

CHRISTOPHER H. WELLMAN A Defense of Secession and
Political Self-Determination

Amid the numerous recent movements to redraw national boundaries, political theorists have turned with renewed interest to the moral relationships among individuals, groups, and their states. Most have been struck with contemporary political theory's inability to adjudicate conflicts of political self-determination. This essay addresses the neglected area by systematically analyzing when an individual or group has a moral right to secede that is grounded in political self-determination. Because the primary question in a secessionist conflict concerns the territory contested, any analysis of the right to secede must identify the grounds for the existing state's claim to political jurisdiction over its territory.¹ With this in mind, I examine consent and teleological justifications for the state and find both inadequate.² As an alternative to these extremes, I propose a hybrid model of political justification which explains that, while individuals and small groups may not secede, a larger group may, provided it is of sufficient size to perform satisfactorily the functions necessary for a state to legitimize its claim to territory.

This paper is divided into five sections. First I explain the right to secede grounded in political self-determination and distinguish it from the same claim grounded in past injustices. In the second and third sections I examine consent and then teleological justifications for the state. For each justification I consider the room left for secession

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1. This point is stressed by Lea Brilmayer in her essay "Secession: A Territorialist Reinterpretation." *Yale Journal of International Law*, 16, no. 1 (January 1991): 177-202.

2. Here I follow David Schmidtz in contrasting *emergent* from *teleological* justifications for the state, except that, for the purposes of this paper, I contrast *consent* and teleological

grounded in political self-determination and the acceptability of these conclusions. I reject the consent model because of its unpalatable implication that virtually any individual or group may secede from existing states, and I dismiss the teleological account, since it both restricts secessionist movements that seem permissible and allows coercive annexations that appear unjustified. In the fourth section I suggest that the attractive features of both the consent and teleological approaches can be retained and combined in a hybrid model of political legitimacy that provides intuitively plausible solutions to these questions of secession and political self-determination. Finally, in the fifth section I apply the hybrid model to several prominent historical and contemporary conflicts of political self-determination.

I. THE PROBLEM

I address this question from a liberal standpoint because I believe liberal political theory is correct in its assumption that individuals have moral rights that the state must not violate. Liberalism is defended in many distinct forms and for various reasons, but a pivotal tenet unifying all liberals is their commitment to individual liberty. This commitment grounds the liberal mandate that the state must not interfere with a citizen's sphere of autonomy (often this sphere is thought to correspond roughly to her self-regarding behavior). Despite this emphasis, liberals have had remarkably little to say about rights to *political* self-determination.³ Assuming this premium upon liberty, it is natural to explore if and why the state is justified in denying the political liberty of those who would like to secede. If individual citizens have moral rights of religious

models. An emergent justification is one that considers a state legitimate just in case it has emerged in an acceptable manner (e.g., without violating any rights), and a teleological approach asserts that a state is justified only if it adequately performs certain functions. For a full account of this distinction and its explanatory value, see Schmidtz's article "Justifying the State." *Ethics*, 101 (October 1990): 89-102.

3. There is, however, a small body of good work on the topic. For instance, see Allen Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder, Col.: Westview Press, 1991); Harry Beran, *The Consent Theory of Political Obligation* (London: Croom Helm Publishers, 1987); Lee C. Buchheit, *Secession: The Legitimacy of Self-Determination* (New Haven: Yale University Press, 1978); Lea Brilmayer, "Consent, Contract, and Territory," *Minnesota Law Review* 39 (1990): 1-35, and id., "Secession: A Territorialist Reinterpretation"; David Gauthier, "Breaking Up: An Essay on Secession," *Canadian Journal of Philosophy*, 24, no. 3 (1994): 357-72; and Kai Nielsen, "Secession: The Case of Quebec," *Journal of Applied Philosophy*, 10, no. 1 (1993): 29-43.

self-determination with which the state must not interfere, what about analogous rights in the political realm? If citizens have them, what are the limits of these rights? If not, why may the state legitimately restrict political self-determination in a manner that is impermissible in the religious arena?

One striking feature of political self-determination, which distinguishes it from a citizen's dominion in other realms, is that it necessarily involves a claim to territory. As Allen Buchanan writes, "Secession . . . is an effort to remove oneself from the scope of the state's authority, not by moving beyond existing boundaries of that authority but by redrawing the boundaries so that one is not included within them. To claim the right to emigrate is only to challenge the state's authority to keep one within its boundaries. To claim the right to secede is to challenge the state's own conceptions of what its boundaries are. To emphasize: Secession necessarily involves a claim to territory."⁴

This point is significant because it indicates that any secessionist's appeal must ultimately be adjudicated by the strength of its claim to territory. Thus a secessionist party must argue not only that it owes no allegiance to its current political union, but also that it (rather than the current state or some third party) has the legitimate claim to control jurisdiction over the territory of the proposed seceding region. A party's lack of right to secede entails that the existing political union (or some third party) has a legitimate claim to its territory and the secessionist party has a duty not to secede (without permission from the remainder state and/or third party). If a party does have a right to secede, on the other hand, this party is at liberty to secede and the remainder state has a duty not

4. Buchanan, *Secession*, p. 11. Brilmayer and Buchanan are correct to emphasize that secessionist movements are necessarily territorial. It remains to be explained, however, both (1) *why* states are territorial and (2) what justifies any given state's claim to political jurisdiction over its territory. The bulk of this paper addresses the latter question, but the former concern requires attention as well. Although I cannot adequately address this topic here, I think there are good reasons why states are, and must be, territorial. Political authority, like other forms of authority, is over persons. Political states are nonetheless identified and distinguished territorially because this is the only practical method of organizing persons as subjects of political authority. One might politically sort these same people according to some other characteristic (such as religious beliefs or eye color, for instance), but this would involve obvious practical difficulties. In short, political states exist to perform certain functions, and they can effectively serve these purposes only if they are defined territorially. Thus it is no mere historical accident that political states are currently territorial; the essence of a political state's function suggests, if not requires, it.

to resist coercively this secession. Thus any adequate analysis of secession will necessarily involve an account of what justifies the state's claim to exercise political jurisdiction over its territory. Different responses to this latter question will produce varying answers to the former.

Before examining different justifications for a state's claim to its territory, though, it is important to note two things regarding the moral dynamics of secession. The first is that matters of political self-determination are distinct, and should be kept separate, from other rights and correlative duties of justice. The second is that many of the secessionist movements grounded in past injustices have been misunderstood as grounded in political self-determination.

The first point is significant because it indicates that the moral justification of a secessionist movement need not be undermined by the remainder state's financial, military, or other dependence upon the seceding region. To see this, consider a case in which S constitutes a geographic region of people interested in seceding from a larger political unit R. Theorists often emphasize that a remainder state would be harmed by a secession because the remainder state, R - S, would lose either crucial revenue or military strength. Consider each of these arguments. In the lost-revenue argument, theorists explain that the economy of R as a whole depends upon either the natural resources in S or welfare transfers from the much wealthier people of S. Theorists then suggest that the people of R, in virtue of their reliance upon the income from S, may justifiably deny S's secession. According to the lost-military-strength scenario, the people of R are reluctant to let S secede because R - S would be left vulnerable to attack after S's secession. Here theorists suggest that R - S's potential military vulnerability justifies their blocking S's secession.

These arguments can provide moral reasons only to *limit the conditions* of S's secession, not to suppress it altogether. The fact that R would be economically handicapped without the financial transfers from S may obligate S to continue financial assistance after secession, but it cannot make secession impermissible under all conditions. (This weaker claim is true only if the people of R have a *legitimate* interest in this assistance that makes their claim one of justice.) Thus the financial-dependence argument allows us to conclude only that the people of S must continue welfare transfers after they secede, not that they may not secede. Likewise, the fact that R would be militarily vulnerable without

S's defense can obligate S only to continue as a military ally of R; it cannot make S unjustified in seceding *simpliciter*.

This is analogous to the morality of separation in personal relations. When a couple divorces, one partner may be obligated to continue financial transfers after the separation. But here, as in political secession, we can separate these duties from the bond itself, and thus we typically allow the divorce but insist upon the continued transfers. Similarly, if the people of R do not have the genuine moral rights to military protection or financial aid against the people of S, then these concerns obviously do not justify interfering with the people of S's right to secede. Even if the people of R do have these rights to financial aid or military protection, these rights can be honored without denying S's secession. Thus the moral duties of S's people cannot preclude them from having any right to secede; they can only limit the conditions of S's justified political divorce.⁵

The second point I wish to emphasize is that secessionist movements grounded in past injustices are often mistaken for those grounded in political self-determination. The traditional account of political legitimacy is that a state is justified in exercising political jurisdiction over its territory as long as it functions in a reasonably just manner. Many who espouse this view also endorse what they call the "principle of national

5. In all fairness, these nonpolitical duties can sometimes present significant obstacles for secession because of difficulties enforcing them after the political separation. For instance, R might be reluctant to let S secede for fear that S will discontinue its financial transfers once it is independent. These assurance problems complicate the issue, but they need block the secession completely in only very rare cases. If the potential remainder state has reasonable worries that its rights will be disrespected after the political divorce, then it may place a number of conditions upon the secession. For example, R might grant S independence in degrees so that each increment of sovereignty is extended only if the seceding region fulfills its responsibilities and gives every indication it will continue to do so. In addition, R might retain collateral or assurances (like a larger share of the military than would otherwise be appropriate) to assuage its reasonable fears. To allege that these concerns typically justify denying the secession altogether, on the other hand, would be analogous to suggesting that couples may not divorce for fear that each will not contribute his or her fair share of postmarital compensation and child-support.

One striking point of disanalogy between marital divorce and political secession is that political arrangements are less intimate than marital unions, and thus it is less burdensome to impose the former in order to ensure payment of obligations. Another dissimilarity between the two is that postmarital obligations typically exist *within* states whereas postsecessionist obligations necessarily obtain *between* states. This entails that, unlike marital responsibilities, secessionist duties exist under the uncertain conditions of international law without a reliable mechanism to oversee these obligations. Although I am

self-determination."⁶ According to the common understanding of this principle, colonies that have been forcibly annexed and certain *peoples* or *nations* that are treated sufficiently unjustly have a moral right to secede. Thus the traditional view of political legitimacy conjoined with the standard interpretation of the principle of national self-determination implies that, if the laws of R are unjust enough to the people of S, then the people of S have a right to secede, but if they are not sufficiently unjust, they do not. Once the distinction explained above between the right to political self-determination and other rights and duties is fully appreciated, however, the traditional view (despite its compatibility with a principle that many label the principle of national self-determination) provides no room for secession grounded in political self-determination.⁷

The traditional view suggests that to be legitimate, a government need not function exactly as all citizens would want, but it must treat its citizens in a minimally just manner. If a state has a valid claim to the territory it occupies as long as it avoids injustice, though, it is difficult to see how an individual or group can have rights to political self-determination. According to this model, the people of S can occupy one of two initial moral positions relative to the government of R. If the government is not, and has not been, unjust to the people of S, then the people of S are in no position to demand anything from the people of R, and

tempted to list available international enforcement mechanisms (countries routinely exert moral pressure upon each other via economic sanctions, for instance), the truth is that there may be some circumstances in which a remainder state could legitimately deny a secession for fear that the latter would not fulfill its obligations. The central point remains, however, that it is a mistake to assume *automatically* that S's obligations to R permit R to deny S's secession. I am grateful to the journal's Editors for requesting this clarification.

6. For a thorough explanation of the principle of national self-determination and how it has been interpreted and respected in the international community, see Buchheit, *Secession: The Legitimacy of Self-Determination*.

7. It is difficult to cite many theorists who explicitly hold what I call the "traditional" view because so few authors address secessionist conflicts grounded in self-determination. Of those who do, however, Lea Brilmayer seems to believe that a state need only avoid injustice to maintain its claim to territory, while Harry Beran (at least partially) contests this position. In lieu of a long list of "traditional" theorists, I point to the standard vocabulary of secessionist appeals. It is no accident that independence movements portray themselves as the victims of serious and prolonged injustice; I believe that secessionist groups couch their appeals in these terms in recognition that the international community is open to political reorganization only in cases of extreme injustice, and this is evidence that the "traditional" view leaves no room for secession grounded in self-determination. I am grateful to the journal Editors for suggesting that I address this point.

certainly they may not secede. If the people of R have been unjust to the people of S, on the other hand, then the people of S, because of their rights, are in a position to claim or waive what is due them. Because the claim to political self-determination is distinct and separable from other rights and correlative duties, however, the people of S are not in a position to claim political self-determination. Indeed, they can be in no position to claim that this right has been violated if they initially had no such right. They are in a position to claim only two things: (1) that to which they are currently being unjustly denied and (2) compensation for what has been unjustly denied them in the past. Since political self-determination fits into neither of these categories, it cannot be claimed by the people of S when the people of R treat them unjustly. Since the people of S have no right to political self-determination when the people of R treat them unjustly, as the traditional approach assumes, they cannot claim it then either. Therefore, the traditional model leaves no room for a right to secede grounded in political self-determination.

It is worth noting, however, how the people of S might be *misunderstood* to have a right to political self-determination on this account. If the people of S were treated unjustly by the people of R as a whole, they would be in a position to demand that the state amend its practices and pay reparation. If the people of R continually refused to stop present practices and pay for past injustices, they would, on this account, lose their claim to the territory in S. Since the people of S occupy this land and have suffered the injustices, they would presumably have a valid claim to the territory in S. They would now be in a position to set up their own government in this territory and, insofar as this new government avoided injustice, the people of S would continue to have a valid claim to this territory.

This scenario might be described as an instance of the people of S exercising their right to political self-determination. This description would be incorrect. Notice that on this account the people of S are morally justified in changing their political arrangement only after they are treated unjustly and can do nothing within the existing political scheme to rectify these injustices. This indicates that the people of S have a *primary* right only not to be treated unjustly, a *secondary* right only to compensation for a violation of this primary right, and finally a *tertiary* right to reorganize politically if their primary and secondary rights are vio-

lated. If there is no initial injustice, however, the traditional model leaves no room for the people of S to reorganize politically. Thus we cannot infer a right of political self-determination from the mere fact that a theory permits political reorganization under certain conditions. It provides only for a right not to be treated unjustly.

To see the error of ascribing a right to political self-determination to the people of S, consider the right to *religious* self-determination. One has a right to religious self-determination when one is free to hold, and act in accordance with, the religious beliefs of one's choice. If, on the other hand, a person is not allowed to change her religious practice unless the religion into which she was born discriminates against her, then she would not have the same right. In this latter scenario, she would definitely have a right (and this right would even make it permissible for her to change religious practices under certain conditions), but this is far from her having a right to religious self-determination. This second right amounts only to a right not to be a member of a religion that discriminates against one. Likewise, the traditional account of political legitimacy, coupled with the standard interpretation of the principle of national self-determination, leaves no room for political self-determination as such, only room for a right to be spared political injustice and a derivative, remedial right to self-determination when the exercise of this latter right is the only way to redress this injustice.

In sum, the points about the separability of political self-determination from other rights and duties as well as the centrality of claims to territory are especially significant observations. I certainly agree that there are cases in which groups have the right to secede because of past injustices performed by the remainder state, but this does not establish a right to secede grounded in self-determination. In fact, on the face of it, such a possibility is inconsistent with the traditional endorsement of an existing state's claim to its territory. My aim in this essay is to disregard the traditional model and to examine the precise nature of a state's claim to its political territory. Only once we understand the grounds for this claim can we see when, how, and what types of secessionist parties may also have valid claims to the territory they covet. This will determine if and when a party may secede, not because it was treated unjustly, but merely because it chooses to exercise its primary right of political self-determination.

II. THE CONSENT MODEL

Exploring the permissibility of secession leads to important questions for liberalism, since it forces one to analyze the legitimacy of the state and the coercion that political jurisdiction necessarily involves. These coercive methods have attracted so much attention because they limit the very value that liberalism seeks to protect: liberty. Thus the dilemma for liberals is that a government is necessarily intrusive in its attempt to protect its citizens' rights. Not only does the government coercively organize its citizens' activity in certain ways (by requiring that people drive at specified speeds and on a certain side of the street, for instance), but it disallows citizens from exacting their own punishments for rights violations and requires services in the form of jury duty, taxation, and even military service. Each of these intrusions would be impermissible if forcibly performed by a neighbor or a stranger, so the problem for liberal theory is to explain why the state is justified in such interference. (This is often understood as the problem of specifying how the political state is different from, and more permissible than, a mere 'gunperson writ large.') Specifically, it seems problematic that liberalism understands the individual to occupy a position of moral dominion regarding her affairs and yet simultaneously insists that the state is justified in encroaching upon this dominion. Thus a celebrated problem for liberals is to explain what justifies the state's jurisdictional sovereignty over the people within the territory it occupies.

The consent account of political legitimacy asserts that a state is justified only if the citizens have consented to it. This model has been the most popular solution to the problem of political legitimacy because it reconciles nicely the liberal conceptions of the person and the state. The consent account promises the perfect solution because, just as a neighbor may permissibly encroach upon one's normal sphere of moral dominion when one consents, the state would be justified in its intrusions if its citizens had consented. As we shall see, however, the consent model purchases this tidy resolution between the liberal conceptions of the person and the state at the high cost of implausibility. I will give a four-step argument to explain why the consent approach must be rejected. First I show that many putative 'consent' models do not actually require political states to have the citizens' consent to be legitimate.

Second, I demonstrate that a genuine consent model allows a virtually unlimited right to secede from states not grounded in consent. Third, I briefly explain why existing states do not satisfy the consent requirement. Finally, I show why the implications of these first three points force us to dismiss the consent model.

The first point to note is that many variations of the consent approach do not actually require the citizens' consent for political legitimacy. Perhaps the most obvious instance is hypothetical consent. As David Schmidtz has explained, this method is actually teleological rather than emergent because what finally justifies the state in this model are the functions it performs rather than any actual consent it receives.⁸ The reasoning here is that since the consent is merely hypothetical, it is not any act of consent that legitimates the state, but the supposed fact that the citizens *would* (or *should*) consent to the state. But we posit that citizens would (or should) consent to the state because of the functions this state performs, so that what ultimately justifies the state is its function rather than any act of consent. Thus while a particular hypothetical consent account might be instructive if it illuminates how and when a state is legitimate, none is properly a consent model since none requires any act of consent to justify a state.

Probably the greatest variety of putative consent models has been advanced under the title of 'tacit consent.' Many of these theories are quite complicated and it is often difficult to determine whether by 'tacit' a given author means unspoken actual consent or merely that while no actual consent transpires, a second party is justified in proceeding as if the first party had consented because she *would* or *should have*. Despite the considerable difficulty of determining the status of particular theories, each must fall into one category or the other. If it is the first type (a theory that involves actual consent given in an unspoken fashion, perhaps by means of some convention) then it can be grouped in the discussion of actual consent below, and if it is the second type (a theory that does not require an act of consent because specified consequences allow one to act *as if* consent was given even where it is known to be absent), then, like hypothetical consent, it is actually a teleological model that does not require consent for legitimacy. I will reserve the

8. Schmidtz, "Justifying the State."

label 'consent model' for only those accounts requiring an act of consent for legitimacy and will now examine the implications of such a requirement.

Harry Beran has argued that the consent model leaves ample room for a right to secede from those states to which no consent was given.⁹ The idea here is that if each individual enjoys complete dominion regarding herself, then only her consent is sufficient to determine her membership in a political union. Beran writes, "Liberal democratic theory is committed to the permissibility of secession quite independently of its desirability in order to increase the possibility of consent-based political authority. The claim is this: if persons have a right to personal and political self-determination, then secession must be permitted if it is effectively desired by a territorially concentrated group and if it is morally and practically possible."¹⁰ Thus Beran concludes that the consent theory of political legitimacy entails that individuals have a moral right to emigrate and change their nationality and that "any territorially concentrated group within a state should be permitted to secede if it wants to and it is morally and practically possible."¹¹

Allen Buchanan contests the view that such a robust right to political self-determination follows from the consent model of political justification. He writes, "The consent and fair play arguments can at most demonstrate the conditions under which the state no longer has authority over people; they cannot show when the state no longer has control over territory. So arguments from consent and fair play, contrary to initial impressions, cannot even *in principle* justify secession."¹² Buchanan is assuming that the state *already has* a justified claim to the territory and that the consent arguments are designed to show only that citizens have moral obligations to follow the state's laws. In fact, Buchanan endorses the position that the current state occupies a trustee position such that it should adjudicate secession cases in terms of the long-term interests, not only of all current citizens, but of future generations as well.¹³ This view presumes that all current citizens and future generations already have a legitimate claim to the territory, but we cannot use this presumption to explain the impermissibility of secession, since it is precisely the state's claim to territorial sovereignty that we are assessing. We are put-

9. Harry Beran, *The Consent Theory of Political Obligation*, p. 37.

10. *Ibid.*, p. 36.

11. *Ibid.*, p. 41.

12. Buchanan, *Secession*, p. 73.

13. *Ibid.*, p. 109.

ting aside questions of the citizens' moral obligations and examining the state's claim to its territory if this claim is grounded in the citizens' consent. Clearly we must dismiss any appeals to consent that *presuppose* the state's claim to the territory as an indication of the validity of the state's claim to territory. Thus while Buchanan may be correct to criticize any who infer a right to secede from a consent model of *political obligation*, one cannot similarly criticize those who ground a state's claim to its territory in the citizens' consent. So Beran is correct to assert that if a state's claim to its territory can be justified only by consent, then a state that lacks consent cannot justifiably deny secessionist movements.

Thus it appears that if a state's claim to its territory is justified only by the consent of its citizens, any party that did not consent to its state would have a right to secede. Indeed, the implications of the consent model would actually be more radical than even Beran admits. Rather than give every individual a full right to political self-determination (which would entail that each individual could decide whether to remain in her existing political union, secede with others, or secede by herself), Beran concludes only that individuals be allowed to emigrate and that certain groups be allowed to secede. He does not fully spell out what would qualify a group for this right, but he lists a number of circumstances that would preclude secession. Among other things, these include (1) if a group "is not sufficiently large to assume the basic responsibilities of an independent state," (2) if it "occupies an area not on the borders of the existing state so that secession would create an enclave," or (3) if it "occupies an area which is culturally, economically, or militarily essential to the existing state."¹⁴ The problem for Beran is that these restrictions are inexplicable in a pure consent model. This model asserts that a state's intrusive presence is not justified without the consent of its citizens, and yet these restrictions are instances in which the state may deny the political liberty of its citizens even without their consent. Presumably Beran restricts these particular secessionist movements because each would be costly to either the remainder state or the seceding group. But these costs cannot justify denying the existence of liberty-rights without the model changing from a consent to a teleological model. If the consent of each individual is truly essential (as the

14. Beran, *The Consent Theory of Political Obligation*, p. 42.

consent model indicates and Beran acknowledges elsewhere), then each individual has a full right to political self-determination, which includes the right to secede from any political union to which she has not consented. Before we judge the plausibility of the consent requirement, however, we should note that existing states have not received the consent of their citizens.

John Locke suggested that citizens can be understood to have consented to the imposition of the government by virtue of their residence (or even brief visits) within the state's borders.¹⁵ Since Locke, there has been a wide variety of explanations as to how and why citizens can be said to have consented to their governments. Certainly I cannot address each of these models here, but rather than merely stipulate that citizens of the current states have not in fact consented, I shall briefly illustrate why even the most promising attempt to show the citizens' consent fails. I will look at voting in democracies and explain why even those who voted for the winning side are not morally bound as if they had consented.¹⁶

The problem with this approach is that voting on political options in existing democracies is significantly disanalogous to acts of tacit consent in other arenas because the voter is never given the option of whether there will be a government or not. Instead she is given only a voice (and typically a negligible one at that) in what particular form this government will take. Thus even if a citizen *could singularly control* the outcome of a given election, she would not be morally bound by its outcome, since she never consented to the restricted options of the election. Thus, unless a voter is given an option of being exempt from the political imposition (i.e., allowed to secede), she cannot be bound by the outcome of an election in which she voted. To say that a citizen is bound to a law since she voted for it (given the practice of current democracies) is like saying that a person has consented to being shot since she expressed a preference that her abductor shoot rather than stab her!¹⁷

15. Locke's theory of political obligation involved more than merely this tacit consent, since he posited an initial act of explicit consent among the state's founders. This view may be normatively plausible, but I do not discuss it here because I take for granted that it is historically fantastic.

16. For instance, both Carole Pateman, in *The Problem of Political Obligation* (Chichester, N.Y.: John Wiley, 1979), and Peter Singer, in *Democracy and Disobedience* (Oxford: Oxford University Press, 1987), have explored the connection between voting and political obligation.

17. One might object that the analogy between having a vote and being abducted is

I believe that other consent models suffer from the same problem as the voting account, and consequently all attempts to demonstrate the consent of citizens in existing states fail. Since existing governments, even democratic ones, have not been consented to, it follows that the consent requirement has not been satisfied by existing governments and, therefore, the consent model takes all contemporary states to be illegitimate. This leaves us at a crossroads in the discussion. If one resolutely insists that each human stands in a position of complete moral dominion over herself such that no second party is justified in coercing her so long as her actions are not harmful to others, then one seemingly must accept that existing states illegitimately interfere with their citizens' lives. A second option, however, is to maintain that a political state can legitimately claim jurisdiction over a territory without necessarily receiving the consent of all those within its territory. This latter option involves jettisoning the assumption that all humans occupy a position of absolute dominion, free from all coercion as long as their behavior remains harmless to others. This choice constitutes such a crossroads, then, because it involves either accepting or rejecting the rigorous libertarian position. Most liberal theorists reject the libertarian position and insist that the state is justified even without consent. While I know of no incontrovertible argument for this conclusion, I can offer a thought experiment that shows why many are led to this conclusion.

Consider the following scenario. Suppose that you were just sworn in as president of the United States, or even better, became the leader of a state with less effective checks on executive power. Suppose further that you reviewed all of the arguments regarding consent and arrived at the conclusion that there was no genuine sense in which it could be said that your citizens had consented to the government's presence. Would you consider it your moral duty to request the consent of all your citizens before you acted as chief executive of the state?¹⁸ That is, is it your

misleading since one can elect not to vote but cannot choose not to be killed, but this objection misses the point of the comparison. The two positions are importantly analogous because neither the citizen nor the abductee can choose whether or not she will be coerced. The abductee will be killed no matter how she responds (and even if she does not answer the abductor's question) and the citizen will be subjected to coercive laws no matter how she votes (and even if she does not vote). I appreciate the Editors' pointing out the potential for confusion here.

18. One might ask whether the state is being run justly or if the government is beneficial to all, but these questions are not important to the consent model. This is because the consent account asserts that the government is just only if it is consented to (and thus

duty to make a public declaration that any group or individual may secede with their private (and perhaps some public) property, and that any individuals who express no interest in seceding would thereby be issuing their tacit consent to the imposition of the political state? Most believe that such an offer is not morally required. This conclusion is extremely important since it represents a presumption that the state need not have the consent of its citizens to justify its jurisdiction over its territory. What is more, one's explanation as to why such an offer is morally unnecessary constitutes one's nonconsensual justification for the state. With this in mind, let us examine this justification now.

III. THE TELEOLOGICAL MODEL

Most of us would balk at the suggestion to permit unlimited secession because of the harmful consequences that would result. It does not require a full Hobbesian account of human nature to predict the profound insecurity and inefficiency that would follow the United States' division into a small, porous, discontinuous country interrupted by thousands of independent political units. In the absence of a common territorial power, the citizens of the new political arrangement (The Divided States?) would have insufficient legal reasons against interfering with the moral rights of others. Where before a person might have refrained from stealing a neighbor's television for fear of the common police and judicial system, she would now recognize the practical opportunities of stealing a neighbor's possessions when that neighbor is a citizen of (or even in herself constitutes) another country. These problems would arise not only for those who secede, but for citizens in the remainder state as well. This is because the number and geographic concentration of remaining citizens could be so diminished that effectively protecting their rights would prove extremely difficult, if not impossible (especially in those areas where a small number of remaining U.S. citizens were completely surrounded by new foreign countries).¹⁹

could not be governed "justly" without consent) and its mutual beneficiality is insufficient to justify it without consent.

19. One might think that this explanation shows why people will band together in strong groups instead of seceding rashly, rather than being an argument against the right to secede. But the fact that this scenario may provide the former does not preclude it from generating the latter as well. I think that the harmful conditions of unlimited secession explain why people would be both imprudent and immoral to bring about such profound

The important thing to notice is that if a state is justified in denying political self-determination for these reasons then it has a *teleological* rather than an emergent or consensual justification. That is, the state's claim to territory is grounded in the function it serves rather than in its having emerged through a consensual process. I argued that if a state's claim to territory is valid only if its sovereignty was consented to, then this would allow for a robust right to secede based on an individual's or group's right to political self-determination for those states in which consent was never given. If the state has a valid claim to its territory by virtue of the security and efficiency it provides, however, then the citizens' consent is superfluous, and citizens have no right to secede grounded in concerns of political self-determination. Given this teleological justification of the state, it seems that discriminatory redistribution, rectificatory justice, and other rights violations by the state are the only potential grounds for a party's right to secede. That is, a political state is justified in exercising its coercive jurisdiction over its land as long as it performs the function of securing peace without committing injustices, and the citizens have only a right not to be treated unjustly, not a primary right to political self-determination that permits secession in the absence of injustice.

It is important to recognize, however, that the teleological model suggests an alternative which the consent approach does not. Specifically, the teleological approach allows secessionist parties to claim a right to secede grounded in *efficiency*. Given that R's claim to the territory in S is grounded in the function the state performs in that territory, suppose S claimed a right to secede by virtue of its ability to perform this same function more efficiently (either by performing the same function at a lower cost or by performing the function better at the same cost). Would S be justified in seceding? To control for questions of justice which might cloud the issue, assume that this is not merely a case in which S is the wealthiest territory and thus that R would be significantly unable to perform this same function in the remainder state, R - S. Suppose instead that the existing inefficiencies can be attributed to either diseconomies of scale or territorial discontinuity. Consequently, not only would S be able to perform more efficiently the function of government

political insecurity, and anyone who focuses upon only the prudential reasons to avoid this state of nature leaves an important part of the moral story untold. I appreciate the Editors' emphasizing the importance of these two types of reasons.

separate from R, but R - S would also experience greater efficiency (or at least no appreciable decrease in efficiency). Suppose, for instance, that Alaska might be able to provide more efficiently for itself than the United States as a whole currently does, and that the United States without Alaska would be a more efficient political unit because of its more manageable size and increased contiguity. If this were empirically true, would Alaska have a valid claim to its territory according to the teleological model?

One might reject Alaska's claim to territory as long as the United States satisfactorily performed the function that a government must. This would be to assert that a state's claim to territory is valid so long as it performs its function at or above some minimal level of adequacy.²⁰ While this response is tempting, it is incompatible with a straightforward teleological justification for the state. If the sole feature grounding a state's claim to its territory is that the state's presence in this region serves a vital function, it seems *ad hoc* to assert that the state maintains this claim as long as it performs this function *merely adequately*. Given that the state is justified through what it does rather than through its being consented to, it seems natural that any competitor better able to perform the very same function would thereby extinguish or outweigh the existing state's claim.

At this point one might object that the threshold level of adequacy is not arbitrary because it renders governments more stable and secure, which is in itself a desired end. One might claim that the massive costs of changing governments create a presumption in favor of the existing political boundaries, represented by the threshold level required for territorial sovereignty. While I concede that the costs of redrawing political boundaries can be substantial, this provides no argument for a threshold requirement. We must consider whether there would be a difficult transition period if Alaska were to secede from the United States, but this cannot preclude the permissibility of secession. If a political state has a claim to its territory by virtue of the function it does (or could) perform, then the difficulties involved in a switch to Alaska's independ-

20. It does not follow from this that rights violations by the state would not justify secession on the straightforward teleological model, because a state that violated rights would *ipso facto* not be performing its necessary functions (since its paramount function is to protect rights).

ence indicate only that this change must beget sufficient improvement to justify these transition costs, not that Alaska has no claim to its territory under any circumstances. Thus we can conclude that the costs of altering international borders may only limit the number, rather than completely preclude the possibility, of permissible secessions.²¹

An exception to this would be a secessionist movement requiring a transition period in which the rights of citizens are violated. Any secessionist movement that violated rights would obviously not be justified, but one must recall that, if the secession provides sufficient improvement in the state's ability to perform its function, then the seceding party has a claim to the territory and, therefore, the secession could not be blocked by any appeal to *territorial* rights. Thus it appears that existing political boundaries are not unchangeable under a straightforward teleological justification of the state, since any party that could more efficiently perform the functions of the state would be justified in seceding. Therefore, the teleological approach implies that a right to political self-determination exists which is limited to only those groups that can perform the political function better than their existing state without excessively impairing the remainder state's ability to govern itself.

Although these conclusions regarding secession are plausible, the model of political legitimacy upon which it rests has other implications which are less welcome. In particular, if the teleological justification for the state entails that secession is justified when the new political arrangement will be more efficient, then it also justifies forcible annexations under analogous circumstances. For instance, if Alaska's claim to its territory outweighs the United States' claim in those cases in which the former could better perform the state's function, then it follows that the United States could likewise forcibly annex Canada if the new union could better perform its governmental function in Canada than Canada currently does. But this just seems wrong. It appears more plausible to say that Canada retains its political sovereignty regardless of how much

21. One might object that, while transition costs do not "preclude the permissibility of secession," they do imply that cases of permissible secession are rare. I concede that these costs could limit political liberty, but just how much cannot be determined without an in-depth examination of particular cases. I offer no such examination here because, as I argue below, the straightforward teleological view must be rejected. I am thankful to the Editors for suggesting this possible objection.

better a union with the United States would be. If Canadians prefer to remain independent of the United States then the latter would not be justified in forcibly annexing the former despite any possible increases in efficiency. But since the straightforward teleological model of political legitimacy cannot account for a state's claim to territory in the face of competing claims grounded in increased efficiency (as we saw in the secessionist case), we must either abandon the straightforward teleological model or accept the idea that forcibly annexing independent countries like Canada is sometimes permitted. Because I am reluctant to adopt this last conclusion, I am forced to jettison the strictly teleological model.²²

IV. THE HYBRID MODEL

We earlier dismissed the consent account of political legitimacy for its implication that secession is permissible for virtually every individual or group in existing states, and now we have rejected the teleological model for its conclusion that forcible annexation can be permissible. Given our rejection of these two views for opposite reasons (the consent model allows too *much* political liberty while the teleological account provides too *little*), it seems sensible to explore the prospect of a hybrid view that avoids each of these extremes regarding the right to political self-determination. What is appealing and what is unacceptable about each approach?

We were attracted to the consent account for its concordance with the idea that individuals occupy a position of moral dominion regarding their own affairs, but we ultimately rejected this model for its implication

22. One might object that many forcible annexations would not be permissible on the teleological model because the annexing state is unlikely to be able to govern effectively a group that was annexed against its will. Against this objection, notice that any government which lacks the consent of its citizens (as all existing states do) governs by force, and there are plenty of examples in history of forcibly annexed citizens being governed quite effectively. More importantly, though, we must reject the teleological model even if it turns out that almost no forcibly annexed group could be governed effectively. We should still reject the teleological view in this case, not because of the frequency with which it *in fact* gives incorrect responses, but for the fact that it *could* give wrong answers. These counterfactual errors are important because they reveal the teleological model's inability to capture important values. In particular, it does not appreciate the importance of self-determination. (I am grateful to the Editors for pointing out this possible objection.)

that unlimited secession is permissible despite the harmful consequences involved. One might object to this rejection of the consent model, since there are currently national boundaries, and we do not experience the type of harmful behavior I claim would result. What is it about secession that will generate the conflict, insecurity, and inefficiency I predict? I respond that it is not secession *per se* but the proliferation of secessions and the resulting small size of the political units that would emerge from *unlimited* secession which are harmful. There is reason to think these factors would lead to problems within and among states, since smaller countries could not effectively police their borders and prosecute foreigners who might break their laws and flee. Consider, for instance, my inability to deter foreigners from stealing from me if I formed my own country. With the existing border arrangement, on the other hand, it is less feasible for individuals or small groups to loot other countries, and larger groups are dissuaded from doing so because of collective-decision and collective-action problems. (Imagine United States citizens trying to form a group big enough to loot Canada without American or Canadian authorities becoming aware of such a movement.)

It is important to note that my response suggests a possible hybrid solution to the problem of political justification. That is, since it is *unlimited* secession into many minuscule states (rather than mere secession itself) which is harmful, then perhaps we have no teleological grounds for denying secession. Instead we have teleological grounds that justify forcibly resisting only harmful secessionist movements. Let us then review the dialogue to this point: We begin with liberalism's presumption upon individual liberty, which provides a *prima facie* case *against* the government's coercion and *for* the permissibility of secession. Although this presumption in favor of political liberty is not waived via consent, it is outweighed by the negative consequences of the exercise of such liberty. But if this is so, then the case for liberty is defeated only in those circumstances in which its exercise would lead to harmful conditions. And because harmful conditions would occur in only those cases in which either the seceding region or the remainder state is unable to perform its political function of protecting rights, secession is permissible in any case in which this peril would be avoided. Therefore we can conclude that *any* group may secede as long as it and its remainder state are large, wealthy, cohesive, and geographically contiguous enough to

form a government that effectively performs the functions necessary to create a secure political environment.²³

According to this mixed political justification, in which states may permissibly restrict excessively harmful political liberty, there is a robust but limited right to political self-determination. To test this proposal, consider how this account of political legitimacy and its implications for political self-determination fit with our considered judgments regarding these matters. Consider the claims to political self-determination of individuals, groups, and existing states. The hybrid model of political legitimacy suggests that individual citizens have no right to secede based merely upon a primary right to political self-determination.²⁴ Groups may or may not have this right depending upon both the nature of the secessionist group and the status of the potential remainder state. If both the seceding group and the remainder state would be able to perform the functions a state must, then the secessionist party has a right to the territory and the remainder state has a duty not to interfere with the political divorce. Precisely what the size and nature of a group must be is a difficult empirical matter that could be decided only on a case-by-case basis.²⁵ Very roughly, however, we can speculate that a group of a hundred citi-

23. Note that the hybrid model need not be paternalistic (and thereby closer to the teleological than to the consent-style theory) merely because it denies that the people of S have a right to secede if S could not govern itself satisfactorily. If everyone in S made a free and informed decision to take their chances with the perils of political instability, then the liberal (because of her antipaternalism) could not restrict their liberty to do so. I say that the hybrid model denies the people of S the right to secede under these circumstances, then, because I assume that not everyone in S would so choose. The people of S may be said to want to secede if the majority has chosen to do so, but the liberal can still permissibly restrict S's political liberty in the interest of the minority. Under these circumstances, the remainder state is not acting paternalistically if it restricts the liberty of the majority in S to save the minority in S from the insecurity of a state of nature. Notice also that the remainder state could permissibly restrict the political liberty of S, even when the adults in S *unanimously* chose to secede, if the remainder state acted to save the minors (children) from the state of nature. Even this limitation of liberty would not be paternalistic, since it would amount to limiting the liberty of the adults in S to protect the children of S from the state of nature. I am indebted to the Editors for suggesting that I address this concern.

24. It might be argued that each citizen has a right to political self-determination which requires that she somehow be included in the decisions for the political collective to which she belongs, but this is nothing like a claim-right to jurisdictional sovereignty over a piece of territory on which she might form her own political unit.

25. For instance, suppose that the majority of Californians want to secede. Suppose also that, because of the population density in California, the majority in the combined terri-

zens would be too small while a group like all the citizens in Alaska would qualify.²⁶ Finally, consider the self-determination of existing states. If a state has satisfactorily performed its function of securing peace and protecting rights, then it has a right to its political autonomy and may not be permissibly annexed against its collective will.²⁷ However, according to the hybrid view, if the state is either unable or unwilling to secure peace and protect rights, then it does not have a valid claim to its territory against another party that is able and willing to perform this function.

This account is a *hybrid* view since it combines elements of both the consent and teleological models. It incorporates the intuition that drives the consent model insofar as it makes consent required for political legitimacy for all cases in which exercising this liberty is not excessively harm-

tory of California and Arizona prefer independence, even though the majority in Arizona oppose secession. What does the hybrid model recommend? The short answer is that the hybrid account allows for maximal political self-determination consistent with political stability. Very briefly, this means that California and Arizona would be carved up so that the secessionist territory would both (1) be politically viable and (2) include as many secessionists and as few unionists as possible. There would inevitably be some unionists forced to secede and some secessionists left behind, but this is unavoidable given the contiguity and size constraints of political viability. Obviously the hybrid model would leave fewer than the status quo, but more than the consent account, in a dispreferred political arrangement. Unlike either of the latter two options, though, the hybrid model of political legitimacy provides a systematic theory of secession that incorporates the liberal emphasis upon liberty and offers a principled justification for the political self-determination it denies.

26. One might object that the size requirement invites incentive problems insofar as it allows a small group, whose inclusion is necessary for a secessionist movement's viability, to demand special privileges. This type of scenario is not a problem for the hybrid model, however, because only groups who *in themselves* satisfy the size and other requirements have the right to self-determination, so only they (and not just any individual or tiny group) can veto a secessionist movement. Furthermore, I consider it a refreshing virtue rather than an embarrassing liability of the hybrid model that it sometimes gives minority groups a little political leverage. In fact, one of the most important reasons for respecting rights to political self-determination is that it may motivate states to govern in such a way that fewer people seek political divorce. If states were changed from unchecked monopolies to competitive suppliers in an open market, dissatisfied groups with rights to secede could create freindlier political arrangements, and the constant threat of secession would exert market pressures on existing states to treat minority groups with the decency they deserve. In this way respecting rights to political self-determination might spur states to treat *all* citizens in a manner that more closely achieves the mutual beneficiality the social contract tradition advertises. I thank the Editors for this suggestion.

27. For now I ignore the many difficulties of speaking of a collective's will. This article is a programmatic essay of a longer work on this topic, so I have had to ignore here many questions which get more attention elsewhere. Among these are the teleological justifica-

ful.²⁸ This approach is at the same time teleological, though, because it teleologically justifies a state's denying political liberty when the exercise of such liberty would be harmful. Thus it is consensual because of the liberty it allows and teleological because of the liberty it denies.

In sum, it appears that this hybrid view not only provides the best explanation of a right to political self-determination; it thoroughly coheres with our considered judgments regarding the rights of secession and annexation for individuals or groups within states and for existing states themselves. Consequently, we should embrace the conclusions that (1) any group able and willing to perform the functions required of a liberal political state has a claim to the territory it occupies and (2) this claim is valid as long as the exercise of the group's right to self-determination will not leave the remainder state in a condition that it has a right not to experience. In the end, a state should limit political liberty in a manner analogous to the way it limits the liberty to drive a car. Because many people would be harmed if there were no legal restrictions on who could drive, states permissibly institute age and health requirements limiting who may drive. Citizens not eliminated by these standards must also demonstrate a minimum threshold of competence by passing tests. In similar fashion, a state may initially restrict the right to secede to groups of a specific size, and then further require that interested parties demonstrate their ability and willingness to govern in a stable, efficient, and liberal manner.

V. IMPLICATIONS FOR REAL CASES

I would like to apply my model of political legitimacy to several prominent historical and contemporary conflicts of political self-determination: the American Revolution, the United States Civil War, the Lithua-

tion for the state, a conception of rights and its applicability to groups, and further limitations upon the right to secede.

28. The expression "excessively harmful" is deliberately vague. This vagueness is necessary since a commitment to liberalism underdetermines the amount of harm necessary to deny the liberty. Liberalism, as I understand it, places a premium upon liberty, but theorists can emphasize this liberty to varying degrees and still qualify as liberal. Thus the amount of harm necessary to justify denying political liberty may vary depending upon the particular model of liberalism one adopts. If one claims that 'any inconvenience' can outweigh an appeal to liberty, then there may be no room for secession grounded in a right to political self-determination, but this position accords so little weight to liberty that it would be inappropriate to label it liberal.

nian secession from the Soviet Union, the Quebecois secessionist movement from Canada, the division of Yugoslavia, and the United States' recent military invasion of Haiti. I hope that this section will be doubly instructive. Not only will these examples suggest how the deepest level of theorizing can generate clear and systematically derived answers to actual political controversies, but they will reveal how previous discussions of political self-determination have been confused by focusing upon peripheral rather than crucial issues.

Despite its revolutionary character, the American Revolution was actually a secession. The colonists never tried to eliminate the British government; they contested only the latter's authority to govern a portion of its existing territory. The secessionists claimed a right to political self-determination because they were being exploited. They lacked adequate political representation and considered themselves (among other things) overtaxed as a result. Thus the colonists' chief complaint, let us suppose, was that the British were extracting more money and resources than they were investing in the colonies. In the end, the colonists asserted that Britain had forfeited its right to political sovereignty over the colonies and, therefore, the latter had a right to be self-governing. In light of my analysis above, I would assess the situation differently.

First, I am not certain that British taxation was necessarily unjust even if the British were extracting more than they were investing. (I recognize that it is ordinarily unjust for the wealthier to benefit from the poorer, but I have no theory to account for cases, like colonies, in which the poorer have their productive capacities in part because of earlier investments by the wealthy.) What is more, I am not sure what type of representation justice requires if the government does not substantively discriminate against the underrepresented. (Again, I do not assert that no representation is necessary; I merely remain agnostic because I lack a sufficiently sophisticated democratic theory.) If my doubts are warranted, then it is a matter of controversy whether Britain acted unjustly enough to forfeit its territorial sovereignty.

According to the hybrid model of political legitimacy, however, these difficult matters of political representation and economic redistribution need not cloud our analysis of political self-determination. The former can be distinguished from the latter, and the colonists may have had a right to secede even if the British had not exploited them. What is singularly important, in my analysis, is the colonial capacity to perform the

requisite political functions. Because they were able to govern themselves satisfactorily, the colonies had a right to secede and form their own state. It may be that the British deserved additional economic transfers in return for their initial investments in the colonies, but this does not justify the former in restricting the colonists' political liberty; at most it can set limiting conditions upon the political divorce. What is more, if the colonists had been unable to govern themselves effectively, citing instances of political and economic injustice might not be enough to legitimize the secession. In the end, slogans like "No taxation without representation!" might justify disruptive tea parties and other acts of civil disobedience, but they do not correctly focus upon the issues pivotal to conflicts of political self-determination.

Consider now the United States Civil War. President Lincoln's stance on the issue of Southern political independence was striking because, unlike many commentators upon the American Revolution, he appreciated the distinction between political self-determination and the other rights and duties of justice. He separated the fate of the union from the question of slavery by alleging that he would readily free all slaves or no slaves, whichever would preserve the union. But while I applaud Lincoln's insightful separation of these two issues, I believe that he answered each of the individual questions incorrectly. In short, I think that regardless of the South's connection to the North, slavery in the former was impermissible, and that if the South agreed to end slavery, then Lincoln had no right to resist the secession. Assuming that the South and the North both had the capacity to function as independent states, Lincoln's only justification for restricting the South's political liberty would have been if this was necessary to end the injustice of slavery.²⁹ It is interesting to speculate upon how the South would have responded if Lincoln had offered to let it secede without slavery, but this is not important to our debate here. What is crucial is the hybrid model's rec-

29. According to Lincoln, one of the most important reasons against the South's secession was the fear that a great democratic experiment would be doomed by the division. Thus Lincoln felt obligated to fight the war (at least in part) so that all of humanity might reap the benefits of a successful democracy. The problem with this justification is that it demands too much of those who covet independence. How can we justify denying rights to self-determination in the name of uncertain benefits for future generations? Would we allow a communist leader to deny a similar secession that *might* hinder a communist experiment? Would we allow one nation-state to forcibly annex another nation-state in order to perform a multinational political experiment?

ommendation that the South had a right to secede as long as they were able and willing to form an effective and liberal state.

Lithuania's recent secession from the Soviet Union provides another example of how my analysis of political self-determination diverges from more traditional accounts. Lithuanians alleged that because they had been forcibly annexed fifty years earlier, their secession amounted merely to reclaiming territory that had been unjustly seized for half a century. Theorists all accept that forcible annexation is impermissible, but many believe that a state can gain authority over seized territory after a sufficient period of effective rule. Thus many supposed that the pivotal question regarding Lithuania was whether the Soviet Union had governed the region long enough to gain legitimate title to this territory.³⁰ Once again, I conceive of the conflict differently. I believe the crucial issue was Lithuania's capacity to function as a sovereign state. If Lithuania had this ability, the Soviet Union could not legitimately limit its liberty even if the Soviet Union had effectively governed that territory for a hundred years. If, on the other hand, Lithuania had lacked the relevant political abilities (and also the potential to regain this ability), then it would have had no right to secede even if it had been forcibly annexed only ten years earlier.

The hybrid model also carries striking implications for the Quebecois' movement to secede from Canada. Advocates of secession have claimed a right on a number of grounds including discriminatory redistribution and forcible annexation (a portion of what is now Quebec was initially seized by the British). The most frequent Quebecois cry for freedom, however, appeals to the necessity of political independence to preserve and strengthen the distinctive francophone culture in Quebec. A state's responsibility to support imperiled cultures is a fascinating topic that liberals have neglected for far too long, but I believe the Quebecois are wrong to focus upon this issue. The hybrid model shows that a state cannot justifiably restrict political liberty which is not excessively harmful, and thus a secessionist party has the right to secede when its political divorce will not jeopardize political stability. Thus contemporary movements like that of the Quebecois should shift their concentration from arguments regarding the importance of culture and focus instead

30. For an example of this type of analysis, see Allen Buchanan's discussion in *Secession*, pp. 87-88.

upon defending the claim that both they and the remaining portion of Canada would be able to perform fully the functions that a state must.³¹

Many onlookers marveled at Marshal Tito's ability to unite politically the different peoples of Yugoslavia. Initially Tito rallied the Serbs, Croats, Slovenians, and others against a common military threat, but once this enemy was disarmed, it was an open question as to whether they would remain united. Tito's immense presence among all the groups was a significant factor that moved each people to remain in the union. More recently, surprisingly long after Tito's death, the Croats and Slovenians initiated viable secessionist movements. Many Serbs feared this political divorce because, among other reasons, they were less wealthy than those who sought independence. Although the Serbs enjoyed a majority of the political and military control of the country, they were typically less wealthy than the Croats and Slovenians. Certainly there were myriad interrelated sources of conflict, but one chief tension was the Croatian and Slovenian desire for separation and the Serbian fear of the economic loss that might result from this political division.

Now, I assume without argument that anything like a campaign of 'ethnic cleansing' is morally repugnant, but it is more controversial whether the Croats and Slovenians initially had a right to secede. The first question is whether the Serbs had a right to (or merely an interest in) economic assistance from the other peoples of Yugoslavia. If the Serbs had no economic right to (but instead only interests in) this union, then certainly they could not have justifiably resisted the secession. But even if the Croats and/or Slovenians had economic duties to the Serbs, the former would have had a right to secede; they could have seceded on the condition that they continue as economic partners. As

31. One might object to my discouraging the Quebecois from emphasizing their imperiled culture. Why may they not focus upon their interest in seceding, rather than merely insisting upon their rights? I do not mean to suggest that the Quebecois should merely selfishly demand their rights, and I certainly am not alleging that cultural allegiance is of no importance. I want to stress only that political abilities rather than cultural attributes are the primary feature that can qualify a group for the right to secede. Thus I am suggesting that the Quebecois emphasize what genuinely qualifies them for the right to secede, not that they merely insist upon having this right. This distinction between claiming a right and supporting one's candidacy for a right is especially important in this case, because so many international lawyers endorse the principle of national self-determination, which asserts that all and only nations have a right to secede. As my hybrid model demonstrates, this principle is misguided by focusing upon cultural features rather than political capacities.

the European Economic Community (EEC) amply demonstrates, there is nothing inconsistent about sovereign states cooperating intimately and extensively on economic matters. According to the hybrid model, the only type of dependence that can block secession *simpliciter* (as opposed to setting limiting conditions upon independence) is *political* dependence.³² If the Serbs had been unable to perform the essential functions of a government without the Croats and/or Slovenians, then the latter would have been bound not to secede. I assume that the Serbs were politically self-sufficient, and thus they had at most economic rights against the Croats and Slovenians.

Finally, apply my hybrid model of political legitimacy to the recent unrest in Haiti. President Clinton threatened to invade Haiti to depose the military political regime and reinstate its predecessor.³³ Clinton alleged that the United States' armed forces were obligated to take this course to protect flouted democratic principles. In Clinton's estimation, the United States was bound to support a duly elected leader victimized by the brute force of a military coup. In my view, Clinton's actions were justified. I am wary of a single country invading another under any circumstances and would prefer a multi-national unit acting upon a United Nations' directive, but I certainly believe that states should help protect one another from external and *internal* predators. Assuming that the initial Haitian government was duly elected and functioning in a reasonably capable and just manner, it had a right to not be forcibly displaced. Provided the Amer-

32. As I explained above (in note 5), the story may be more complicated than this. If (1) the Serbs have substantial economic rights, and (2) these economic rights would be insecure in an international context (because nothing like an EEC type arrangement is possible), then the Serbs would have moral reasons to block secession. This point is of little practical significance, however, since it is extremely unlikely that a multinational state would ever be feasible when an international economic alliance would not. For a detailed account of the disintegration of Yugoslavia and possible solutions to the civil and economic strife, see Bogdan Denitch's *Ethnic Nationalism: The Tragic Death of Yugoslavia* (Minneapolis, Minn.: University of Minnesota Press, 1994).

33. One might question the relevance of the Haiti case for an account of secession. The reader should recall that, because every secessionist conflict involves competing claims to territory, we cannot have a systematic theory of secession without first settling upon an account of political legitimacy. What is more, accounts of political legitimacy might be rejected for their implications regarding forcible annexation as well as their conclusions concerning secession (remember that we dismissed the teleological model for its unacceptable implications regarding annexations). Thus the Haiti case is relevant to my account of secession because it is a type of invasion (similar to a forcible annexation) that is plausibly permitted by my hybrid account of political legitimacy.

ican forces conducted themselves appropriately then, they ought not to be blamed for protecting the rights of a legitimate government.

I certainly do not mean to suggest that any of these 'real-life' conflicts is as simple as I am supposing for illustrative purposes here. I firmly believe that it is incumbent upon political theorists to avoid abstraction to the point of irrelevance (indeed, at some point political theory can become so idealized that it ceases to be *political*), but it requires rigorous and specialized work to bridge the gap between the depths of political theory to the concrete surfaces of real-life applications. I think it is an important virtue of the hybrid model that it generates definitive and plausible conclusions where other theories are either mute or obviously mistaken (it is no accident that we arrived at this model via considering specific cases), but none of this implies that actual political conflicts are to be privately adjudicated by a philosopher within the sheltered confines of a collegiate office. As careful study of any one of these conflicts makes plain, it is high time an international body like the United Nations institute a standing committee to assess systematically all conflicts of political sovereignty. Certainly such a task force would have to be vigilant of a host of concerns that I have ignored here, but if I were called before this group, I would offer two recommendations: (1) focus upon political legitimacy and (2) adopt the hybrid model.

CONCLUSION

After examining the state's claim to political jurisdiction over its territory, we may conclude that liberalism houses a robust right to secede grounded in political self-determination and that the principal characteristic required for this right is a group's ability and willingness to perform the functions that a government must. The striking result of our analysis is that, even though a state can be justified by virtue of the functions it performs (rather than only via the consent of its citizens), there remains ample room for political self-determination. More specifically, because the liberal cannot justifiably restrict political liberty which is not sufficiently harmful, a secessionist party has the right to secede when its independence will not jeopardize political stability. In short, many groups have a primary right to secede even in the absence of past injustices. Because there is no justification for restricting the political liberty of a group like the Quebecois, they may stop arguing that their culture

is imperiled or that their rights have been violated in the past and begin insisting upon their primary right to political self-determination.

I have restricted my attention to those cases in which a group wishes to secede and form its own political unit. Given what justifies restricting political liberty in my model, however, many more groups (and perhaps individuals) would be justified in seceding in order to annex themselves and their territory to another state. For instance, the United States could legitimately restrict the political liberty of a group in North Dakota that wanted to secede and form its own union if this group was too small to govern itself effectively. But the hybrid model implies that the United States would not be similarly justified if this group was territorially contiguous to Canada and wanted to secede to join Canada. One might object that respecting rights of political self-determination in these cases would be too harmful. My response to this objection is threefold.

First, if there would necessarily be sufficiently harmful consequences to respecting this political liberty, then the hybrid model recognizes that these negative results provide grounds for outlawing this political liberty and denying the corresponding self-determination, but it is difficult to see what these unavoidable bad consequences would be. Second, the negative results predicted would provide both parties (the seceding group and the state it hopes to join) with incentives to avoid these bad consequences. Groups may have good reasons to exercise their rights to political self-determination (indeed, these very reasons make the rights so important), but presumably they would not exercise their rights when it would produce negative consequences any more than an individual would exercise her right of way in crossing the street when it would get her hit by a car. Finally, one can argue that respecting rights to political self-determination would actually have beneficial, rather than harmful, effects. In particular, good consequences might result from changing the state from an unchecked monopoly to a supplier in a competitive market. Rather than endure oppressive conditions in an unresponsive state, a group could secede and merge with another state that better served it. Furthermore, the constant threat that a group might secede would exert market pressures on existing states to treat minority groups with the decency they deserve. Thus, rather than necessarily causing harmful consequences, respecting rights of political self-determination might spur states to treat citizens in a manner that more closely achieves the mutual beneficiality the social contract tradition advertises.

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