

An Examination of the Feasibility of Cultural Nationalism as Ideal Theory

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ABSTRACT. The principle of national self-determination holds that a national community, simply by virtue of being a national community, has a *prima facie* right to create its own sovereign state. While many support this principle, fewer agree that it should be formally recognized by political institutions. One of the main concerns is that implementing this principle may lead to certain types of inequalities – between nations with and without their own states, members inside and outside the border, and members and non-members inside the same nation state. While these inequalities may arise, I shall argue that they are not unjust. These concerns are partly the result of confusing two types of interests that a national group may have – in cultural affairs and in political affairs. While a national community should enjoy rights over their cultural affairs, this does not grant them authority over other non-cultural, political affairs. Once the distinction is drawn, we can see that there are constraints on the implementation of this principle. Consequently, these inequalities justify setting limits to a group’s right to self-government, although they do not conclusively refute the right itself.

KEYWORDS. National culture, identity, sovereignty, self-determination, self-government

I. INTRODUCTION

The principle of national self-determination holds that a national community, simply by virtue of being a national community, has a *prima facie* right to create its own independent state (Caney 1997; Margalit and Raz 1990; Miller 1995; Moore 2001; Nielsen 1998; Tamir 1993). It is a theory of secession because it specifies the condition(s) a group must fulfil to claim the right to secede. In the literature, this theory is called the ‘national self-determination theory’ (hereafter the ‘nationalist theory’; Buchanan, 1997; Norman 1998).

While many philosophers support this principle, fewer agree that it should be institutionally implemented. Many are concerned that its implementation would lead to undesirable consequences. Affirming that people have an important interest in the preservation of national culture and identity does not mean that we must also affirm that they have the right to adopt every means necessary for its protection (Lee 2012, 130-136). As Andrei Marmor suggests, some interests, “[...] in spite of being important and worthy of protection [...] cannot be plausibly protected by the imposition of duties on others; because the duty would either be disproportionately burdensome or practically impossible to impose” (2007, 233-234).

Likewise, even if one endorses the nationalist theory, one need not also endorse all of the institutional arrangements that contribute to its realization. To determine whether the theory should be formally recognized, we must also take into consideration the costs, risks and side-effects of its implementation. What would it take to recognize such a right? What duties would it give rise to? What impact could it have on members, non-members, or international society? Would it inspire more secessionist movements? Would it lead to inequality or injustice?

In the present contribution, I shall assume that the nationalist theory is morally defensible and go on to consider whether its institutional implementation can be feasibly carried out. Various feasibility issues may arise, and I cannot consider all of them. Here, I shall focus only on issues pertaining to inequality. Specifically, I will consider three types of inequalities associated with this theory – between nations with and without their own states, members inside and outside the border, and members and non-members inside the same nation state.

While these inequalities may arise, I shall argue that they are not unjust. These worries are partly the result of confusing two types of interests that a national group may have – in cultural and political affairs. While national communities should enjoy rights over their cultural affairs, these rights do not extend to non-cultural, political affairs. Once the distinction is drawn, it becomes clear that there are external constraints on

the nationalist principle. Therefore, these inequalities justify limiting a group's right to self-determination, although they do not conclusively refute the right itself.

II. THE SCOPE AND LIMITS

Before I consider the feasibility problems, I should first clarify the concept of a nation and briefly introduce some arguments in favour of the nationalist theory. This should help readers see the full implications and limits of my argument. In addition, to avoid possible confusion I will contrast the nationalist theory with alternative theories.

First, nationalism makes claims about national communities. A national community is defined by culture, not political status or ethnicity (blood relation). Members of a nation share an encompassing culture (Kymlicka 1995, 76; Margalit and Raz 1990, 448; Miller 1995, 25; Nielsen 1998, 110). This includes, but is not limited to, a shared language, history, traditions and practices. Members of a national community usually identify themselves as such and value their cultural heritage. Moreover, a national community usually has a historical homeland where its members reside for generations and its culture develops. Examples of national groups include the Japanese, the Tibetans and the Uyghurs in China, the Jews, the Palestinians, the Kurds in Iran, Iraq, Syria and Turkey, the aboriginal communities across North America, and the Francophone community in Canada. We can see from these examples that some have their own states, others have their own autonomous governments, and still others do not form any kind of political unit.

Second, nationalism is commonly associated with the demand that “[...] the political and the national unit should be congruent” (Gellner 1983, 1). This thesis can be further divided into two separate theses: ‘cultural nationalism’ and ‘civic nationalism’ (Gans 2003, 7; Miller 1995, 82). Cultural nationalism holds that a national group should become a political one. Supporters typically demand that a group with a shared culture be

granted the right of self-determination. If this is infeasible, then the group should be granted the right to form other kinds of political institutions (e.g. an autonomous government). The main concern of cultural nationalism is the preservation of national culture; the creation of a political state is seen as a means. Civic nationalism, by contrast, holds that a political state should share the same national culture. It is concerned with the preservation of the state and regards the shared civic culture as an important means. The nationalist theory considered here is cultural nationalism, not civic nationalism.

Third, the nationalist theory is not the only theory a group can use to justify its right to secede. A group may adopt either a nationalist or a non-nationalist strategy to claim this right. The former justifies the right to secede by emphasizing the group's status as a nation; the latter regards such status as either irrelevant or insufficient (Buchanan 1996; Copp 1997; Lee 2012; Waldron 1992; Wellman 2005). The non-nationalist strategy justifies a group's right to secede without appealing to its status as a nation. Examples include the 'Just-Cause' and the 'Plebiscitary' theories (Buchanan, 1997; Norman 1998). The former holds that a group has the right to self-determination when it has a 'just reason', e.g. resisting colonial oppression or protecting human rights (Buchanan 1991). The latter holds that, under certain circumstances, a group may hold a referendum to decide whether it should become an independent state (Beran 1977; Philpott 1995; Wellman 2005). It does not matter whether the group has a shared national culture.

On the other hand, the nationalist theory considered here adopts the nationalist strategy and sees national identity as crucial. To defend the nationalist theory, some appeal to the moral value of national identity (Caney 1997; Margalit and Raz 1990; Miller 1995; Moore 2001; Nielsen: 1998; Tamir 1993). Others claim that national identity can be instrumentally valuable to democratic institutions (Miller 1995). Still others believe that minority status is inherently bad and solving the problem requires that minority nations be granted the right to self-government (Kymlicka 1995; Patten 2002).

I aim here to have clarified the scope and limits of the nationalist principle. The present article is concerned only with ‘national communities’. Its focus is on ‘cultural nationalism’, not ‘civic nationalism’. The feasibility issues considered here apply only to the ‘nationalist theory’, and not to other non-nationalist ones. In what follows, I will consider three inequalities associated with the nationalist theory.

III. FEASIBILITY ISSUES

Let us begin by considering Ernest Gellner’s comment on the nationalist theory.

To put it in the simplest possible terms: there is a very large number of potential nations on earth. Our planet also contains room for a certain number of independent or autonomous political units. On any reasonable calculation, the former number (of potential nations) is probably much, much larger than that of possible viable states. If this argument or calculation is correct, not all nationalisms can be satisfied, at any rate at the same time. The satisfaction of some spells the frustration of others (1983, 2).

This passage makes two points. The first concerns the amount of land necessary; while the second concerns the inevitable differential treatments of different groups. I will consider them in turn.

Gellner takes for granted here that the nationalist principle demands one nation, one state. This seems necessary because, *ceteris paribus*, if one group is given the right to create its own state, then others must also be granted the same right. This leads to the concern that, given the number of actual and potential national communities, there may not be enough land for each to create its own state.

In response to this challenge, David Copp suggests that although every nation has a right, not all of them will exercise this right (1979). Some groups, such as North American Indians, are not particularly interested in creating their own states. Tribal communities in the US and

Canada enjoy very high degrees of political autonomy. They have their own reservations and tribal councils, and only members of those communities have the right to make decisions regarding important community issues. Many national communities seem to be satisfied with their *status quo*; not all communities aspire to establish independent states.

Still, Copp's response cannot diminish the concern completely. If the international community were to recognize rights of nations to build their own states, we must anticipate the worst-case scenario in which numerous national communities exercise their rights. Is it possible for each of them to establish its own state? It is difficult for us to imagine how this could be possible, given the fact that members of many national communities live intermingled with members of other communities, and some are so dispersed that there is no territorial area in which they could form a state. In these cases, recognizing the right of one group amounts to rejecting the same right of others. Allen Buchanan thus suggests that we should understand Gellner's argument as requiring that rights must be *practicable* in some sense (1996, 292). There are times when a society cannot afford to recognize a right due to its lack of a necessary material condition. For instance, a society can afford to recognize the right of a citizen to health care only if it can afford the costs of recognizing the same right of all citizens. If the society cannot afford the cost, it cannot recognize this right. Similarly, unless we have enough land for each national community to create its own state, we cannot afford to recognize the right of a national community to establish an independent state.

This point about the sufficiency of land is often taken literally. Because Gellner talks about there not being enough land for viable states, his argument is sometimes understood as suggesting that there is literally not enough land in the world to satisfy all the demands of actual and potential communities. A question immediately arises – if there is enough land for all the people in the world, then how can there not be enough land for all the nations?

The reading that there is literally not enough land is misleading. This claim would be true only if we needed *additional* land for the prospective states. However, this is not what cultural nationalists have in mind. Instead of searching for new territory, most national groups plan to stay where they are. This demand for additional land might be a correct description of the situation when Europeans first immigrated to America. They were looking for a new place to form a new society. But this is not the demand of recent nationalists, who do not want to emigrate out of the jurisdictional area of their current state. Rather, they want to *change* the jurisdictional area of the current state.

Thus, another interpretation of Gellner's argument is as follows: because there are so many national groups in the world, if each built its own state, then the size of the resulting states would be too small to be viable.¹ The underlying assumption is that the number of national groups and the amount of land available for the realization of the principle of national self-determination is in reverse proportion. The greater the number of groups, the smaller the share of land each can receive to establish its own state. The smaller the number of national groups, the larger the share of land available for each to create its own state.

Whether this interpretation successfully weakens nationalist theory depends on whether it is a correct description of the world. The demographic distribution of the world can differ from time to time – the number of national communities can increase or decrease just as the population can. Whether cultural nationalism is feasible depends on the geo-demographic distribution of the world at that time. For Gellner, the planet contains room for a certain number of viable states. If the number of actual communities is lower than that, then there is no problem implementing the nationalist theory. However, if the number exceeds the threshold, then recognizing the right to national self-determination would result in serious problems.²

Even if it were true that our world has too many national groups and that the size of new states would be very small, the viability of such

societies does not seem to be a problem in this era of globalization, when international trade and regional alliances are commonplace. Gellner was concerned that if a state were too small, it might not be *viable*. However, there are many examples of small but viable states, e.g. Singapore, Lichtenstein, and the Vatican. Not only are these states viable, they are sound as well. A small territory might mean fewer natural resources and higher dependence on trade and importation, but it does not mean that the state would not be viable (Philpott 1995, 366; Moore 1997, 909). Whether a state is viable does not depend on its size. It may depend on other factors, such as whether there are sufficient resources to sustain the normal functioning of society or if the state has the capacity to defend itself against external aggression. Still, in this age of global trade and regional cooperation, these problems are not insurmountable. States lacking resources can trade with other states by joining the WTO, and states with weak military power can form regional military alliances with other states (e.g. NATO). Consequently, even if the principle of national self-determination were to lead to a situation in which the resulting states were very small, this does not mean that these states will not be viable.

It is worth mentioning that, even if a group does not have enough military strength to defend itself, this should not immediately disqualify the group from becoming a state. Daniel Philpott points out that if economic or military strength is a requirement, then a group seeking self-determination may be subject to blackmail from neighbouring states (1995, 366). If military strength were a necessary condition for statehood, then many existing states would fail the test, since no state can defend itself against nuclear weapons. The fact that another military power can defeat a national group does not make a state less legitimate. We also have to bear in mind that some societies have more peaceful societal cultures and are usually unwilling to use military force. Why should military power determine state legitimacy? The underlying assumption seems to arbitrarily favour groups with military ambitions. Although military power is

quite important, by itself it cannot undermine the soundness of a group's claim to establish an independent state.

IV. INEQUALITY BETWEEN NATIONAL GROUPS

The second criticism implicit in Gellner's statement suggests that because some national communities have serious difficulty establishing their own states, recognizing the right of a national community to establish an independent state would lead to a situation in which some groups have their own states while others do not. This seems unfair.

I argued above that although some nations could only build very small states, this does not mean that these states would not be viable. Thus, we can rule out size as the explanation for why some groups cannot establish their own states. What, then, can be the reason why some nations cannot found their own states? Is Gellner wrong, and is it possible for each national community to create its own state?

I believe that Gellner is correct to suggest that not all national communities can establish their own states. Now that I have ruled out reasons related to the size of prospective states, I will consider another reason why some national communities cannot establish their own states. The reason has to do with the geo-demographic conditions of certain communities.

Depending on the geo-demographic distribution, there are three types of national groups: 'territorially-concentrated', 'intermingled', and 'dispersed' national groups. Members of a territorially-concentrated national group, such as the Flemish in Belgium, live closely together in a defined territorial area. Members of intermingled national groups, such as Roman Catholics and Protestants in Northern Ireland, live intermingled with members of other national groups. Members of a dispersed national group, such as the Roma people, live dispersedly around the globe.

Being territorially concentrated or dispersed is a matter of degree. Even when a national group is territorially concentrated, as is often

the case in its historical homeland, this does not mean that there are no non-members residing in it. In addition, depending on how the boundaries are drawn, a group can have a majority or even an exclusive presence over a certain territorial area. However, if the boundaries were drawn differently, the same group would become a minority. At any rate, it seems that if national communities were given rights to secede, it is relatively easy for territorially-concentrated groups to exercise this right because it is relatively easy for them to draw the state border to encircle the members of their community. On the other hand, intermingled or dispersed communities would have serious difficulty exercising this right, as it is not clear how the state border could be drawn.

In the case of a dispersed community, members of the group do not live close to each other. Besides, there is no place in the world where there is a high concentration of members. It is thus difficult for them to demarcate possible territory. Accordingly, it is not clear how the group could build its own state. How can these groups exercise their right and create their own states?

The situation with intermingled national communities is not any better. Even if the group is the numerical majority in a certain territorial area, there still is a strong minority intermingled with it, and the minority has substantive interests over the same territorial area. In addition, the minority may have a competing claim for the same area. Some territorial areas include more than one group whose national identities are closely attached to the area. For instance, both Jewish Israelis and Palestinian Arabs are deeply attached to Palestine. In these cases, there is no way we can satisfy the demands of both to create their states at the same time.³ How do we decide here which group is entitled to establish a state? If we grant only one of them the right, we inevitably reject the same right of the other (Buchanan 1996, 292).

The arguments for the principle of national self-determination justify the right of a national community to establish an independent state by referring to the interests it has in the preservation of its national culture

or identity. In that case, if these interests are important enough to justify the right to establish independent states, then any national group, territorially-concentrated or not, should be granted the same right. In other words, if the interests in preserving national cultures and identity are important enough to justify the right to build a state, then all national groups should have that right, regardless of their population distribution.

To help national communities preserve their cultures and protect their interest in identity, many liberal societies grant national communities the right to cultural preservation. This right allows national communities to preserve their cultural heritage. As Buchanan suggests, either the right to cultural preservation is sufficient to protect the interests people have in national cultures and identity, or it is not (1996, 301). If it is sufficient, then why should any national group also be given the right to build a sovereign state? If it is not sufficient, then is it not unfair that some national groups can build their own states while others cannot? If dispersed and intermingled communities cannot establish their own states, does this harm any of their pertinent interests? What can we do for dispersed and intermingled national groups? Is there any way we can make up for their loss?

Although many philosophers argue for national self-determination in the form of an independent state, none of them insist that this right can be exercised in the case of dispersed or intermingled national groups. Presumably, this is because they observe that there will be insurmountable difficulties for these groups to exercise their rights. To address the problem, many philosophers modify their claims from a *right* of a national community to establish an independent state to a *good claim* or a *prima facie right* (see, for example, Margalit and Raz 1990, 454-461; Miller 1996, 265; Tamir 1993, 74-75; Nielsen 1998, 120-123). What the revision implies is that the right of a national community to establish a state should be weighed against the competing rights of other national communities or other interests. Even although a national community has a right to establish its own state, this right may be overruled by other more important

interests or more basic rights. Philosophers recognize that national communities with dispersed or intermingled populations may not be able to exercise such a right. Nevertheless, this does not mean that other groups cannot exercise theirs. The right to establish an independent state is not absolute, but has to be weighed against other rights.

There is one way to salvage the rights of those dispersed or intermingled national groups that, due to their geo-demographic conditions, cannot establish their own states. We can relocate people so that members of the same national community form a territorial concentration: Israelis on one side, Palestinians on the other. In this way even those national communities with dispersed populations can come to form a majority or even have an exclusive presence in some territorial area. This can be done via *voluntary* or *involuntary* methods: forced, involuntary relocation of people is, of course, not acceptable (Miller 1998, 276). It harms people's interests and changes their lives drastically. On the other hand, it is not clear how effective voluntary relocation is. Most likely, people would ask, "why should members of our group move? Why shouldn't they (members of the antagonist group) be the ones to be relocated?" Subsidies could be provided to encourage voluntary relocation, but it is not clear if any group could afford the costs, or how effective this measure would be. In addition, relocation requires the willing cooperation of both members and non-members – not only does a group have to encourage its members to move into the area of the prospective state, but they also have to encourage non-members to move out of the area. There is one serious problem with this type of policy – its ethnocentric flavour. This type of policy welcomes some groups but not others. It is not clear how we can justify such a policy without reference to some arbitrary criteria. Is there any good reason why only persons of a particular national background should live in a certain territorial area? Is there any good reason why persons of a different national background should move out of the same territorial area? This type of policy smacks of ethnocentrism and is for that reason opposed to cultural pluralism. Therefore, population

relocation is not an option – the cost is too high, and the measure is anti-pluralistic. We should not adopt massive relocation just to ensure that each national community can build its own state. The institution of the principle of national self-determination has to take the *status quo* as it is.

In that case, Gellner's claim is still pertinent. Given the demographic condition of our world, recognizing the right of a national community to establish an independent state necessarily leads to a situation in which some national groups, i.e. territorially-concentrated groups, can exercise their rights, but others, i.e. intermingled or dispersed groups, cannot. Is this unfair?

Echoing Gellner, Chaim Gans argues that, “[p]rima facie, it seems unjust to promote the right to self-determination by granting independent statehood and, consequently, international status with regard to some national groups while simultaneously condemning other national groups to an inferior normative status” (2003, 74; italics mine). Gans, however, does not explain what he means by describing stateless national groups as being in an inferior normative status. I assume he thinks that this is a case of differential, or even worse, preferential treatment. It allows some groups to realize their aspiration for an independent state, but denies others the same benefit. This is unfair because the reason that we cannot give all groups the same right is arbitrary from the point of view of justice. It is a contingent fact that members of some national groups live closely together while members of other groups do not. The way people live is a fortuitous happenstance that should not determine the fate of their national group (2003, 74-78).⁴

Some philosophers believe that this is not a problem. As long as the different consequences are not the result of unfair human manipulation, we can reasonably accept the fact that some nations simply cannot establish their own states. Yael Tamir argues, for example, that “As long as this variance only reflects the unequal distribution of the chance factors [...] it is hard to claim that a wrong was done” (1993, 75). Just as everyone has a right to buy a car, but not everyone can afford it, each national

group *has* the right to build their own state, but not all of them can afford to *exercise* that right. The fact that some cannot afford to buy their own car is not a sufficient reason to deny others the right to buy one. Similarly, the fact that some national groups cannot exercise their right to build their own state is not sufficient reason to deny other nations their right to do so. While there will be different outcomes for different national communities, this does not mean that nations are treated unequally. The outcome is not unfair because it is not the result defective institutional design or unfair human manipulation. Therefore, it is not unfair for some groups to be able to exercise this right while others cannot.

I agree with Tamir that even though the outcome is *uneven*, it is not *unjust*. I want to further repudiate the claim that there is inequality in the outcome by arguing that dispersed or intermingled groups cannot claim that pertinent interests of theirs are harmed if they cannot establish their own states. The right to build a state protects a group's interest in *political* affairs. Only territorially-concentrated national groups have an interest in the public/political affairs concerning a territorial area. Members of a dispersed national group do not share an interest in political affairs, and in the case of intermingled national communities, they share that interest with members of their neighbouring communities. We must distinguish here between two different types of interests – an interest in *cultural* affairs and an interest in *political* affairs. Both territorially-concentrated and non-territorially-concentrated national groups have interests in cultural affairs. However, only territorially-concentrated groups have interests in political affairs.

Consider the interest in political affairs. Political affairs are relate to questions such as where to build a power plant, how to deploy the military, and how to regulate monetary policies. These affairs arise because people share the same living space. We grant only citizens and no one else the right to participate and determine the political affairs of a state because they live in the same state and share a common living space. Public affairs in the said state have a direct impact on their daily lives.

It is not unfair for the Japanese government to deny a non-resident, such as a Puerto Rican, the right to vote for the prime minister in Japan since the decision has a direct impact only on those living in Japan. Those who are not citizens or permanent residents, even if they are ethnic Japanese or have a deep respect for Japanese culture, are not deprived of any fair interest if they cannot vote for the prime minister of Japan or decide where in Japan to build a subway. Political affairs concern the collective living of permanent residents. Thus, it matters where and with whom a person lives.

In the case of a dispersed national community, members of the group do not share an interest in political affairs, they do not share a common living space, they do not need to build roads or bridges together, and they do not have an interest in sharing the same military or monetary policy (Philpot 1995, 369).⁵ In short, they do not need a government that takes care of public affairs among them. Unlike a territorially-concentrated national group, a dispersed national group does not have an interest in establishing a new state. Thus, it is not clear if and how a dispersed national group could be harmed if it cannot establish its own state. If their interests are not harmed, then it is not clear how recognizing the right of a territorially-concentrated community to build an independent state makes the dispersed group normatively inferior.

In the case of intermingled national communities, members of two or more national groups share the same interests in the political affairs of the same territorial area. Decisions about the political affairs of the area affect every resident, regardless of his or her national membership: the construction of highways, the building of schools, and policies concerning military or monetary affairs. In that case, every permanent resident, regardless of his or her national membership, should have a say concerning the public affairs of his or her society (Marmor 2007, 63).⁶ If a person were prohibited from participating in public affairs due to his or her national membership, then he or she could reasonably object to this prohibition. Thus, an intermingled national community may not establish its

own state, as doing so may undermine the interests of non-members in public affairs. Does this mean that intermingled national communities are normatively inferior, compared to national groups that have their own states? Does this create inequality? Clearly not. If what I said about dispersed national groups in the previous paragraph makes sense, then even if a national community could not establish its own state, none of its pertinent interests would be harmed. It is thus difficult to see how recognizing the right of a national community to establish an independent state could be unfair to a dispersed or intermingled national community.

V. INEQUALITY BETWEEN MEMBERS *INSIDE* AND *OUTSIDE* THE NATION STATE

Recognizing the right of a national group to secede can have certain negative impacts on members of the group. Depending on the character of a nation's culture, it may allow the group to institutionalize certain reprehensible aspects of their culture. This may harm important interests of a certain subgroup of members. In addition, the building of a nation state can impede the participation of members outside the state border in cultural affairs.

Members Inside the Nation State

Many people oppose any form of nationalism because many national communities still have customs, traditions, or practices that undermine important interests of their own members. Some practices even violate basic human rights. For example, it is not unusual for national groups to have practices that violate important basic rights of women. In these cases, if the group were granted the right to preserve its culture, then it may institutionalize these harmful traditions and customs. What is even worse, if we gave them the right to build their own state, they might design the political infrastructure of their society according to these

cultural characteristics. The resulting public institutions would undermine important interests of those who would be the targets of these customs. Therefore, national self-determination should not be formally recognized.

The merit of this argument is that it warns us against the dangerous aspects of national cultures. Not every aspect of a national culture is worthy of institutional protection. The preservation of national cultures may be important, but it is important only to the extent that it contributes to the well-being of the people. Certain aspects of national cultures are quite harmful. If the recognition of a certain custom, tradition, or practice harms the interest of people, we may have reason *not* to recognize it.⁷ When a practice violates important human rights of citizens, we have reason to forbid it. Accordingly, in determining whether national self-determination implies the right to secede, we have to consider whether this right helps protect certain reprehensible aspects of national cultures.

While the principle of national self-determination stresses the importance of national cultures, it does not imply that national groups should be given unlimited rights to protect their cultures. We recognize national identity because it is essential for individual well-being. In that case, customs and practices that violate important interests of people should not be protected. Where a practice violates basic human rights, there is very strong reason to forbid it. In addition, as Marmor suggests, rights to cultural preservation “[...] are not rights to have the culture in question [...] but the right to the *material conditions* which render it possible for their culture to flourish” (2007, 245; italics mine). In short, national self-determination does not imply the right of national communities to preserve every custom, tradition, and practice of their cultures.

In addition, the right to establish an independent state does not imply the right to do whatever the group wants. As John Rawls points out in *The Law of Peoples*, a state does not have unlimited power, even over its own domestic affairs.⁸ States, including nation states, do not have the right to legally maintain cultural practices that violate the basic human

rights of their citizens. Even existing states are not immune from the evaluation of their human rights record. Accordingly, even if a national group can establish a state for itself, it does not follow that it has the right to disregard the basic human rights of its members.

One way to respond to this concern for human rights is by considering Buchanan's theory of 'recognitional legitimacy'. According to Buchanan, we can distinguish the 'right to secede' from the 'right to be recognized' as a legitimate state (2004, 261-289; 334-335). Many assume that the right to secede implies the right to be recognized as a legitimate state. This, according to Buchanan, is problematic. Under certain circumstances, for instance when a national community is oppressed or discriminated against, the international community may agree that the group has the right to secede from the society that oppresses it. However, this does not mean that the resulting state should be recognized as legitimate immediately. Whether the international community should recognize the legitimacy of this state may depend, *inter alia*, on whether the state protects the basic human rights of its citizens. If the state ignores the basic human rights of its own members, the international community has a reason not to recognize its legitimacy.

One may dispute the soundness of Buchanan's distinction. It seems to be generally accepted that a bad human rights record is not a sufficient reason for denying legitimate statehood. Almost all sovereign states have violated the human rights of their own citizens to various extents and international institutions do not seem to question or deny the legitimacy of these states. In this case, it is not clear if human rights violations constitute a sufficient reason to deny the right of a national group to establish an independent state. This does not mean that we can take violations of human rights lightly. Human rights are indeed very important and worthy of extensive protection. Nevertheless, there are other ways to protect them. Sovereign states may not be the best or the only institutions to protect human rights. The best protection may be a combination of domestic and international institutions.

Members Outside the Nation State

When a national group establishes a state of its own, its border may make it more difficult for those outside it to participate in the national culture of the group. This may generate certain disadvantages for those members of the group who live *outside* the boundary of the potential state. According to Gans, if we recognize that national groups are entitled to build their own states, this right might give members of the nation inside the state border privileged status over affairs concerning their national culture (2003, 80-83). This could hamper the interests of those outside the border, as they would not have equal access to the cultural affairs of their nation.

This disadvantage, which Gans calls ‘intra-national injustice’, is the result of comparing the powers and influences of members on different sides of the border. This comparison brings to light the fact that the principle of national self-determination cannot treat those inside the nation state and diaspora groups equally. Certainly, it would be unfair to allow only Jews living in Israel the right to make decisions concerning Jewish culture, while denying the same rights to Jews outside Israel. This would give only members living inside the nation state the right to decide cultural issues concerning the entire group; those outside the state border would be excluded. However, people should not be excluded from participating in the cultural affairs of their nation just because of their residency. From the point of view of national identity, what matters is whether people identify with the group and its culture, not where they live. The interest in national cultures and identity springs from the identity of its members. Therefore, those who share the said identity should be given equal access to the national culture, regardless of where they live.

Gans’s worry seems to be that if a national group were to establish its own nation state, then only members living inside the nation state would have the right to make decisions regarding their cultural affairs. Members outside the state may have less or even no influence over

cultural matters. However, this assumes that the right to establish an independent state also implies the right to authoritatively dictate all the cultural affairs of the nation. This is not the case.

I argued above that we should distinguish between the interests people have in *political* affairs from those in *cultural* affairs. When a national group is allowed to establish a state, members inside the state are given the right to decide on political affairs. This does not mean that the members inside the state should also be given privileged status over the cultural affairs of their group.

Consider again the difference between the two types of affairs. We grant only citizens (and perhaps non-citizen permanent residents) and no one else the right to participate in and determine the political affairs of a state because they live in it and its public affairs have a direct impact on their daily lives. On the other hand, cultural issues concern all members of a national group, regardless of where they live. Since these issues may concern every member of the national culture and not just those living inside the national state, all members should be given equal right to participate in the decision-making process. For instance, if an important decision regarding Jewish culture were to be made, all Jews inside and outside of Israel should be granted the right to participate in the decision-making procedure. Even if a Jew does not live in Israel, decisions concerning Jewish culture would still have a profound impact on his or her life *as a Jew*. Where one lives does not affect how much she values her national culture.

Thus, the creation of state boundaries should not give any person or any group inside those boundaries privileged status concerning the cultural issues of the nation. Still, we need to be careful about states that abuse their authority. The important task is to make sure that people would not be excluded from participating in their own national culture just because of where they live. Moreover, this discriminatory practice can happen even if no new nation state is created. To prevent intra-national injustice, we should focus less on whether a new state boundary is created,

and more on how to help people participate in their national cultures across state boundaries.

I think it is fair to say here that Gans overestimates the power of state boundaries. State boundaries may separate and thus limit something, but they do not separate and limit everything. While it is not unusual for state governments to abuse their political authority, it is not the norm accepted in the international society. Even legitimate states do not enjoy unrestricted authority. Therefore, even if a national community can establish a state of its own, this does not mean that the state can unilaterally determine the cultural affairs of the nation or limit access to culture.

VI. INEQUALITY BETWEEN THE NEW STATE AND THE REMAINING STATE

When a national group establishes a new state, it changes not only the borders of the original state but also its original institutional arrangements. This could have a profound impact on the interests of the remaining state. When a group secedes, the state boundaries are redrawn and the original system of social cooperation is disintegrated. Public institutions – including those that govern military affairs, monetary affairs, foreign affairs, national debt, and resource distribution etc. – require reorganization. When secession happens, the original military, which was composed of citizens from both sides, would have to be relocated, the weapons redistributed, and the defence system re-deployed. Monetary policy would also change, because one economic entity would be broken into two. Foreign relation policies would change, as each state would have to create its own foreign relations with other states. The collective national debt would have to be divided somehow. In addition, there would be change in the transfer of important resources. For example, if the seceding area includes a power plant that was the main or only supplier of electricity for the remaining state, this would have a serious impact on the remaining state once secession had taken place. Certain infrastructures, such as freeways, bridges, or reservoirs, would somehow have to be

divided. In short, when a group secedes, it withdraws from a collaborative system, and such a move will have serious impact on the remaining state.

Citizens have legitimate expectations for the stable cooperation of each part of the state over time. If any part of the society were to withdraw and somehow disrupt the cooperative regime, then the proper functioning of the society would for that reason be thwarted. For the sake of a stable society, each part of the cooperative regime is expected to perform its function properly. If there is something unfair about the original system, the disadvantaged party could legitimately complain that the system of cooperation is not fair for them. And if the complaint is not properly responded to, the disadvantaged group can have unilateral secession. Otherwise, no part of the society has the right to withdraw from it.

Perhaps the remaining state has a legitimate expectation for the stable cooperation of the seceding group. However, even if people have legitimate expectations of stable cooperation between each part of the state, this does not mean that secession cannot happen. According to Christopher Wellman, secession need not obstruct cooperation between the seceding group and the remaining state – when a group secedes, it does not have to stop the transfer of resources to the remaining state (2005). To maintain order in both societies, the seceding group and the remaining state can still form some kind of alliance to make sure that both societies run smoothly. What matters is not whether a state remains one single entity, but whether, after the break-up, both the seceding and the remaining state can properly perform their functions.⁹ Consequently, if the remaining state depends on the supply of electricity from the power plant controlled by the new state, then arrangements must be made so that the seceding area continues supplying electricity to the remaining state. Or, if the remaining state will become too weak to defend itself due to the break-up, the seceding group has a duty to provide military defence for it. In other words, the building of the new state need not and should not obstruct the proper functioning of the remaining state. Secession

must happen in a way that minimizes the impact on the remaining state. The process and consequences should at least not harm the important interests of the remaining state.

Because secession is a complicated issue encompassing multiple aspects of domestic society and international law, I cannot deal with it in detail here. The point I want to stress is that the recognition of the right to establish an independent state need not thwart the transfer of important resources between the separating groups. What should be limited is not secession itself, but the conditions for secession. Recognizing the right of a national community to create its own state does not mean that this group can disregard the interests of the remaining state.

VII. CONCLUSION

I have considered three types of inequalities associated with the implementation of the nationalist theory. I have argued that we must make a distinction between the interests in *cultural* affairs and in *political* affairs. Once this distinction is drawn, we can see why recognizing the nationalist principle would not necessarily lead to inequalities.

Recently, Pablo Gilabert and Holly Lawford-Smith have pointed out that the feasibility of a political theory can be assessed in a variety of ways – in terms of the core normative principle, the institutional implementation, and the political reform that could lead to its realization (2012). A theory's feasibility can also be a matter of degree (Lawford-Smith 2013). If so, then instead of assessing whether a theory is feasible or not, we can estimate how difficult it would be to implement the theory. I hope that I have successfully demonstrated that, although these feasibility objections provide good reasons to *limit* and *regulate* the right of national self-determination, they are not reasons to rule out the right. Given the importance of membership in national communities, we still have very strong reason to recognize the rights of national communities to establish independent states.¹⁰

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NOTES

1. There is a different concern about the possible consequences of continuous break-ups of societies. Some philosophers seem to believe that there is something intrinsically wrong with a world with a vast number of states. Their concern seems to be less about the viability of these states and more about the huge number of resulting states (Beiner 1998, 159-160).

2. The thesis that there is a threshold number of possible states seems to me to be implied in Gellner's suggestion that "Our planet also contains room for a certain number of independent or autonomous political units" (1983, 1).

3. What I mean here is that there is no way to satisfy the demand of both groups if we use national identity as the criterion to determine the distribution of territorial claims, which is presumably prescribed by the principle of national self-determination. However, if we adopt some other principle of distribution, we might be able to accommodate the attachments of both. There is indeed one way to settle the dispute, which involves granting custody of the land to both sides. However, this kind of arrangement allows the decision to be made not just by members of a national group but by members on both sides. It is difficult to see in what sense this solution can be seen as a form of *national self-determination*. For example, some philosophers argue that, in the case of the territorial dispute between Israel and Palestine, a multination state or some sort of partition may be adopted. For a discussion of the multinational arrangement, see Nielsen (1998, 120). For the partition option, see Moore (2001, 234).

4. Gans calls this unequal outcome 'global injustice'. It is in contrast to 'domestic injustice', where the injustice happens inside the state border. Global injustice has a global dimension, as it can happen across state borders.

5. Philpott mentions a similar point when he discusses why 'geographical libertarianism' cannot work: "[...] street cleaning, managing the environment and infrastructure, defense, education, and so on – the social tasks which require government – are done together: in neighborhoods, cities, larger regions" (1995, 369).

6. Consider a relevant argument explaining why citizens should be given equal rights to participate in democratic decision-making procedures. According to Marmor, part of the justification for the political authority of these procedures is that they demonstrate equal respect for

individual autonomy. Who thus has the right to participate in the decision-making of a domestic society? Marmor suggests that, “Plausibly, we may hold that in the political domain people deserve respect as the subjects of political authorities and as members of a body politic, namely, *as citizens*. Citizenship I take to be a morally significant concept: From a moral perspective, citizens are bearers of rights and duties *vis a vis* the state and each other” (2007, 63; italics original).

7. To say that certain illiberal aspects of national cultures may not be protected by the right to national self-determination is not to say that these aspects of their cultures are forbidden. We might have other reason to respect or tolerate them. For instance, liberals accept that a meaningful life can only be lived from within. Only when a people are convinced of the meaning of an action can the action be meaningful to them. Otherwise, the same action cannot be meaningful to them. We cannot make people’s lives meaningful by forcing them to do things that they do not find valuable. Thus, we may sometimes have to tolerate illiberal cultures.

8. I use the word ‘state’ to refer to what Rawls calls ‘peoples’. Rawls avoids using the word ‘state’ because he feels that as it is traditionally construed it implies unlimited sovereignty, which includes ‘the right to go to war in pursuit of state policies’. However, ‘peoples’ do not have such rights (Rawls 2001, 23-25).

9. Many philosophers believe that even if a certain group has a right to secede, this does not mean that they can do so without considering the impact on the rest of the state. A common analogy among these theories is, not surprisingly, divorce. Even if a divorce is granted, this does not mean that the two parties should stop the transfer of property. Likewise, even if two national groups separate, this does not mean that they have to stop transferring or supplying important resources to each other (Gauthier 1994, 357-372; Wellman 1995, 142-171).

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