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# DECOLONIZATION AND SELF-DETERMINATION\*

BY ANNA STILZ

*Abstract: While self-determination is a cardinal principle of international law, its meaning is often obscure. Yet international law clearly recognizes decolonization as a central application of the principle. Most ordinary people also agree that the liberation of colonial peoples was a moral triumph. This article examines three philosophical theories of self-determination's value, and asks which one best captures the reasons why decolonization was morally required. The instrumentalist theory holds that decolonization was required because subject peoples were unjustly governed, the democratic view holds that decolonization was required because subject peoples lacked democratic representation, and the associative view holds that decolonization was required because subject peoples were unable to affirm the political institutions their colonial rulers imposed on them. I argue that the associative view is superior to competing accounts, because it better reflects individuals' "maker" interests in participating in shared political project that they value. The article further shows that if we accept the associative view, self-determination is not a sui generis value that applies to decolonization alone. Ultimately our intuitions about decolonization can be justified only by invoking an interest on the part of persistently alienated groups in redrawing political boundaries. The same interest may justify self-determination in additional cases, such as autonomy for indigenous peoples, or greater independence for Scotland or Quebec.*

Article 1(2) of the UN Charter states its "respect for the principle of equal rights and self-determination of peoples."<sup>1</sup> Both 1966 international human rights covenants likewise proclaim that "all peoples have the right of self-determination," by virtue of which "they freely determine their political status and freely pursue their economic, social, and cultural development."<sup>2</sup> Self-determination also plays a leading role in the 1960 UN Resolution on the Independence of Colonial Peoples and the 1970 UN Declaration on Friendly Relations among States. As its positioning

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<sup>1</sup> See <http://www.un.org/en/documents/charter/chapter1.shtml>.

<sup>2</sup> For the International Covenant on Civil and Political Rights, see <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. For the International Covenant on Economic and Social Rights, see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

in these international documents suggests, self-determination is a central organizing principle of our postwar international system.

Yet self-determination has proved enduringly difficult to theorize. Among the many questions it faces are: how do we define the “self”? Does self-determination require democratic governance, or is it compatible with nondemocratic arrangements? How does it cohere with other international legal principles, such as territorial integrity? Does self-determination apply only to overseas dependencies, or also to internal minorities?

While the self-determination principle’s contours are disputed, international law clearly recognizes decolonization as a central application of it. As Antonio Cassese emphasizes, self-determination was “perceived and relied upon as a legal entitlement to decolonization.”<sup>3</sup> Most ordinary people agree that the liberation of colonized peoples was a moral triumph. There is widespread consensus that decolonization was not just a legal imperative, but a moral one as well.

This article examines three philosophical theories of self-determination’s value, and asks which one best captures the reasons why decolonization was morally warranted. If we can get clear about the values implicated by self-determination in the colonial context — where our moral intuitions are strongest — we can then ask, in a second step, whether these values extend to further cases. This may enable progress in theorizing self-determination in more controversial areas, like humanitarian intervention, secession, federalism, or devolution. The associative view of self-determination I defend here does have implications for these issues, and I say more about these implications at the end of the essay. Ultimately, I believe that self-determination is not a *sui generis* value that applies to decolonization alone. Rather, our intuitions about decolonization can be justified only by invoking an interest on the part of persistently alienated groups in redrawing political boundaries. The same interest may justify self-determination in additional cases, such as autonomy for indigenous peoples, or greater independence for Scotland or Quebec. I argue that those who strongly support decolonization have reason to endorse self-determination for these minorities as well.

Consider three accounts of the reasons for decolonization:

- (1) *The Instrumentalist View*: Decolonization was morally required because subject peoples were *unjustly governed*. What gave these peoples self-determination rights was the fact that colonial states failed to achieve minimally just rule.

<sup>3</sup> Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995), 65.

- (2) *The Democratic View*: Decolonization was morally required because subject peoples lacked *democratic representation*. What gave these peoples self-determination rights was their claim to be politically enfranchised.
- (3) *The Associative View*: Decolonization was morally required because subject peoples were unable to *affirm* the political institutions their rulers imposed on them. What gave colonized peoples self-determination rights was their claim to be cooperative partners in a political institution they could reasonably affirm.

While the instrumentalist and the democratic views do provide us some reasons for favoring decolonization, I believe these accounts take a one-sided view of individuals' interests in a self-determining political community. Neither view, I argue, can explain our intuitions about the full range of cases where decolonization seems appropriate. The instrumentalist view fails because it sees individuals' interests in their political community solely from the perspective of a beneficiary, an institutional "taker." But individuals have equally important interests in their institutions as political agents, or "makers." While the democratic view recognizes these "maker" interests, it interprets them in an overly limited way. I believe the *associative* view accommodates the truth in the preceding views while also improving on them, by better incorporating this "maker" perspective. Political institutions are valuable for individuals in part because they *created* those institutions together with others, and see those institutions as reflecting a shared project. My strategy in the paper is thus dialectical: it is by showing the limits of other — initially plausible — accounts that I make space for my associative view.

Before beginning, I offer a few clarificatory remarks. First, there is a widely held view of self-determination that I will not discuss in depth here: the nationalist theory. This view holds that each cultural nation has a *prima facie* claim to its own political unit. Territorial boundaries ought ideally to reflect cultural boundaries.<sup>4</sup> As a normative matter, I believe we should abandon the association between state and culture that inspires the nationalist position. If it is to treat its citizens with equal respect, a government should not privilege a particular culture, as doing so devalues citizens of other nationalities, implying that they lack a full "stake" in its institutions. Instead, I believe that a government should represent all the diverse cultural groups on its territory, extending each some public recognition and support (for example, through bilingual schooling, and a multicultural approach to official history and symbols). For that reason, I confine myself here to liberal-democratic arguments for self-determination.

<sup>4</sup> See Avishai Margalit and Joseph Raz, "National Self-Determination," in Joseph Raz, *Ethics and the Public Domain* (Oxford: Oxford University Press, 1994).

Second, one might worry that the answer to my orienting question — why was decolonization morally required? — is too obvious to require extended analysis. Most colonial regimes were imposed on unwilling people through force and conquest. Perhaps decolonization can be justified quite straightforwardly, on grounds that it undoes a past conquest. I believe this explanation is too simple. Nearly every current state was established in part through conquest: France conquered Normandy and Languedoc in the thirteenth century; the United States conquered the Southwest in 1848 and Hawaii in 1893.<sup>5</sup> Yet surely we are not required to undo all the unjust conquests of the past. Nor can the issue be resolved simply by invoking the passage of time: Britain conquered Ireland and India much longer ago than the United States conquered the Southwest. Instead, I believe that decolonization was required because *continuing* political association between colony and metropole was morally problematic, regardless of how that association was initially established. The goal of this essay is to understand precisely what this moral problem with continuing political association is, and when it arises.

Third, I will not here provide an account of the *right* to establish a new state, for instance, through secession. Instead, I explore a more preliminary question: What is the value in collective self-determination? To argue for a right to secede, we must show that this value is of sufficient weight to hold others under a duty to allow the formation of a new state. This 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. I remain agnostic here as to whether secession is the best means of realizing self-determination.

Fourth, I acknowledge that a particular self-determination claim will have *greater weight* when it can appeal to more than one of the views canvassed here. When a group's human rights are violated, and they lack political representation, and they are persistently alienated from their political institutions, they have a very weighty claim to self-determination. When a group is merely persistently alienated — but otherwise justly treated and enfranchised — their interest in redrawing political boundaries is less weighty, and may not always suffice to justify imposing highly burdensome duties on others. Still, I believe alienated groups do have *pro tanto* claims

<sup>5</sup> All states are, as a matter of historical fact, initially imposed by force. Charles Tilly emphasizes this point in his important work on the origins of national states in Europe. See Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschmeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 169; 184.

1 to reconfigure political boundaries, and these claims can justify the im-  
2 position of at least moderate costs.

3 Finally, I leave aside the question of the best institutional scheme for  
4 adjudicating and enforcing claims to self-determination. Who should  
5 judge when self-determination has been unjustly denied? How should  
6 self-determination be enforced: through self-help by the claimants, by the  
7 domestic state, or by the international community? Though these insti-  
8 tutional questions are important, I cannot take them up. So I emphasize  
9 that my argument does not imply that when self-determination is denied,  
10 there is any unilateral right to claim territory by force. Instead, it only  
11 establishes a weaker thesis: that the claimants have a strong interest in  
12 redrawing political boundaries. The question of the best way of accommo-  
13 dating that interest is one I defer to future work.

### 14 15 I. THE INSTRUMENTALIST VIEW

17 Why was decolonization justified? An initial thought is that decoloni-  
18 zation was justified because of the grave injustices committed by colonial  
19 regimes: this is the *instrumentalist* view.

20 This approach seems plausible when we examine the abuses associated  
21 with colonial rule. An egregious example is the Congo Free State, the  
22 brainchild of Belgium's King Leopold.<sup>6</sup> Under Leopold's rule, the Congo  
23 generated immense profits through the exploitation of native peoples in  
24 the production of wild rubber. To get men to collect rubber, Free State  
25 officials seized their families and held them hostage until they brought  
26 their quota. If a district fell short, its residents were tortured and raped  
27 until the rubber was provided. Tyranny in the Congo was so pervasive  
28 that it depopulated the country: up to 50 percent of the inhabitants died  
29 by the time Leopold's rule ended.

30 Though the Congo Free State is a horrific case, it is not unrepresenta-  
31 tive of colonial practices. Forced labor was also instituted in Dutch East  
32 India, French Equatorial Africa, and Spanish America. In the settler states  
33 of North America, Australia, and New Zealand, indigenous inhabitants  
34 were dispossessed, subjected to "civilization" campaigns, and sometimes  
35 exterminated. In almost all colonies, Europeans institutionalized systems  
36 of racial and cultural discrimination. Reflecting on these facts, our com-  
37 mitment to human rights may seem enough to explain why colonized  
38 peoples had claims to self-determination.

39 In the contemporary literature, Allen Buchanan defends an instrumen-  
40 talist account of self-determination. Buchanan argues that a state is mor-  
41 ally justified in exercising political power over a population and territory if

42  
43  
44 <sup>6</sup> From 1884 until 1908, the Congo was Leopold's private property, after which it became  
45 a colony of the Belgian state. See Adam Hochschild, *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa* (New York: Houghton Mifflin, 1999).

it “(1) does a credible job of protecting at least the most basic human rights of all those over whom it wields power and (2) it provides this protection through processes, policies, and actions that themselves respect human rights.”<sup>7</sup> Basic human rights, for Buchanan, are interests constitutive of a decent life and necessary for individual flourishing.<sup>8</sup> He lists the right to life, the right to security of the person, the right against enslavement and involuntary servitude, the right to resources for subsistence, the most fundamental rights of due process and equality before the law, the right to freedom from religious persecution, the right to freedom of expression, the right to association, and the right against persecution on grounds of ethnicity, race, gender, or sexual preference. To protect human rights, on Buchanan’s view, a legitimate state need not always be democratically organized. Nondemocratic states can be legitimate in some circumstances, when democratization is infeasible or would threaten other rights.<sup>9</sup>

Buchanan closely links his theory of legitimacy with an account of self-determination. No claim to self-determination can be justified against a legitimate state. Self-determination is a *remedial* right against a government that persists in serious injustices, such as “genocide or massive violations of the most basic individual human rights.”<sup>10</sup>

Buchanan also includes a “Non-Usurpation” requirement in his theory, holding that “an entity is not legitimate if it comes into being by destroying or displacing a legitimate state by a serious act of injustice.”<sup>11</sup> This requirement is not grounded in his human rights account of legitimacy, however, and it is unclear to what additional value it appeals. While many precolonial peoples had sophisticated systems of governance, these regimes were not Western-style states that met Buchanan’s criteria for rights protection. In addition, all colonized territories were acquired before 1945, the “statute of limitations” Buchanan suggests.<sup>12</sup> So the displacement of precolonial regimes may not have constituted usurpation as Buchanan defines it.

Can the instrumentalist view explain why decolonization was morally required? The evidence is mixed. Certainly it can explain extreme cases, like Leopold’s Congo. But the view does not rule out that a colonial regime could be legitimate if it did a decent job at protecting human rights. Indeed, it might even be invoked to support “civilizing” colonialism,

<sup>7</sup> Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2004), 247.

<sup>8</sup> *Ibid.*, 126–29.

<sup>9</sup> *Ibid.*, 352. Buchanan does hold that “where institutional resources exist for democratic authorization of government,” such procedures must be utilized if the state is to be fully legitimate (*ibid.*, 254). I consider this extension in the next section.

<sup>10</sup> *Ibid.*, 351.

<sup>11</sup> *Ibid.*, 264–5.

<sup>12</sup> *Ibid.*, 357. Buchanan suggests that self-determination may also be appropriate where states have engaged in serious and persisting violations of intrastate autonomy agreements.



historically a common rationale for the subjugation of foreign peoples.<sup>13</sup> Particularly in the late colonial period, European colonizers often invoked arguments grounded in liberal principles to justify their practices. Colonial rule was defended on the basis that it would help abolish the slave trade in Africa, or that it would further the moral and material well-being of native populations, or advance commerce and development. The U.S. occupation of the Philippines, for example, supposedly aimed to improve “the well-being, prosperity, and the happiness of the Philippine people” and to establish “an enlightened system of government.”<sup>14</sup>

These claims were not bare rhetoric: beginning in the late nineteenth century, significant efforts were made to bring colonial practices into line with “civilizing” ideals. Reformers such as the British Anti-Slavery and Aborigines Protection Society lobbied for humane practices, including the elimination of lynching, forced labor, and exploitation. While these reformers sought the amelioration of various abuses, they did not question the basic institution of colonialism itself. As one French critic of forced labor, writing in 1934, put it: “it is precisely because we accept the general and abstract justice of colonization that we desire, in the specific and concrete instance, to purify it of all that soils it.”<sup>15</sup> An important expression of this reform impulse was the establishment of the international Mandate System under the League of Nations in 1919. The Mandate System sought to ensure that colonial powers ruled in the interest of native populations. A Permanent Mandates Commission was established to exercise oversight and articulate criteria for good imperial governance. Often staffed by former colonial administrators, it required annual reports by mandatory powers and investigated and publicized abuses.<sup>16</sup>

We could certainly debate the extent to which these reforms enabled colonial regimes to deliver decent governance to their subject peoples. Still, I believe the history of colonial reform points out an important flaw in the instrumentalist approach. Suppose a reformed colonial regime was reasonably successful in living up to its “civilizing” ideology. In that case, for the instrumentalist, no claim of self-determination could have been pressed against it: the view recognizes no difference between being ruled by a domestic government (as long as it protects one’s human rights) and being ruled by a foreign government (that does the same). But surely a subject people has an objection to being ruled by a foreign government, even if their colonizer protects their most basic rights. While not subject to grave injustice, they are still denied self-rule. The committed adherent

<sup>13</sup> For a similar critique, see Lea Ypi, “What’s Wrong with Colonialism,” *Philosophy and Public Affairs* 41, no. 2 (2013): 168.

<sup>14</sup> See Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge: Cambridge University Press, 2002), 236–39.

<sup>15</sup> Quoted in Frederick Cooper, *Decolonization and African Society: The Labor Question in French and British Africa* (Cambridge: Cambridge University Press, 1996), 27.

<sup>16</sup> For useful discussion, see Crawford, *Argument and Change*, 260–89.

of instrumentalism may dispute this, arguing that benevolent colonialism is not wrong. But I believe most people will agree that benevolent colonialism is problematic. For their sake it is worth exploring what precisely seems so problematic about it.

This problem arises because the instrumentalist sees the connection between the citizen and his political community solely from a beneficiary's perspective. But citizens also have a distinct interest in deciding together how to order their collective life. They are not just the passive "takers" of their institutions; they seek to be active "makers" of them. It may be as important that citizens themselves create the institutions they live under (in their role as "makers") as that these institutions be good ones (from their perspective as "takers").<sup>17</sup> So while the protection of human rights may be a *constraint* on self-determination, it is not a sufficient *justification* of it. Perhaps we ought not to recognize self-determination claims that would lead to massive human rights violations. Still, human rights protection is not all that matters.

## II. THE DEMOCRATIC VIEW

One way to interpret this "maker" interest is to hold that certain forms of collective decision-making are intrinsically valuable, and that what is wrong with colonial rule is that it denies these to subject populations. As John Plamenatz puts it, "if it is right that governments should be responsible to the governed, then it is wrong for one people to impose their rule on another. Alien rule and democracy are clearly incompatible."<sup>18</sup> This democratic approach is more plausible than the instrumentalist one, because it allows that self-rule is an important value. But the democrat understands self-rule in a specific way: it is an individual right to participate in a political decision, the right to vote yes or no on the policies that govern one's life. What was wrong with colonial regimes is that they denied their subjects this chance to be enfranchised.

This approach links self-determination to the existence of fair procedures for collective decision-making. These include equal rights to vote for representatives, to associate in political parties, to express political views, and to compete for office. If such procedures exist, then according to the democrat, the laws reflect the decisions of a self-governing people, and as such they are worthy of respect. Like the instrumentalist, the democrat connects a state's claim to self-determination to its legitimacy. But the democrat holds that legitimacy has a *procedural* as well as a

<sup>17</sup> For similar distinctions, see Charles Beitz, *Political Equality* (Princeton, NJ: Princeton University Press, 1989); Jürgen Habermas, *Between Facts and Norms* (Cambridge, MA: MIT Press, 1996).

<sup>18</sup> John Plamenatz, *On Alien Rule and Self-Government* (London: Longmans Green, 1960), 1.

1 *substantive* aspect. Even a substantively just state might be illegitimate, if its  
2 laws have not been authorized by those required to live by them.

3 If correct, this democratic argument accounts for a wider range of  
4 self-determination claims than the instrumentalist view did. Very few col-  
5 onizers allowed their subjects electoral representation. Consider British  
6 India, for example. Although it is debatable whether an independent India  
7 in, say, the 1890s would have improved the protection of human rights, for  
8 the democrat, this is not sufficient to give Britain the right to rule India.  
9 Since Indians were denied the opportunity to have any input into the  
10 *making* of the laws by which they were governed, their institutions were  
11 not democratically legitimate.<sup>19</sup>

12 Note that the democrat need not take a *purely procedural* approach,  
13 which holds that majority voting renders laws legitimate regardless of  
14 their content. Many people rightly find this position implausible. Instead,  
15 the democrat simply maintains that the legitimacy of political power is  
16 *partly* dependent on whether the laws were authorized in a fair procedure,  
17 leaving space for a hybrid theory that incorporates concerns about human  
18 rights within a complex proceduralist account.

19 For our purposes, the essential question is: can a commitment to dem-  
20 ocratic procedures explain why decolonization was morally required?  
21 To answer, we need a closer look at the reasons why democracy might  
22 be intrinsically valuable. Here I examine one popular argument for democ-  
23 racy's intrinsic value, the *public equality* argument. This argument holds that  
24 disenfranchising people is wrong because it brands the excluded as inferior,  
25 or fails to treat their interests with equal concern. There are several versions  
26 of this argument. Jeremy Waldron holds that the right to enfranchisement is  
27 grounded on individuals' claims to be treated as a "particular intelligence,"  
28 with a unique view of justice worthy of consideration.<sup>20</sup> Charles Beitz  
29 argues that among a citizen's interests in the choice of a political procedure  
30 is an interest in the *recognition* of his equal status as a citizen.<sup>21</sup> Procedures  
31 that disenfranchise some people express the belief that their opinions are  
32 less worthy of attention and respect. Finally, Thomas Christiano claims  
33 that enfranchisement is required because "it is not enough that justice is  
34 done; it must be seen to be done."<sup>22</sup> When one's opinion is treated as of no  
35 consequence, one may reasonably suspect that one's interests are not given  
36 equal consideration. These views each claim that disenfranchising people is  
37 wrong because it sends the message that they are second-class citizens, or  
38 that their interests deserve lesser consideration.

39 Can the public equality argument be extended to provide a justification  
40 for decolonization? Certainly most colonial enterprises did exclude their  
41

42 <sup>19</sup> There was some Indian political representation on local and provincial councils, but no  
43 nationwide democratic legislature.

44 <sup>20</sup> Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999), 238–39.

44 <sup>21</sup> Beitz, *Political Equality*, 109–110.

45 <sup>22</sup> Thomas Christiano, *The Constitution of Equality* (Oxford: Oxford University Press, 2008), 46.

subjects from participation in public affairs. Still, I doubt the importance of democratic enfranchisement fully explains the value of self-determination. To see why, consider the following case:

*Political Incorporation.* Suppose that instead of extending support to the 2011 Libyan revolutionary movement, France had overthrown Qaddafi's regime, occupied the country, and annexed Libya's territory, much as it annexed Algeria in 1830. Further suppose that after annexation, France governed Libya justly and extended its inhabitants participation rights within a wider French republic. Imagine that there were no distinctions between French citizens and "the former Libyans" in terms of their democratic or other rights. Would the former Libyans have a claim to self-determination?

If the imagined political incorporation is wrong — as I believe it is — it is hard to see how the public equality argument can explain it. Because Qaddafi's regime threatened humanitarian abuses, there was arguably a right to intervene in Libya in 2011. And because Libya was not a democracy, on the view we are considering, Libya had no self-determination claim prior to the intervention.<sup>23</sup> Instead, each Libyan had an individual right to be enfranchised in the political decisions governing him. But France responded to these individual claims by granting the Libyans democratic rights after the annexation. So it appears that as long as a colonizer is willing to enfranchise the people of a nondemocratic country, that group has no further claim to independence. But that seems wrong — even if the Libyans are enfranchised, they may prefer to retain their own political community.

The problem is that on the public equality argument, we ought to be indifferent between a wider democratic metropole — in which colonial subjects are enfranchised — and an independent democracy on the colonized territory. Both are ways that individuals might be enabled to say yes or no to the decisions governing their lives. But intuitively, we are not indifferent among these options. Instead, it seems that a colonized territory has a claim to independence when its citizens were incorporated without their agreement.<sup>24</sup>

<sup>23</sup> Libya did have an organ of political representation under Qaddafi — the General People's Congress. However, real power remained with Qaddafi himself: there was no right to form political parties or contest elections.

<sup>24</sup> See Ypi, "What is Wrong with Colonialism?" 180, for an argument that agreement is required for fair political association. One might question whether on the democratic view, we ought to be indifferent between a right to have one's vote taken into account alongside the votes of 72 million others (in Franco-Libya) or 6 million others (in Libya). But the annexation of Libya would not greatly dilute the average Libyan's probability of changing a collective decision, and that probability would not be less than that of the inhabitants of many other nation-states, say Germany or the United States. An individual's power to affect a collective result is minuscule in any large representative democracy.

One might object here that a unilaterally imposed regime, like the one envisaged in *Political Incorporation*, cannot be democratically legitimate. The thought is that the *incorporation itself* was not democratic, even if later decisions were. But suppose that just prior to incorporation, a referendum had been held in the combined Franco-Libyan territory, and that a majority (composed almost entirely of metropolitan French) had voted in favor. Would the annexation then be democratically legitimate? If a democratic process simply requires that all involved individuals have a voice and vote, it seems it would: no individual has been disenfranchised here. Yet intuitively, the annexation still seems objectionable, because *Libya* has been denied a separate say. That explanation, however, appeals to a *group* claim to self-determination, which must be respected if the decision process is to be legitimate. But that group claim is not reducible to a set of individual rights to be democratically enfranchised, since the individual right to be enfranchised says nothing about the composition of the group in which any particular individual is to have a voice and vote.<sup>25</sup>

In any case, it seems unclear what the democrat could say about a scenario where a subject people's separate institutions have long since been abolished, and where they are fully democratically incorporated by their colonizer. Yet, colonizers have enfranchised their colonial subjects in several prominent cases. In the 1950s, for example, France granted full citizenship — with suffrage rights — to all adult men and women in its former Algerian colony.<sup>26</sup> A second case is the United Kingdom of Great Britain and Ireland: from the Act of Union in 1801 until its independence in 1922, Ireland formed an integral part of a wider Britain, electing its own Members of Parliament to the British House of Commons.<sup>27</sup>

On the public equality argument for democracy, it is hard to see why Ireland and Algeria had any claim to establish distinct political units. They were enfranchised within the wider metropole. And though they had substantive grievances dating from their colonial history, arguably these grievances had begun to be addressed through the political process, and might have continued to be addressed in that fashion. But this ignores the alienation of the Irish and Algerians, and is inconsistent with popular sentiment of the period, which saw Irish and Algerian independence as quintessentially just causes. If these reflections are correct, then the public equality argument for democracy — while

<sup>25</sup> For related discussion of the democratic "boundary problem," see Arash Abizadeh, "On the Demos and its Kin: Nationalism, Democracy, and the Boundary Problem," *American Political Science Review* 106, no. 4, (2012): 867–82; Robert Goodin, "Enfranchising All Affected Interests, and Its Alternatives," *Philosophy and Public Affairs* 35, no. 1 (2007): 40–68; and David Miller, "Democracy's Domain," *Philosophy and Public Affairs* 37, no. 3 (2009): 201–228.

<sup>26</sup> See Todd Shepherd, *The Invention of Decolonization* (Ithaca, NY: Cornell University Press, 2006), 19–54.

<sup>27</sup> See John Ranlegh, *A Short History of Ireland*, (Cambridge: Cambridge University Press, 1983).

plausible — cannot explain why decolonization was morally required. Democracy may be a demand of justice, but it does not help us draw the boundaries of the political community.

### III. THE ASSOCIATIVE ACCOUNT

Recall that a key problem with the instrumentalist approach was that it focused only on citizens' interests (as institutional "takers") in *benefiting* from a reasonably just state's rule. In response, we held that citizens have an equally important interest in *self-rule*, in being the authors (or "makers") of the institutions to which they are subject. Are there avenues other than democratic participation by which to understand a citizen's interest, as a "maker" of his institutions, in self-rule? I think there are. An individual has an interest in the self-determination of his political community if he *reasonably affirms* his participation in the relationship of political cooperation that undergirds its institutions. This view requires that our state be structured such that: (a) our personal freedom, as "takers," is guaranteed by our political institutions; and also that (b) as "makers," we affirm our participation in these institutions.

The associative view derives inspiration from Hegel's notion that freedom has both an objective and a subjective component.<sup>28</sup> Objective freedom requires that political institutions protect basic rights, thereby guaranteeing citizens personal liberty (in this, it agrees with the instrumentalist). But Hegel argues that citizens' freedom is not exhausted by these considerations: it has a further subjective sense. Freedom additionally requires that individuals who sustain state institutions together experience this activity as an expression of themselves, not as something that they are coerced into performing by an alien power. If citizens attain subjective freedom, they will see their state as a creation of their own free cooperation, not as an institution of subjugation. The idea is that there is an important good in achieving minimally just institutions through the willing contributions of those subject to them, rather than through their imposition by force. This is the same kind of good we achieve when we act on our own freely formed intentions, rather than being forced to act on the will of someone else.

I think interpreting citizens' "maker" interests in these Hegelian terms captures many of our concerns about colonialism. What is striking about India or Ireland is that colonial rulers were unable to bring their subjects to affirm their association with the metropole. The alienation of these peoples had historical roots in past conquest, and in the fact that the colonizers set themselves apart as a superior class. But what is important is not the specific roots of alienation but the fact that a sense of oppression persisted and was difficult to eradicate, even once

<sup>28</sup> G. W. F. Hegel, *Philosophy of Right*, ed. Wood/Nisbet. (Cambridge: Cambridge University Press, 1996), 313.



1 attempts to address these peoples' grievances were made. Though an  
 2 objective basis for affirming their institutions was perhaps in place, their  
 3 subjective ability to do so was not.

4 Not every political association initially imposed by force remains inca-  
 5 pable of generating affirmation as time goes on, however. Consider the  
 6 case of Hawaii. The acquisition of Hawaii occurred through a process sim-  
 7 ilar to the acquisition of India or Ireland: in 1893, a group of American  
 8 plantation owners overthrew the Hawaiian monarchy, and imprisoned its  
 9 queen.<sup>29</sup> Five years later, Hawaii was annexed to the United States. There  
 10 was a case for restoring the monarchy in the aftermath of annexation, and  
 11 a nationalist movement pressed this case in the early 1900s. But over time,  
 12 the situation in Hawaii changed. The political power of the plantation-  
 13 owning class was destroyed, and racial discrimination against Hawaiians  
 14 was gradually ameliorated. When Hawaiian statehood was submitted to a  
 15 referendum in 1954, 93 percent of the population voted in favor. So some-  
 16 times a political relationship that was established through conquest can  
 17 come, over time, to feature both reasonably just governance and wide-  
 18 spread affirmation by participants. If so, then any reason to restore inde-  
 19 pendence to the former colony is superseded.

20 To explain why affirmation matters, in addition to basic rights pro-  
 21 tection, I develop an account of when a particular state's rule over a partic-  
 22 ular population is legitimate. My account begins by emphasizing that "the  
 23 state" is not an entirely separate agency from the people who make it up.  
 24 Instead, the state is reproduced by its members' cooperative activity,  
 25 including their obedience to law; payment of taxes; voting; and coop-  
 26 eration with the police, judges, and public officials. Several philosophers  
 27 have offered theories of this sort of joint agency. Christopher Kutz, whose  
 28 view I largely follow here, argues that joint action is undergirded by an  
 29 interlocking structure of shared "participatory intentions."<sup>30</sup> Roughly,  
 30 I share a participatory intention whenever I think of myself as doing some-  
 31 thing because *we* are doing something together. A group is formed when  
 32 we are mutually aware of these shared intentions, and they mesh in a  
 33 way that allows us to act on our joint goal. Participants in joint intentional  
 34 action have an awareness of the relation in which their action stands as a  
 35 means to a group end, and they would not perform it otherwise.

36 I believe that sustaining the state can be understood as such a joint  
 37 intentional activity — on a grand scale — among the citizenry. Of course,  
 38 states usually feature formal governance institutions, such as the legis-  
 39 lative, executive, and judicial branches, the police, and the bureaucracy.  
 40 These formal institutions typically direct citizens' activity. But it is the  
 41  
 42

43 <sup>29</sup> For a brief overview of this history, including the Queen's statement of abdication,  
 44 see [www.hawaii-nation.org-soa.html](http://www.hawaii-nation.org-soa.html).

45 <sup>30</sup> See Christopher Kutz, *Complicity* (Cambridge: Cambridge University Press, 2000);  
 Michael Bratman, *Faces of Intention* (Cambridge: Cambridge University Press, 1999).

1 willing contributions of ordinary citizens — their intentions to “play their  
2 parts” — that make formal institutions effective and stable. In well-  
3 functioning states, citizens cooperate voluntarily with their officials, and  
4 they comply with their laws and policies without being forced.

5 In this way, ordinary citizens of well-functioning states willingly coordi-  
6 nate their behavior in many ways to make their governing institutions  
7 effective on their territory. What it means for something to be my property  
8 is simply to have my right over it generally recognized and respected by  
9 my fellow citizens. By paying taxes, the people contribute to the institu-  
10 tions that enforce their rights. Additionally, when their state is a democ-  
11 racy, the people also offer input into the shape of their cooperative activity.  
12 Though they do not know each other personally, then, citizens still partici-  
13 pate in a joint enterprise together: they uphold and reproduce a shared  
14 scheme of law.

15 I recognize that the examples of civic participation offered here have a  
16 certain cultural bias: they reflect life in a modern, Western, bureaucratic  
17 state. But though the content of citizens’ intentional contributions will  
18 differ across political forms, I believe some structure of participatory  
19 intentions undergirds any widely endorsed political institution. As long as  
20 a political form allows for binding collective rule-setting and centralized  
21 enforcement, I believe we can apply the term “state” to it, in a suitably  
22 broad sense. A “state” need not have traditional Westphalian institutions.

23 To share in this joint enterprise, it is not necessary that each citizen  
24 actively intend all his state’s policies. But his intentional contributions —  
25 in the form of obedience to law, voting, payment of taxes, and cooperation  
26 with police, judges, and other officials — are causally linked to an ongoing  
27 collective process. His contributions support the public coercion of other  
28 people in the name of a particular conception of justice, and he can be  
29 expected to be aware of that fact. In this way, citizens have a grasp of the  
30 relation in which their contributions stand to a joint endeavor. Indeed,  
31 many characteristic civic acts — such as voting, or paying taxes — would  
32 make little sense if we did not expect our fellow-citizens to play their parts  
33 alongside us.<sup>31</sup>

34 The “people’s” participatory intentions, however, are usually formed  
35 against the background threat of coercion by government agents. So  
36 we might wonder: Does this joint activity implicate the wills of those  
37 involved? Or is it simply something they are forced into? Because the  
38 state is a coercive institution, we need to pay special attention to whether  
39 people form participatory intentions solely as a result of manipulation or  
40 duress. Though states are coercive, I believe the wills of their members are  
41

42  
43 <sup>31</sup> Kutz elaborates a minimalist conception of joint action that is appropriate to large and  
44 diffuse groups, such as a citizenry (Kutz, *Complicity*, 90–96). I elaborate a theory of citizenship  
45 as joint intentional action at greater length in Anna Stilz, *Liberal Loyalty: Freedom, Obligation,*  
*and the State* (Princeton, NJ: Princeton University Press, 2009), chap. 7.



often manifest in their joint activity. This is the case when citizens *reasonably affirm* their participation in their shared enterprise, according to the following conditions:

- (1) *Minimal Justice*: Citizens' relationship of political cooperation must be reasonable to value, because it protects a set of basic rights, including the personal security and subsistence of each member, and their ability to form and express political opinions;
- (2) *Subjective Legitimacy*: Citizens, by and large, must actually affirm their political cooperation together, against these minimally just background conditions.

On the associative view, a state's claim to rule a particular population is derived, not just from its protection of human rights, but also from the *willing affirmation* of a politically cooperative relationship by a wide majority of participants. I believe there are both instrumental and intrinsic reasons for valuing affirmation. Affirmation is an important instrumental good because without it, people will have to be "forced to be free," which makes for a less stable, more repressive political community. And affirmation is an important intrinsic good because it allows citizens to see their political institutions as their own creation, which gives those institutions a relational value for them that goes beyond the benefits those institutions provide.

The *instrumental* reasons for valuing affirmation derive from the fact that it is better for everyone if states can achieve willing compliance, since this enhances the stability of just institutions. Colonial rulers must force people to cooperate in sustaining the governments they impose, and we can expect that — since it is likely to be resisted — their rule will be imposed with significant repression. If this kind of coercion is a disvalue, we have a reason to bound state institutions so that their subjects can be brought to willingly support them. In many cases, this will tell in favor of decolonization. Even those dissenters who prefer rule by the metropole benefit from the lower levels of insecurity, mistrust, and repression that decolonization brings: ending riots and social unrest produces public goods for everyone. But these goods cannot be privately distributed, since the reproduction of state institutions requires the participation of a critical mass of others. The interest of one person, or of a small number, is not sufficient to warrant redrawing political boundaries. But the aggregate interest of a sufficiently large group is often weighty enough to ground a claim to self-determination.<sup>32</sup>

More controversially, I believe the existence of a community of willing cooperators is *intrinsically* valuable, since it enables citizens to see their

<sup>32</sup> Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 208–9; Peter Jones, "Group Rights and Group Oppression," *Journal of Political Philosophy* 7, no. 4 (1999), 353–77.

political institutions as their *common creation*, rather than an alien imposition on them. Albert Einstein reportedly once said that “The state to which I belong does not play the least role in my spiritual life; I regard allegiance to a government as a business matter, somewhat like the relationship with a life insurance company.”<sup>33</sup> Einstein had no commitment to political cooperation together with any particular citizenry: if he were incorporated into an equally just colonial institution, it would make no difference to him. But people who affirm their civic relationship do not regard their state in this way. It is not a matter of indifference to them if their state is replaced by an equally just colonizer, since only this particular state reflects a shared project to which they are jointly committed. Unlike Einstein, these citizens see themselves as partners in a joint enterprise, acting together to shape the character of their political environment.

Nor are they wrong to take this view. By choosing to support their state, willing cooperators are forming, sustaining, and reproducing their governing institutions. No one citizen’s voluntary contributions are alone sufficient to create an institution, but the contributions of many citizens together are. This gives citizens an interest, not just in having *some* minimally just institution rule them, but in being ruled by the institution that is the product of their joint cooperation. As their creation, their state has a relational value for them that goes beyond the justice-functions it performs, which could be performed (in a slightly different way) by other institutions.

To see the difference between the state’s intrinsic and its instrumental value, compare the relation a tourist has with a state she is visiting with the relation a citizen has with her own state. When visiting Brazil, its system of law has instrumental value for me, because it performs an authoritative specification of property and contract rights, tort law, and so on, that I need in order to respect others’ rights. It is a good thing, from my point of view, that there is a state in place here. But my situation is much like Einstein’s: it is really a matter of indifference to me which state in particular this might be. If Brazil were annexed by Argentina tomorrow, I could still do justice to other people with whom I interact, only by complying with Argentine law rather than Brazilian law.

But matters look different when we consider the issue from the perspective of a *citizen* of Brazil. If he affirms the civic relationship, this citizen will not be indifferent between living under Argentine law or Brazilian law. He and his fellow citizens together created the legal institution that is Brazil, and he endorses their shared project and wishes to continue it. When a wide majority of citizens endorses their political cooperation in this way, I believe their governing institutions are appropriately seen as an extension of the freely shared agency of these willing cooperators.

<sup>33</sup> Quoted in Christopher Wellman, “Friends, Compatriots, and Special Obligations,” *Political Theory* 29, no. 2 (2001): 217–236.

1 Let me clarify a few aspects of this argument. First, I emphasize that  
2 citizens' affirmation of a political relationship is valuable only when it is  
3 authentic, and basic rights protection is necessary to ensure this authen-  
4 ticity. For my will to be implicated in my state, I must not be manipu-  
5 lated or coerced into affirming it. Where my endorsement is expressed  
6 out of fear or indoctrination, it carries no moral weight. Guarantees of  
7 my personal security, subsistence, and of my ability to form and express  
8 my own opinions — including basic liberties of conscience, speech, and  
9 association — are necessary conditions for an expression of authentic  
10 affirmation.

11 While free background conditions require protection of very basic rights,  
12 on my view, they do not require full democracy. One can imagine a range  
13 of liberties that enable citizens to freely affirm their state, beginning with  
14 freedoms of speech and thought, and extending all the way to full political  
15 participation. Democratic rights — including the right to vote, to form  
16 parties, and to run for office — provide robust guarantees that citizens'  
17 affirmation is authentic. But it is also possible for citizens to authentically  
18 affirm their participation even where the state's institutions are not fully  
19 democratic, so long as they are free to form and express dissenting views.

20 Second, one might object that, in practice, a state can be empowered  
21 by the contributions of those who place no intrinsic value on their political  
22 relationships, people much like Einstein. Citizens can be motivated to  
23 collective political action for many reasons, including pragmatic calcula-  
24 tion, self-interest, or even fear. I do not deny this. Yet another reason why  
25 people sometimes cooperate collectively is because they endorse a shared  
26 project and care about its success. When that is the case, their joint venture  
27 has a relational value for them that deserves our recognition. Prior to rec-  
28 ognizing a self-determination claim, we need reason to believe that people  
29 *do* intrinsically value their civic relationship. This may tell in favor of  
30 conducting well-supervised plebiscites to allow people to freely express  
31 their views. But the importance of shared political projects to participants  
32 gives us *pro tanto* reason to recognize self-determining communities where  
33 they now exist, and perhaps also to reconfigure political boundaries in  
34 cases where subgroups currently fail to enjoy this value. Those reasons  
35 for respecting a shared political relationship are not equally present in  
36 cases where constituents sustain institutions out of fear, self-interest, or  
37 pragmatic calculation.

38 It might further be objected here that relatively few citizens actually con-  
39 ceive their state as a shared project. Most ordinary citizens are not politi-  
40 cally active, knowledgeable, or patriotic. Do these people take any interest  
41 in "making" their state? I deny that citizens must be highly participatory or  
42 knowledgeable in order to affirm their civic relationship. Some evidence  
43 for this is given by other joint endeavors. While I greatly value my univer-  
44 sity, I do not attend college-wide faculty meetings or wear the university  
45 logo, and I cannot name all the deans. Still, I "play my part" willingly,

and I would be upset if my university was destroyed or merged with a different one, even if my own terms of employment went unaffected. Likewise, the importance of citizens' affirmation may become radically apparent in exceptional scenarios like annexation or foreign occupation, even if it is not apparent in everyday political life.<sup>34</sup>

Further, one might think that political disagreement is a barrier to understanding states as shared projects. Are defeated political minorities meaningfully part of any joint endeavor? I concede that some subgroups are so intensely and persistently alienated that the civic relationship lacks any value for them. But I deny that ordinary political disagreement signals this. Again, we can draw evidence from other joint endeavors. While I often disagree with my colleagues about whom to hire, I prefer that we make our own hiring decisions together, even when that means accepting some decisions with which I disagree. Indeed, I would consider myself disrespected if the dean overruled our collective decision, even if the result was to impose my preferred candidate. Much ordinary political disagreement is similarly compatible with shared commitment to a joint endeavor.

Third, it is important to see that the value of affirmation emphasized here is not the same as a requirement of individual consent. It is not necessary that *every* individual endorse his or her state in order for the "public" good of widespread affirmation to exist. One might worry here that even if most citizens are willing cooperators, disaffected individuals — such as anarchists, or socialists — are wronged by being denied self-determination. But this is implausible, for two reasons. First, I believe each individual is subject to a natural duty of justice that he cannot fulfill without participation in some minimally just state. Without a state, many of our rights — including our property and contract rights — would remain indeterminate and subject to reasonable disagreement, and impartial mechanisms for their enforcement would be lacking. So if disaffected individuals refuse participation in *any* feasible state, then their non-affirmation should be discounted, as inconsistent with their basic duties to others. This natural duty argument is of course controversial, and I cannot fully defend it here. But there is also an additional reason to think disaffected anarchists or socialists lack self-determination rights. A group claiming self-determination must be territorially organized and possess broadly representative practices. Dispersed individuals are

<sup>34</sup> The objector might further reply that "talk is cheap": citizens who aren't participatory or knowledgeable might *say* they care about a political project, but perhaps they don't care very much. Ultimately, this is an empirical question. If the objector is right and most citizens take an Einsteinian view of politics, then we should expect no outcry at benevolent annexation, since individuals' basic rights and interests would be protected by the annexer. Yet I believe most citizens would strongly protest in such a scenario. The objector is right, however, that if most people are indeed Einsteinians, there would be much weaker objections to continued imperial rule (as long as the regime was reformed, if necessary, to ensure greater justice and democracy).

unable to fulfill this condition. As such, they are not the right kind of entity to make valid self-determination claims.

Finally, one might worry that my associativist view is not meaningfully distinct from the nationalist approach. In reply, I emphasize that on my view, “peoples” are not cultural groups, but rather groups defined by willing political cooperation together. The “people’s” relationship consists in a pattern of voluntary coordinated behavior that can support organized political authority. Though this pattern of cooperation may overlap with cultural ties, it need not. Citizens who have cooperated to sustain a multinational state — Belgium, India, or Canada — will count as “peoples” on my view, though they would not qualify as national cultures. Of course, “nationalism” can also refer to a shared sense of civic participation, and I accept that my view comes close to this use of the term. I should stress, though, that on my view there is no pre-political criterion for delineating “peoples,” beyond the fact that existing structures either succeed or fail at generating the willing cooperation of the ordinary citizens they rule. So I deny that “the people” is a pre-political entity: a people can only be brought into being by engaging in institutionalized cooperation together, and coming to affirm that cooperation.

#### IV. REDRAWING POLITICAL BOUNDARIES

On my associative view, a citizen will have an interest in his community’s self-determination if three conditions are met:

1. *Political Relationship Condition*: A group has established a politically cooperative relationship, either through a state or substate unit, or through constructing broadly representative institutions (e.g., a separatist party or organized national liberation movement, about which I discuss more below),
2. *Minimal Justice*: Their cooperative relationship is reasonable to value and affirm, because it can serve as the basis for institutions that protect the most basic rights of each member, and
3. *Subjective Legitimacy*: The citizens, by and large, do affirm their political relationship, under appropriately free background conditions.

My associative account sees claims to redraw boundaries as remedial claims that come into effect when the state’s legitimacy fails. One way the state’s legitimacy might fail is through severe human rights violations, as the instrumentalist emphasizes. But this is not the only way legitimacy can fail. When a territorially concentrated subgroup cannot be brought to affirm their state, they have a *pro tanto* claim to create minimally just institutions that they can affirm. Generally, members of a just state will respond over time by affirming its cooperative practices. But it is possible for some people to remain alienated. This is especially likely when there

is a past history of coercion, conquest, and colonial oppression. It may also occur when a territorially distinct subgroup finds that its members' political priorities on many issues go unrecognized by the majority. So despite the fact that a people is not a pre-political entity, sometimes existing political institutions fail to bring a willingly cooperative "people" into being. In such cases, I believe that territorially concentrated subgroups with broadly representative practices have *pro tanto* claims to create new political units.

Consider two types of case. The first I call *warranted* failures of subjective legitimacy. Here, some citizens very reasonably fail to affirm their state, despite the fact that its rule over them is minimally just. Such warranted failures often occur when the past history of the political relationship is oppressive. For an analogous case, take the wife of a former alcoholic. Her husband may now be perfectly sober and loving. He may sincerely regret their history, and have attempted to build a better relationship going forward. Still, when we consider his wife's perspective, it seems reasonable that she may not identify with this relationship, and wish to discontinue it. Like other relationships, the value of a political relationship is in part a matter of a history of interaction, and we cannot "undo" this history.

I believe many colonial cases are *warranted* failures of subjective legitimacy of this kind. Subject peoples often experienced misdeeds that left behind a legacy of alienation. Even though better governance was established for Ireland in the late nineteenth century, for Algeria in the 1950s, or for U.S. indigenous peoples since the 1970s, these groups still have extreme difficulty bringing themselves to affirm a political relationship with their former colonizer. I submit that this is a "reasonable" reaction: it is one we could imagine ourselves having in their situation. The interest in redrawing boundaries is quite strong when it is grounded in a warranted failure of this kind. If a group:

- (a) has a past history of coercion, conflict, or oppression at the hands of a now-minimally just state;
- (b) finds itself unable, over a significant period, to affirm its political participation in that state;
- (c) possesses representative practices of political cooperation that can be more willingly affirmed (perhaps through a substate political unit or organized national liberation movement), and
- (d) has the political capacity to construct minimally just institutions on the basis of these practices,

then it has a strong claim to establish a new political unit. As noted above, this claim must still be assessed against countervailing considerations, such as the potential for civil unrest, instability, ethnic conflict, or human rights violations. But warranted alienation provides a weighty reason for redrawing political boundaries.



1 A harder type of case I call a *simple* failure of subjective affirmation.  
2 Here, a subgroup is alienated despite a reasonably good history with its  
3 state. We may not believe that we would have the same reaction in its  
4 members' shoes. But I think their alienation should still be taken seriously,  
5 even when it does not spring from a colonial past. In Scotland or Quebec, for  
6 example, there are now significant separatist movements, partly due to a  
7 sense of distinctive political priorities, though there is no significant legacy  
8 of historical oppression. If Scottish or Quebecois alienation is sufficiently  
9 persistent, and if separate institutions can be more readily affirmed, then I  
10 believe there is a *pro tanto* reason to allow them self-determination as well.  
11 One way to characterize this reason is that the Scots and Quebecois per-  
12 sistently find themselves in the minority when it comes to fundamental  
13 issues about how to organize political life. They seek a sphere in which to  
14 shape their institutions in accordance with their distinctive shared goals.  
15 Granting them such a sphere would facilitate their sense of participation  
16 in a shared political project, and enable them to better enjoy the relational  
17 value of political cooperation.

18 Compare the case of someone who has enjoyed a good history with his  
19 family, but has now become severely disaffected. He finds himself persis-  
20 tently desiring to pursue goals his family does not share. He may still have  
21 duties to care for his children, or to pay child support. Still, if his alien-  
22 ation is genuine and long-lasting, much of the value of the family relation-  
23 ship is lost to him, in an irretrievable way. In this case, it is often better to  
24 allow separation, if separation can be achieved in a manner that is not  
25 too costly. I believe the case is similar for disaffected minorities. If a  
26 group is persistently alienated from its state, then the intrinsic value of  
27 citizenship — the sense of partnership in a valued shared enterprise —  
28 is destroyed for the members of the group. If self-determination can be  
29 achieved in a manner that is not unduly costly, and that enables both  
30 parties to pursue more widely affirmed political relationships, there is a  
31 *pro tanto* reason to allow it. Still, this reason may be weaker than in the case  
32 of a warranted failure. It may therefore be appropriate to impose higher  
33 "exit" costs on these groups, or to explore options for self-determination  
34 short of independence, such as federalism or devolution.

## 35 36 V. CONCLUSION 37

38 By way of conclusion, I make three final points. First, the associative  
39 account raises many problems of practical application. I can only offer  
40 a sketch of how these might be addressed. As already noted, in order to  
41 claim self-determination, a group must be territorially organized and pos-  
42 sess representative practices that can serve as the basis for constructing  
43 minimally just institutions. Since any territory will necessarily include  
44 some who do not endorse the prevailing political project, it is important  
45 that the claimant group be broadly inclusive. Where a claimant group

is intermixed with dispersed minorities, it is appropriate to demand that it grant these minorities special representation rights, or accommodations on issues of intense concern to them. Qualified claimant groups could include existing political subunits, separatist parties, and national liberation movements that represent an inclusive, territorial constituency.

It is also difficult to be mathematically precise about the level and intensity of alienation that triggers concern. But, as mentioned above, the associative view would support the use of plebiscites to ascertain people's wishes on matters of their political status. Persistent majorities favoring independence, produced under conditions of high voter turnout, and sustained over a series of votes, would provide evidence to support a self-determination claim. Here, I believe the overarching state has a moral obligation to negotiate an institutional configuration that the alienated group can more readily affirm — by redrawing boundaries to create new subunits, granting more internal autonomy, or in severe cases allowing for political independence.

Applying the minimal justice condition may also be challenging, since it can be hard to ascertain whether a group can sustain rights-protecting institutions prior to independence. But this problem can be handled by a staged independence process, conditional on certain benchmarks being met. For example, a sphere of local governance might be granted initially, with a state or international authority standing ready to intervene if abuses occur. If good performance is achieved, greater independence — where warranted, even full sovereign statehood — could be granted over time.<sup>35</sup>

Another worry is that on my account, both minimal justice and subjective legitimacy are valuable. But which has the higher priority when the two conflict? Suppose a colonial power now rules in a way that protects its subjects' most basic rights, but its regime is not widely affirmed. If it decolonized, however, the native inhabitants would establish a repressive regime, because deeply rooted social cleavages would lead one segment of society to oppress another. Should the colonizers leave?

In reply, I highlight again that, on my view, minimal justice and affirmation are inherently connected. Because basic rights must be protected for affirmation to be genuine, I believe minimal justice should take priority over subjective legitimacy in cases of conflict. Were the colonizer to withdraw, this would not promote the subject people's self-determination, since the successor regime would fail to safeguard the preconditions for it. Though people can affirm an undemocratic social order, this affirmation

<sup>35</sup> See Robert Keohane, "Political Authority after Intervention: Gradations in Sovereignty," in *Humanitarian Intervention*, ed. J. L. Holzgrefe and Robert Keohane (Cambridge: Cambridge University Press, 2003).



1 must be generated in adequately free background conditions (with, at least,  
2 protection for personal security, subsistence, and freedoms of conscience,  
3 speech, and association) in order to count as authentic.

4 The priority that my associative view places on minimal justice sets it  
5 apart from other views — like Michael Walzer's — that emphasize sub-  
6 jective legitimacy alone. Walzer argues that outsiders should presume a  
7 certain "fit" between a community and its political institutions, even if the  
8 regime is highly oppressive, as long it does not commit grievous moral  
9 wrongs, such as massacre, enslavement, or expulsion of large numbers of  
10 people.<sup>36</sup> In contrast, I believe we are not entitled to presume "fit" unless  
11 citizens' opinions are formed under sufficiently free conditions, and unless  
12 those opinions have some channel for public expression. The people's affir-  
13 mation must not be coerced or manufactured by their own regime if it is  
14 to count as genuine.

15 If a subject people cannot sustain institutions that meet these pre-  
16 conditions, then full decolonization may be delayed until they develop  
17 the political capacity to do so. Foreign rule can be *provisionally legiti-*  
18 *mate* during this period. It would be wrong, however, for a colonizer  
19 to have the power to judge that its own subject people lacks political  
20 capacity. Ideally, such judgments — and the responsibility for any transi-  
21 tional administration — should be delegated to an impartial inter-  
22 national institution. The goal of provisional foreign rule should be to  
23 enable the subject people to transition to independence as quickly as  
24 possible. Some groups may lack the capacity to sustain minimally just  
25 institutions as a result of past exploitation, and in this case, the former  
26 colonial power may have a remedial duty to provide them material aid  
27 in developing that capacity.<sup>37</sup>

28 Finally, one might still worry that my view could be invoked to support  
29 cultural nationalist movements. I do not deny that some alienated cultural  
30 groups might currently claim self-determination rights on this account.  
31 But this is not a necessary consequence of the associative view. To the  
32 extent that cultural minorities are presently alienated, I believe this often  
33 has its roots in the fact that many states have adopted an illegitimate "nation-  
34 state" ideal that privileges the majority culture. Such governments act  
35 as if the majority nation "owned" the state at the expense of other groups.  
36 I believe liberal states should instead reduce their association with the  
37 majority culture, and give culturally diverse citizens an equal stake in  
38 their institutions and public spaces. The more culturally "neutral" states  
39 become, the more likely they are to bring diverse citizenries to affirm  
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42 <sup>36</sup> Michael Walzer, "The Moral Standing of States: A Response to Four Critics," *Philosophy*  
43 *and Public Affairs* 9, no. 3 (1980): 211.

44 <sup>37</sup> If a group cannot establish minimally just institutions, even with aid, then they may not  
45 claim self-determination. For a similar view, see Andrew Altman and Christopher Wellman,  
*A Liberal Theory of International Justice* (Oxford: Oxford University Press, 2009), 195.

1 their cooperation together. Were such a “cultural neutrality” requirement  
2 implemented, I believe that the practical implications of my associativist  
3 view would differ markedly from the nationalist one. Though current pat-  
4 terns of subjective alienation may reflect patterns of cultural distinctiveness,  
5 they need not do so.

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