to secede. There are no easy answers, and especially no easy answers that wouldn’t simultaneously vitiate the arguments provided in support of the various theories of secession. So for instance just picking some arbitrary group of people and granting *them* the right to secede (apart from being objectionably arbitrary, of course) would not be sufficient for the ascriptivist, who wants to grant the right to secede to all and only nations, nor would it be sufficient for the associationist, who requires some shared desire to secede amongst the group members. Then, once we try to work out in more detail which group in fact has the right, we face the various difficulties noted above.

Annexation, meanwhile, presents us with a very easy candidate group, chosen in a slightly less arbitrary fashion: it’s the group that is not currently subject to the annexing power and which would, if annexation occurs, be subject to the annexing power. There’s not as much difficulty here figuring out who belongs and who does not: anyone the annexing power intends to boss around is a member. Moreover, it is not a big problem if more people get lumped into this group than we might have thought, because this simply means a larger group has a right to resist the annexation. The end result of this, far from being implausible, is actually quite intuitive. It means that perhaps lots of people can fight against unjust annexation. It is a problem if the group with the right grows too large when we talk about

secession, because then the group no longer matches the group that we thought had the right to secede. In annexation, large groups, even groups comprising everyone outside the annexing group, are not a problem. If the entire world has a right to resist unjust annexations, that is fine.

There are, however, some arguments above that *would* seem to justify annexation in virtue of attacking a right to self-determination, like the argument that it is arbitrary to privilege certain border arrangements from the point of view of determining which “selves” matter for self-determination. Annexation is nothing if not a border alteration, and if we are provided with reasons to think the annexation would be better from a cosmopolitan point of view, does this not at least give us a *prima facie* case for a right to annex? Note first that justifying annexation like this is very different from justifying typical annexation in practice, because annexation in practice involves violence and other things that are harder to justify. (This is often true of secession, too.) So, a right to annex does not entail a right to annex in certain ways. Perhaps the only right to annexation we might justify is nonviolent annexation, akin to the “Green March” in 1975, when the Moroccan government coordinated a demonstration in an effort to take some territory from Spain.<sup>54</sup>

Second, the arbitrariness of borders lowers the barrier one has to clear in order to show that there could be a right to annex. It does not eliminate the barrier. One still must provide *some* argument to explain why annexation could be at least a *prima facie* right. My theory is thus not necessarily committed to anything untoward about annexation absent further argumentation. One could give an argument about annexation that mirrors my argument about secession: annexation is a right when it would result in a world that is better from a

---

<sup>54</sup>The 350,000 demonstrators were escorted by 20,000 Moroccan troops, so the annexation was not fully nonviolent, but the example is illustrative.

cosmopolitan point of view. My theory of secession does not commit me to this theory of annexation, though. This theory of annexation may be unacceptable for reasons that do not impugn my theory of secession.

Finally, as noted above, I do not think acceptance of some annexation is too much of a bullet to bite, for all the reasons adduced in the discussion of colonialism. There is much to say by way of salvaging our anti-annexation intuitions while still admitting that, in principle, annexation could be justified if it generates results that are better from a cosmopolitan point of view.

## 6. Conclusion

This concludes my argument for my theory of secession. As noted in the beginning, it is possible to read this entire paper as a *reductio* argument against any form of cosmopolitanism that rejects a strong right to self-determination. I have said little to argue against this reading. I have also said little against the further idea that the best alternative to this sort of cosmopolitanism is something like communitarianism. Readers inclined to reject my arguments thus now have reasons to endorse self-determination. Meanwhile, readers more amenable to what I have said have a better idea of what cosmopolitanism of a certain stripe is committed to. This is helpful not just for judging questions of secession but for the further task of building theories of territory, sovereignty, colonialism, annexation, accession, and related topics. These are somewhat under-explored topics in contemporary political theory, so hopefully this theory of secession is a good starting point for tackling these other issues.

## References

- Aikhenvald, Alexandra. 1995. "Split Ergativity in Berber Languages." *St. Petersburg Journal of African Studies* 4: 39-68.
- Altman, Andrew, and Christopher Heath Wellman. 2009. *A Liberal Theory of International Justice*. New York: Oxford University Press.
- Anaya, S. James. 2004. *Indigenous Peoples in International Law*. Oxford: Oxford University Press.
- Annan, Kofi. 1999. "Two Concepts of Sovereignty." *The Economist* 18.
- Applegate, Joseph. 1971. "The Berber Languages." In *Afroasiatic: A Survey*, ed. Carlton Hodges. The Hague: Mouton.
- Arieff, Alexis. 2013. "Crisis in Mali." *Current Politics and Economics of Africa*. 6 (1): 25.
- Aristotle. 1984. *The Complete Works of Aristotle*: Edited by Jonathan Barnes. Princeton: Princeton University Press.
- Aronovitch, Hilliard. 2000. "Why Secession Is Unlike Divorce." *Public Affairs Quarterly* 14 (1): 27–37.
- Beitz, Charles. 1979. *Political Theory and International Relations*. Princeton: Princeton University Press.
- Beran, Harry. 1984. "A Liberal Theory of Secession." *Political Studies* 32 (1): 21–31.
- Blahuta, Jason P. 2001. "How Useful Is the Analogy of Divorce in Theorizing about Secession?" *Dialogue* 40 (2): 241–54.
- Blake, Michael. 2001. "Distributive Justice, State Coercion, and Autonomy." *Philosophy & Public Affairs* 30 (3): 257-296.
- Board of Directors, Rotary International v. Rotary Club of Duarte, 481 U.S. 537 (1987).
- Buchanan, Allen. 1991. *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec*. Boulder: Westview Press.
- . 1997a. "Self-Determination, Secession, and the Rule of Law." In *The Morality of Nationalism*, edited by Robert McKim and Jeff McMahan, 301–23. New York: Oxford University Press.
- . 1997b. "Theories of Secession." *Philosophy & Public Affairs* 26 (1): 31–61.
- . 2003. *Justice, Legitimacy, and Self-Determination*. New York: Oxford University Press.
- . 2013. *The Heart of Human Rights*. New York: Oxford University Press.



- Buss, Sarah. 2012. "Autonomous Action: Self-determination in the Passive Mode." *Ethics* 122 (4): 647-691.
- Callahan, Joan. 2009. "Same-Sex Marriage: Why It Matters—At Least for Now." *Hypatia* 24 (1): 70-80.
- Caney, Simon. 1998. "National Self-Determination and National Secession: Individualist and Communitarian Approaches." In *Theories of Secession*, edited by Percy Lehning, 151–81. London: Routledge.
- . 2005. *Justice Beyond Borders*. New York: Oxford University Press.
- Card, Claudia. 2007. "Gay Divorce: Thoughts on the Legal Regulation of Marriage." *Hypatia* 22 (1): 24-38.
- Carens, Joseph. 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics* 49 (02): 251-73.
- Catala, Amandine. 2013. "Remedial Theories of Secession and Territorial Justification." *Journal of Social Philosophy* 44 (1): 74–94.
- Cline, Lawrence. 2013. "Nomads, Islamists, and Soldiers: The Struggles for Northern Mali." *Studies in Conflict & Terrorism* 36 (8): 617–34.
- Copp, David. 1997. "Democracy and Communal Self-determination." In *The Morality of Nationalism*, edited by Robert McKim and Jeff McMahan, 277–300. New York: Oxford University Press.
- . 1998. "International Law and Morality in the Theory of Secession." *The Journal of Ethics* 2 (3): 219–45.
- Cornell, Nicolas. 2015. "Wrongs, Rights, and Third Parties." *Philosophy & Public Affairs* 43 (2): 109-43.
- Croxtan, Derek. 1999. "The Peace of Westphalia of 1648 and the Origins of Sovereignty." *The International History Review* 21 (3): 569.
- Daniels, Norman. 2013. "Reflective Equilibrium." *The Stanford Encyclopedia of Philosophy* (Winter 2013 Edition): Edited by Edward Zalta.  
<<http://plato.stanford.edu/archives/win2013/entries/reflective-equilibrium/>>.
- Donaldson, Sue and Will Kymlicka. 2011. *Zoopolis: A Political Theory of Animal Rights*. New York: Oxford University Press.
- Dworkin, Ronald. 1984. "Rights as Trumps." In *Theories of Rights*, edited by Jeremy Waldron, 153-67. Oxford: Oxford University Press.
- Enoch, David. 2002. "A Right to Violate One's Duty." *Law and Philosophy* 21 (4): 355-384.
- Fine, Sarah. 2010. "Freedom of Association Is Not the Answer." *Ethics* 120 (2): 338–56.

- . 2013. “The Ethics of Immigration: Self-Determination and the Right to Exclude.” *Philosophy Compass* 8 (3): 254–68.
- Freeman, Michael. 1998. “The Priority of Function Over Structure: A New Approach to Secession.” In *Theories of Secession*, edited by Percy Lehning, 12–31. London: Routledge.
- Freiman, Christopher, and Javier Hidalgo. 2016. “Liberalism or Immigration Restrictions, But Not Both.” *Journal of Ethics & Social Philosophy* 19 (2): 1–23.
- Gauthier, David. 1994. “Breaking Up: An Essay on Secession.” *Canadian Journal of Philosophy* 24 (3): 357–72.
- Goodin, Robert. 1995. *Utilitarianism as a Public Philosophy*. Cambridge: Cambridge University Press.
- . 2007. “Enfranchising all Affected Interests, and its Alternatives.” *Philosophy & Public Affairs* 35 (1): 40–68.
- Green, Leslie. 1991. “Two Views of Collective Rights.” *Canadian Journal of Law & Jurisprudence* 4 (2): 315–27.
- Hart, Herbert. 1973. “Bentham on Legal Rights.” In *Oxford Essays in Jurisprudence (Second Series)*, edited by A.W.B. Simpson, 171–201. Oxford: Clarendon Press.
- Heine, Bernd and Derek Nurse. 2008. *A Linguistic Geography of Africa*. New York: Cambridge University Press.
- Hohfeld, Wesley. 1978. *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays*: Edited by Walter Wheeler Cook. New Haven: Yale University Press.
- Horowitz, Donald. 2003. “The Cracked Foundations of the Right to Secede.” *Journal of Democracy* 14 (2): 5–17.
- Huemer, Michael. 2013. *The Problem of Political Authority*. London: Palgrave Macmillan.
- Jennings, Ivor. 1956. *The Approach to Self-Government*. New York: Cambridge University Press.
- Jones, Peter. 1999. “Group Rights and Group Oppression.” *Journal of Political Philosophy* 7 (4): 353–77.
- Killmister, Suzy. 2011. “Group-differentiated Rights and the Problem of Membership.” *Social Theory and Practice* 37 (2): 227–55.
- Kleingeld, Pauline, and Eric Brown. 2014. “Cosmopolitanism.” *The Stanford Encyclopedia of Philosophy* (Fall 2014 Edition).  
<http://plato.stanford.edu/archives/fall2014/entries/cosmopolitanism/>.

- Kramer, Matthew. 1998. "Rights Without Trimmings." In *A Debate Over Rights*, edited by Matthew Kramer, Nigel Simmonds, and Hillel Steiner, 7-111. New York: Oxford University Press.
- Kukathas, Chandran. 1992. "Are There Any Cultural Rights?" *Political Theory* 20 (1): 105–39.
- Kymlicka, Will. 1989. *Multicultural Citizenship*. New York: Oxford University Press.
- Lecocq, Baz and Georg Klute. 2013. "Tuareg Separatism in Mali." *International Journal* 68 (3): 424-434.
- Maddy-Weitzman, Bruce. 2011. *The Berber Identity Movement and the Challenge to North African States*. Austin: University of Texas Press.
- . 2012. "Arabization and its Discontents: The Rise of the Amizagh Movement in North Africa." *The Journal of the Middle East and Africa* 3 (2): 109-35.
- Margalit, Avishai, and Joseph Raz. 1990. "National Self-Determination." *The Journal of Philosophy* 87 (9): 439–61.
- Mesquita, Bruce Bueno de. 2000. "Popes, Kings, and Endogenous Institutions: The Concordat of Worms and the Origins of Sovereignty." *International Studies Review* 2 (2): 93–118.
- Mill, John Stuart. 1989. *On Liberty and Other Writings*: Edited by Stefan Collini. Cambridge: Cambridge University Press.
- Mills, Charles. 1997. *The Racial Contract*. New York: Cornell University Press.
- Miller, David. 1988. "The Ethical Significance of Nationality." *Ethics* 98 (4): 647–62.
- . 1994. "The Nation-State: A Modest Defence." In *Political Restructuring in Europe: Ethical Perspectives*, edited by Chris Brown, 137–62. London: Routledge.
- . 1998. "Secession and the Principle of Nationality." In *National Self-Determination and Secession*, edited by Margaret Moore, 62–78. Oxford: Oxford University Press.
- . 2000. *Citizenship and National Identity*. Cambridge: Polity Press.
- . 2007. *National Responsibility and Global Justice*. New York: Oxford University Press.
- Moltchanova, Anna. 2009. "Collective Agents and Group Moral Rights." *Journal of Political Philosophy* 17 (1): 23-46.
- Moore, Margaret. 1997. "On National Self-Determination." *Political Studies* 45 (5): 900–913.
- . 2015. *A Political Theory of Territory*. New York: Oxford University Press.

- Morris, Christopher. 1998. *An Essay on the Modern State*. Cambridge: Cambridge University Press.
- . 2012. “State Coercion and Force.” *Social Philosophy and Policy* 29 (01): 28-49.
- Narveson, Jan. 1991. “Collective Rights?.” *Canadian Journal of Law & Jurisprudence* 4 (2): 329-45.
- Nagel, Thomas. 2005. “The Problem of Global Justice.” *Philosophy & Public Affairs* 33 (2): 113-47.
- Nielsen, Kai. 1998. “Liberal Nationalism and Secession.” In *National Self-Determination and Secession*, edited by Margaret Moore, 103-33. Oxford: Oxford University Press.
- Nine, Cara. 2012. “Compromise, Democracy and Territory.” *Irish Journal of Sociology* 20 (2): 91-110.
- Norman, Wayne. 1998. “The Ethics of Secession as the Regulation of Secessionist Politics.” In *National Self-Determination and Secession*, edited by Margaret Moore, 15-61. Oxford: Oxford University Press.
- Nossiter, Adam. 2012. “As Refugees Flee Islamists in Mali, Solutions are Elusive.” *The New York Times* 16 July 2012: A6.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.
- Nussbaum, Martha. 1999. *Sex & Social Justice*. New York: Oxford University Press.
- O’Neill, Onora. 1994. “Justice and Boundaries.” In *Political Restructuring in Europe: Ethical Perspectives*, edited by Chris Brown, 69-88. London: Routledge.
- . 2000. *Bounds of Justice*. New York: Cambridge University Press.
- Okin, Susan Moller. 1989. *Justice, Gender, and the Family*. New York: Basic Books.
- . 1999. *Is Multiculturalism Bad for Women?*. Princeton: Princeton University Press.
- Osiander, Andreas. 2001. “Sovereignty, International Relations, and the Westphalian Myth.” *International Organization* 55 (2): 251-87.
- Palmer, Randall. 2012. “Quebec Lessons for Scotland in How to Pop the Question.” *Reuters* 10 February 2012.
- Pateman, Carole. 1988. *The Sexual Contract*. Stanford: Stanford University Press.
- Pateman, Carole and Charles Mills. 2007. *Contract and Domination*. Cambridge: Polity Press.
- Philpott, Daniel. 1995. “In Defense of Self-Determination.” *Ethics* 105 (2): 352-85.
- . 1998. “Self-Determination in Practice.” In *National Self-Determination and Secession*, edited by Margaret Moore, 79-102. Oxford: Oxford University Press.

- . 1999. “Westphalia, Authority, and International Society.” *Political Studies* 47 (3): 566–89.
- Pogge, Thomas. 1992. “Cosmopolitanism and Sovereignty.” *Ethics* 103 (1): 48–75.
- Ronen, Yehudit. 2013. “Libya, the Tuareg and Mali on the Eve of the ‘Arab Spring’ and in its Aftermath: An Anatomy of Changed Relations.” *The Journal of North African Studies* 18 (4): 544–559.
- Sadiqi, Fatima. 1997. “The Place of Berber in Morocco.” *International Journal of the Sociology of Language* 123 (1): 7–22.
- Sangiovanni, Andrea. 2007. “Global Justice, Reciprocity, and the State.” *Philosophy & Public Affairs* 35 (1): 3–39.
- Scheffler, Samuel. 1999. “Conceptions of Cosmopolitanism.” *Utilitas* 11 (03): 255–76.
- Schemmel, Christian. 2007. “On the Usefulness of Luck Egalitarian Arguments for Global Justice.” *Global Justice: Theory Practice Rhetoric* 1: 54–67.
- Smart, J.J.C. 1956. “Extreme and Restricted Utilitarianism.” *The Philosophical Quarterly* 6 (25): 344–54.
- Smith, Matthew Noah. 2008. “Rethinking Sovereignty, Rethinking Revolution.” *Philosophy and Public Affairs* 36 (4): 405–40.
- Spruyt, Hendrik. 1994. *The Sovereign State and Its Competitors: An Analysis of Systems Change*. Princeton: Princeton University Press.
- Stilz, Anna. 2009. “Why Do States Have Territorial Rights?” *International Theory* 1 (2): 185–213.
- . 2015. “Decolonization and Self-Determination.” *Social Philosophy and Policy* 32 (01): 1–24.
- Temkin, Larry. 2012. *Rethinking the Good*. Oxford: Oxford University Press.
- Thomson, Janice. 1994. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. Princeton: Princeton University Press.
- Valentini, Laura. 2015. “On the Distinctive Procedural Wrong of Colonialism.” *Philosophy & Public Affairs* 43 (4): 312–31.
- Waldron, Jeremy. 1981. “A Right to Do Wrong.” *Ethics* 92 (1): 21–39.
- Wall, Steven. 2007. “Collective Rights and Individual Autonomy.” *Ethics* 117(2): 234–64.
- Walzer, Michael. 1977. *Just and Unjust Wars*. New York: Basic Books.

- Weimer, Steven. 2013. "Autonomy-Based Accounts of the Right to Secede." *Social Theory and Practice* 39 (4): 625–42.
- Weinstock, Daniel. 2001. "Constitutionalizing the Right to Secede." *Journal of Political Philosophy* 9 (2): 182–203.
- Wellman, Carl. 1995. *Real Rights*. New York: Oxford University Press.
- Wellman, Christopher Heath. 2005a. *A Theory of Secession: The Case for Political Self-Determination*. Cambridge: Cambridge University Press.
- . 2005b. "The Paradox of Group Autonomy." *Social Philosophy and Policy* 20 (2): 265–85.
- . 2008. "Immigration and Freedom of Association." *Ethics* 119 (1): 109–41.
- Wenar, Leif. 2011. "Rights." *The Stanford Encyclopedia of Philosophy* (Fall 2011 Edition). <<http://plato.stanford.edu/archives/fall2011/entries/rights/>>.
- Whitmeyer, Joseph. 2002. "Elites and Popular Nationalism." *The British Journal of Sociology* 53 (3): 321–41.
- Wiens, David. 2012. "Prescribing Institutions Without Ideal Theory." *Journal of Political Philosophy* 20 (1): 45–70.
- . 2014. "'Going Evaluative' to Save Justice from Feasibility--a Pyrrhic Victory." *The Philosophical Quarterly* 64 (255): 301–7.
- . 2015a. "Against Ideal Guidance." *The Journal of Politics* 77 (2): 433–46.
- . 2015b. "Political Ideals and the Feasibility Frontier." *Economics and Philosophy* 31 (03): 447–77.
- Wilkins, Burleigh. 2000. "Secession." *Peace Review* 12 (1): 15–22.
- Ypi, Lea. 2013a. "Territorial Rights and Exclusion." *Philosophy Compass* 8 (3): 241–53.
- . 2013b. "What's Wrong with Colonialism." *Philosophy & Public Affairs* 41 (2): 158–91.
- Zounmenou, David. 2013. "The National Movement for the Liberation of Azawad Factor in the Mali Crisis." *African Security Review* 22 (3): 167–74.