

2005

Stateless National Groups, International Justice and Asymmetrical Warfare

Anna Moltchanova
Carleton College

Follow this and additional works at: https://digitalcommons.carleton.edu/phil_faculty

 Part of the [Philosophy Commons](#)

Recommended Citation

Moltchanova, Anna. "Stateless National Groups, International Justice and Asymmetrical Warfare." *The Journal of Political Philosophy*, 13, no.2 (2005): 194-215. Accessed via Faculty Work. Philosophy. *Carleton Digital Commons*. https://digitalcommons.carleton.edu/phil_faculty/2

This Article is brought to you for free and open access by the Philosophy at Carleton Digital Commons. It has been accepted for inclusion in Faculty Work by an authorized administrator of Carleton Digital Commons. For more information, please contact digitalcollections@carleton.edu.

Stateless National Groups, International Justice and Asymmetrical Warfare*

ANNA MOLTCHANOVA

Philosophy, Carleton College

NATIONAL minorities, or stateless national groups, and national groups with states of their own enjoy very different international status and privileges. State-endowed nations are full members of the international community and have control over their political future, whereas non-state national groups do not have an internationally recognized legal right to self-determination unless they are occupied or colonized.¹ They are not even considered to be nations according to the prevalent understanding of the meaning of the term in international relations, which associates “nation” with “state.” There are no legal international means for addressing the minority’s claim to self-determination, except indirectly through an appeal to the principles of human rights. However, once human rights are violated, it is usually too late to resolve conflict by peaceful means.

A military action is acceptable, according to just war theory, if it is waged by a legitimate authority, has just cause (such as a response to aggression) and if it is a last resort (such as a pre-emptive strike in light of an imminent threat to the very existence of a political community). A war should be waged so as to avoid use of excessive force and to minimize harm to non-combatants, who must not be intentionally targeted. Although in the current international paradigm the right to wage war belongs only to states, stateless national groups trying to wage asymmetrical wars often justify the goals and the means alike in terms of just war theory.

*I would like to thank the referees and editors of *The Journal of Political Philosophy* for their extensive comments. I would also like to thank students in my Phil 395 seminar on “Just and Unjust Wars” taught in the fall of 2002 at Carleton College for their stimulating discussions of the topic. The article was written during my release from teaching through a grant from Carleton College, supported by both the Roth and Bush faculty development funds.

¹The UN Charter acknowledges that “all peoples have a right to self-determination” but the right is limited in the current international law to occupied and colonized national groups. For some arguments supporting this interpretation see: Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995), and Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, 1996). For example, Cassese (at p. 319) states that self-determination is firmly entrenched in the corpus of international general rules in three areas only: as an anti-colonialist standard, as a ban on foreign military occupation, and as a standard requiring racial groups be given full access to government.

Many theorists agree that the just cause criterion can apply to non-state groups,² and that there are cases when non-state actors have *de facto* legitimate authority. Asymmetrical warfare can be viewed, under certain circumstances, also as the last resort of stateless groups. A national minority dissatisfied with its subordinate status and denied both means for improvement of its situation and the right to secede may consider asymmetrical warfare as the only remaining option for obtaining the political status members perceive their community deserves. In the absence of legitimate means to address their claim to self-determination, they can argue that they are waging an asymmetrical war in self-defense, as a last resort to protect their political community.

With some restrictions, many theorists agree that provided they represent a *de facto* legitimate authority and have just cause, freedom fighters can attack military targets. However, few theorists would argue that targeting civilians to advance the group's political goals satisfies the criteria of justice *in war*. However, in some cases terrorists may use the rationale of supreme emergency to justify their tactics. Such justification for targeting civilians or otherwise breaking the war convention applies, according to Michael Walzer, when either the survival or the freedom of a political community is in question. He considers the survival and freedom of political communities—whose members share a way of life, developed by their ancestors, to be passed onto their children—as the highest values of international society. The violation of these values in the absence of other means to protect them is a sufficient reason for supreme emergency response, due to the rule of necessity.³ The goal of the survival of the political community under extreme circumstances, however, does not mitigate the moral wrong of targeting innocent people but merely overrides it. Walzer argues that Churchill's order to bomb the German cities at the early but not later stages of World War II was justified.⁴ He does not apply his justification to terrorists trying to advance self-determination of a non-state group. However, the supreme emergency justification plausibly applies to their actions if there exists an imminent danger of total deterioration, paralysis and ultimately disintegration of their political community, when its way of life and the will of its people to self-govern are severely disrupted, as happened in Chechnya.⁵

²Haig Khatchadourian, "The morality of terrorism," *Contemporary Moral Problems: War and Terrorism*, ed. J. E. White (Belmont, C.A.: Wadsworth Thomson Learning, 2003), pp. 33–45 at p. 39; Laurie Calhoun, "The terrorist's tacit message," *Peace Review*, 14 (2002), 85–91; Andrew Valls, "Can terrorism be justified?" *Ethics in International Affairs*, ed. A. Valls (New York: Rowman & Littlefield, 2000), pp. 65–80.

³Michael Walzer, *Just and Unjust Wars*, 3rd edn (New York: Basic Books, 2000), p. 254.

⁴Walzer, *Just and Unjust Wars*, pp. 255–61.

⁵As the 2003 elections orchestrated by the Russian government demonstrated, the political community is kept alive rather artificially and its foundation is deeply shaken. Walzer says that self-determination "is the right of a people 'to become free by their own efforts' if they can" (Walzer, *Just and Unjust Wars*, p. 88). Since the deterioration of self-determining communities can bring them past the point where they are capable of being self-determining, they may want to try any means to safeguard their potential for being a political community before any prospect of success is gone and their militant action serves no purpose except the expression of their desperation.

To address destabilizing self-determination claims we need to regulate the behavior of sub-state groups with respect to one another and their host states. There are norms putting limits on other-regarding behavior of collective agents⁶ in relation to individuals; the set of universally accepted human rights provides some basic framework for this. However, there is a lacuna in international law in the regulation of other-regarding behaviors of groups towards groups (unless they are relations among states).

There is one element that any means of conflict resolution cannot do without: a background principle that specifies the mutual standing of the parties in conflict. A critic might say that we can make such decisions on a case by case basis rather than defining the status of non-state groups in advance. This approach is a compromise, the result of an inability to establish a unified principle.⁷ If, therefore, it is possible to establish such a principle, the compromise would not be necessary. Even in each particular decision procedure some principle would define the status of the parties with respect to one another even if only for the purpose of that decision. In this article I argue that there is at least one principle, equality with respect to self-determination, which can be employed across most political decisions to define the status of national groups.

To explain how this principle can mediate relations among the conflicting parties I introduce what I call “the Modified Right to Self-Determination” that grants all—state-endowed and non-state—groups equal status with respect to self-determination. This proposed equality does not require that a non-state group obtain an independent state; if possible, the conflict should be settled to avoid changes to international boundaries. To achieve this, the exercise of self-determination ought not to be considered equivalent to the acquisition of independent statehood. Rather, by providing equal status with respect to self-determination to all national groups in a multinational state we assure that they can fulfill their claims to self-determination within the state. This equality of status can take a variety of forms, from the creation of a special chamber of the legislative body, with equal representation for national groups and competence over the decisions having to do with their self-determination, to veto powers granted to national groups over issues affecting their vital interests. As long as the division of powers is negotiated among all the affected parties and accepted voluntarily, an institutional scheme reflecting this division is adequate for the

⁶I suspend judgment concerning whether group agents’ interests can be reduced to a sum of individual interests or their self-determination can be explained as exercised by each member of the group. I do it in part because the right can be meaningfully described as belonging to collectivities without such a reduction.

⁷Benedict Kingsbury points out that *ad hoc* responses to claims of non-state groups when “no adequate normative or procedural framework has been established in advance result in a very limited compliance-pull and legitimacy of norms and procedures.” He also calls the clash of the universal moral norm of the UN Charter that requires the equality of self-determination of all peoples with the limited legal right a “fundamental conflict between values of justice and the hitherto dominant values of order.” See Benedict Kingsbury, “Claims by non-state groups in international law,” *Cornell International Law Journal*, 25 (1992), 481–513 at pp. 485, 481.

equal recognition of self-determination of national groups on the territory of a multinational state.

Non-state combatants justify their tactics by the need for their political community to survive, by the inequality of power relations they are involved in, and the lack of avenues for the realization of their goals. If the Modified Right to Self-Determination (hereafter referred to as “the Modified Right”) were accepted in the international legal framework, it would be useful in responding to the moral claims of non-state combatants. The Modified Right undermines the moral basis for the “just cause” and “last resort” justifications for asymmetrical warfare, provides incentives for non-state groups to participate in negotiations, and eases their transition into responsible members of the international community.

In what follows, I defend the Modified Right and define the subjects of the regulation (Section I), demonstrate how the implementation of this right helps to resolve conflicts over the satisfaction of self-determination claims (Section II), and deal with possible objections to my approach (Section III).

I. THE MODIFIED RIGHT TO SELF-DETERMINATION

Section II of this article provides a consequentialist argument for the Modified Right which I introduce below (Section I.C) but I will briefly indicate a basic normative justification of why the claim to self-determination advanced by national groups is legitimate, and why different national groups should enjoy equal status with respect to self-determination (Section I.B). First I explain how I identify national groups that are the subjects of the right (Section I.A).⁸

A.

Nationhood is a complex phenomenon. Each national group bears multiple characteristics and has a complicated history. Although it is perhaps impossible to deal with the notion of nationhood in an uncontroversial way, we can select the least controversial way of identifying who is a nation by making the notion descriptive and pragmatic.

Nations, understood in terms of their relations to other national groups and their self-perception in this relation, are groups whose members share and identify with a general orientation to a political system and political power. This

⁸Strictly speaking, for showing how the equal right to self-determination defuses terrorists' moral justifications, I do not need to describe the right-holders and the norms in detail, for even the justifications of those who falsely claim they deserve self-determination are undermined by the availability of legitimate avenues open to them to deal with their claims. However, dealing with their claims will require verification to determine whether they have the right. For example, some elites of non-national groups may want to justify terrorist actions based on a self-determination claim they do not really have. Thus I still need to define a nation both to avoid problems with groups claiming the right if they do not deserve it and properly to administer the right.

orientation is based upon beliefs about the membership in the group as defining the meaningful bounds of political authority, and about the corresponding collective end of maintaining or acquiring effective agency.⁹ Thus members of national groups share a particular kind of political culture¹⁰ that relates membership in a group to the political power governing it.¹¹

Political directives and decisions governing a community and its individual members are authoritative only if based on dependent reasons—reasons which apply to the subjects of those directives.¹² If the shared set of beliefs about group membership does not identify the state whose political power governs the group as the political community which they consider as their own, the reasons for directives issued by the state authority cannot meet the basic condition of dependency. The reasons by which the members of the group are governed apply to them only from the perspective of the state power regardless of the group's position on membership. Although benefits of belonging to a larger state may create obligations on the part of minority groups towards other citizens they do not create their freely endorsed identification with the larger state and thus the appropriate terms of membership. Thus, to make decisions of political power exercised over the group authoritative it is necessary that the power operates within the domain identified by the members.

⁹Although my definition of a nation follows David Miller's in important ways, it is different in that it concentrates on political culture and not culture. Miller describes a nation as "a group of people who recognize one another as belonging to the same community, who acknowledge special obligations to one another, and who aspire to political autonomy—this by virtue of characteristics that they believe they share, typically a common history, attachment to a geographical place, and a public culture that differentiates them from their neighbors." David Miller, "Secession and the principle of nationality," *Rethinking Nationalism*, eds. J. Couture, K. Nielsen and M. Seymour (Calgary: University of Calgary Press, 1996), pp. 261–82 at p. 266. When Miller wants to distinguish between national and ethnic groups, he points out that national groups make a claim to self-determination and create the appropriate organizations and institutions to fulfill the claim; see David Miller, *On Nationality* (Oxford: Oxford University Press, 1995), p. 113. Hence it makes sense to refocus the definition to clearly identify that the public culture of national groups and the actual or desired political autonomy have to do with a special type of political culture.

¹⁰Archie Brown, for example, finds that a useful conception of political culture considers it as that part of culture which bears relevance to politics, while not only laws and formal institutions but also behaviour patterns are excluded from the scope of culture; Archie Brown, "Conclusions", *Political Culture and Communist Studies*, ed. A. Brown (London: Macmillan, 1984), p. 155. Stephen White offers a definition of political culture that includes behavior. According to him, political culture is "the attitudinal behavioural matrix within which the political system is located" (quoted in Brown, *Political Culture and Communist Studies*, p. 6).

¹¹I exclude political institutions from the notion of political culture, and thus my notion of nationhood includes all, not just state-endowed, groups with this particular type of political culture. Margaret Moore, *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001), p. 6, emphasizes the importance of political self-consciousness for nations as opposed to ethnic groups. Robert X. Ware offers a "political culture" concept of nationhood as a political group, on a given territory, sharing common projects, common will; a nation is different from nationality, which is understood as a people with the shared language, culture, ethical beliefs; see his, "Nations and social complexity," *Rethinking Nationalism*, ed. Couture, Nielsen and Seymour, pp. 133–60 at pp. 135, 157.

¹²The idea that legitimate authority is being based on dependent reasons can be found in Joseph Raz, "Authority, law and morality", in Raz, *Ethics in the Public Domain* (Oxford: Clarendon Press, 1996), pp. 210–37.

Members ought to identify with the beliefs of a political culture by endorsing this culture. In an oppressive society people may act on beliefs and attitudes advanced by the official culture and not endorse them. Determining which nations are present on the territory of an oppressive state requires caution. The requirement that members self-identify with a political culture also rules out claims to nationhood made by political elites as representing a group when such claims are not supported by the group members.

Not all types of identity are connected to collective agency but nationhood is. The belief of national belonging is accompanied by a second-order belief that this belief of membership is shared by co-nationals. This second-order belief in part motivates individuals both to hold the belief of membership and act upon it. Members of different national cultures believe that other groups share beliefs of membership and that each group's actions are in part determined by their respective shared beliefs about what other groups' shared beliefs are. Beliefs about membership which identify the meaningful limits of political authority include beliefs about the group's shared collective ends and its relation to other groups and thus beliefs about being a collective agent.¹³ To sustain beliefs of membership over time, groups ideally have to possess the capacity to formulate shared ends, to recognize and follow norms, and to act and evaluate outcomes.¹⁴ Their members, therefore, need to be able to engage in cooperative action and, thus, effectively exercise collective agency.¹⁵ Those national groups that possess the means of doing so share a collective end of maintaining effective agency; those who do not have the means, share a collective end of acquiring effective agency.

If we take a political culture that defines limits of the meaningful authority to be that which is common to all nations, we rule out as not being nations those linguistic, religious, cultural or ethnic minorities that do not question the limits of authority but make claims to accommodation within the existing limits of power. One might object that this criterion includes other groups which are not nations, such as municipal self-governments. But a political culture associated with the middle level of democracy defines itself as limited by its inclusion in the larger body of members of a political community.

¹³As Seamus Miller, *Social Action* (Cambridge: Cambridge University Press, 2001), p. 6 and ch. 2 argues, collective (what he calls "social") action (including discourse) is not just any interdependent action: the existence of second-order beliefs about beliefs of others that also serve as partial reasons for acting can characterize an openly hostile action. Although being based on shared collective ends or governed by a set of public rules are both important for collective action, Miller characterizes social actions more broadly as performed in accordance with social forms (conventions, social norms, institutions, social groups).

¹⁴On the conception of effective group agency and on the relation of identity and agency see: James W. Nickel, "Group identity and group rights" *Nomos XXXIX: Ethnicity and Group Rights*, ed. W. Kymlicka and I. Shapiro (New York: New York University Press, 1997), pp. 235–56.

¹⁵An interesting account of collective agency can be found in: Philip Pettit, *A Theory of Freedom* (Oxford, Oxford University Press, 2001); Christopher McMahon, *Collective Rationality and Collective Reasoning* (Cambridge: Cambridge University Press, 2001), p. 40, defines a collective agent as group of cooperatively disposed people that has made the choice of a cooperative scheme or of a procedure for selecting schemes.

B.

There are different possible responses to national minorities. National identity may be ignored under a justification of “equal citizenship for all.” Equal citizenship presupposes that all persons ought to have the same fundamental status as equal participants in the most important political decisions made in their societies.¹⁶ However, what constitutes *their* political societies? Governmental power raises moral issues of legitimacy and requires an explanation as to the conditions under which a group of people would treat the government as *their* political authority.

National membership, by defining meaningful limits of political communities, determines the conditions for the satisfaction of the individual interest to be governed on the basis of dependent reasons. National identity is a vantage point for evaluating and forming attitudes to political power exercised over a group. Thus, national membership is an important good for individuals.¹⁷ The existence of this good depends on the ability of the group to maintain its identity internally and in relation to outside individuals and groups. Limiting protections afforded to a national group to religious, linguistic or cultural rights does not capture its identity as a group. There can be multicultural or multilingual national groups, or different national groups with the same language and culture. Controlling these aspects of their lives is not sufficient to control their national identity.

Granting national minorities varying degrees of self-government within the host state is often considered sufficiently fair treatment. However, rights to self-government which allow a group to make laws for itself within the parameters of a given political status do not allow group members to determine their relations within the larger society to the extent necessary to protect their status as equal in the most important political decisions in the state. If the members of a group do not have a say about membership in the state, they are governed, on the balance, by reasons determined by the members of the larger community. To maintain their group membership and to have effective agency over time they need to control the parameters of their inclusion in the multinational state and have a say about the boundaries of their community and its relation to others. Self-determination is the control over their political future that creates conditions for effective agency and thus supports the individual good of national belonging. Moreover, not allowing national groups effectively to exercise collective agency causes deterioration of this agency and increases chances that it will be realized in a destructive way. I show that self-determination not only protects national

¹⁶That “equal consideration requires that all persons have the same fundamental status, as equal participants, in the most important decisions made in their societies” is defended by Allen Buchanan in his discussion of a human right to democracy. See his *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2004), p. 143.

¹⁷Moore, *Ethics of Nationalism*, p. 176, argues that respecting collective autonomy is of moral importance. Institutional recognition of national identity is important for members’ sense of identity and gives expression to their political aspirations.

groups but also turns them into responsible agents with respect to others and their own members in Section II.

Why should the self-determination claims of all groups be given equal recognition? Here is an outline of an argument based on a modified version of the “original position”—Rawls’s device modeling conditions of fair agreement. The parties in the original position select basic norms of justice from a list. They do not know whom they represent and hence how the outcomes of the decisions will affect them; therefore, they are likely to decide on the outcome acceptable to all.¹⁸ Since in matters of basic political justice citizens are equal in all relevant respects,¹⁹ and their national identity is relevant in describing the limits and the meaning of “society” and the corresponding meaning of “cooperation,” representatives of national groups would be included in the original position. Next, we add a norm of equal treatment for national groups to one of the principles of justice on the list. Although it would be unfair for a national group to expect everyone else to accept a basic structure favoring the group, it is fair to appeal to the importance that beliefs about membership in what they perceive as their own political communities have for individuals to endorse norms that favor all such groups in a multinational state equally.²⁰ This makes it likely that the principle of justice including, among other things, the equal treatment of national groups would be chosen from the list by the representatives in the original position.

C.

The current international system based on statehood places practical restrictions upon the implementation of the right to self-determination. We wouldn’t have to deny the exercise of the right to self-determination to national groups altogether if we were to sever the connection between the exercise of the right to self-determination and the acquisition of independent statehood. We can retain the general meaning of “self-determination” as a group’s control over its own political future but redefine the idea of self-determination as it applies to state institutions. This can be done if the basic organizational principles of multinational states and the basic principles for conflict resolution recognize first, that self-determination does not require statehood and second, that all national groups deserve equal status with respect to self-determination by virtue of what they are.

These two elements define the Modified Right to Self-Determination, which states that all national groups have an equal right to self-determination provided

¹⁸John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 17–22.

¹⁹John Rawls, *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001), p. 18.

²⁰Daniel Weinstock, “On some advantages of constitutionalizing the right to secede,” *The Journal of Political Philosophy*, 9 (2001), 182–203.

the realization of self-determination does not require the acquisition of independent statehood. Hence, national groups should be given an opportunity, equal to those of other members of their host multinational state, to determine their future political status within this state. The right to secede (or the right to an independent statehood) results only from a continuous non-compliance with the equality principle by the host state or from a mutual decision on the part of national groups. The equality of status of national groups provides either conditions of inclusion in a viable multinational state or a basis for negotiation with state-endowed national groups in a conflict. I deal with the conditions of negotiations in Section II.

The institutional arrangements of a multinational state need to include provisions assuring that the state cannot encroach upon a national group's power to control its political future. Such provisions could include, but do not need to be limited to, the following. The group can be formally recognized as a national group in the constitution of the state. It can have not only representatives in the central government, which could be elected on a proportional basis, but also a number of seats in a higher chamber of the government or in a special nationalities council which represents national groups equally (with a division of questions which can be decided by each chamber). It can have a significant power over changes to the state's constitution, such as a veto over any change that affects the group's vital interests. Ideally, the terms of its participation in state-level institutions, such as legislature, courts, or civil service should define the areas of exclusive and shared competence to delineate the boundaries of the group's political power.²¹

Different groups can seek different rights and institutional provisions to promote their particular interests. The degree of control a national group has over citizenship, foreign policy and trade, defense, customs, budget, natural resources, education, etc. will be negotiated in each case. For example, a group can have exclusive or shared (with the state) control over its natural resources. The outcome of negotiations over the degree of control is valid only if it is acceptable to the group that has a *prima facie* claim to the resources, but the group may have to honor the contributions made to the development of the resources by other groups and by the state, etc.²² Thus, while different groups

²¹Those individuals on the territory of a national minority who consider themselves members of the majority are represented by the majority. It is precisely because all groups are self-determining within a state that all individuals can consider the state as their own. The "minority majority" can perhaps have a seat in the legislative assembly of the majority nation.

²²For example, in 1996, 64% of Tatars and 41% of Russians in Tatarstan thought that the republic should have exclusive control over its natural resources, while 23% of Tatars and 44% of Russians considered joint control by Tatarstan and the Russian Federation as the right choice. Given the ethnic composition of the republic, there would be popular support for exclusive control. There would also be some room for the government of Tatarstan to negotiate shared control based on the minority mandate and the interest of the group in being included in the Russian Federation. See *Asymmetrical Federation: A View from the Center, Republics and Districts*, 2nd edn, ed. L. M. Drobizheva (Moscow: Institute of Ethnology and Anthropology, Russian Academy of Sciences, 2000), bk. 2, p. 195.

can hold and yield different powers—a national group may even opt only for a set of cultural rights—their self-determination claims are respected as long as the corresponding elements of political power have been relinquished voluntarily and can in principle be restored.²³ Although having a constitutionally and/or internationally recognized right to secede is linked with self-determination, it has significant qualifications and restrictions in the Modified Right and cannot be straightforwardly considered as a safeguard for the group's self-determination.

If different groups in a multinational state have different powers, in what sense is their status equal? The requirement of equality protects their freedom as agents in a negative way, by defining what cannot be denied to them. The application of the Modified Right to the arrangement of multinational states results in a number of mutual restrictions the members can place upon one another. In this sense the Modified Right as a general right of its subjects to be equally free translates into a corresponding special right within each multinational state which allows the state's members to require from one another compliance with the voluntarily accepted rules of inclusion.²⁴ The agents can interfere with one another's freedom due to the special relationship created by their joint membership, but the limits of this interference are determined by the principle of equality which underlies the general right. In the current international system, for example, equal sovereignty among states is merely formal, with no regard to their political role in international relations. However, their formal equality defines what ought not to be denied to any state actor under normal circumstances, irrespective of its size (its territorial integrity, for example). Similarly, the Modified Right determines what cannot be done to national groups, regardless of their size. It requires that no national group be deprived of its ability to negotiate the powers it needs to relate to other groups in the state. And if all other means fail, it grants the right to secede. Thus, the Modified Right protects national groups from being interfered with by others in controlling their future.

It may still be said that national groups in multinational states, even if enjoying the Modified Right, are worse off than those who presently have a state of their own. The present international order both grants a more privileged standing to groups with states and excludes most sub-state groups from the acquisition of

²³A good account of "decentralization strategies" is offered by John McGarry in "Orphans of secession: national pluralism in secessionist regions and post-secession states", *National Self-Determination and Secession*, ed. M. Moore (New York: Oxford University Press, 1998), pp. 215–32 at p. 226.

²⁴Defining what moral rights mean in relation to individuals, H. L. A. Hart states that the possessor of a moral right is conceived as having a moral justification for limiting the freedom of another. See his "Are there any natural rights?" *Philosophical Review*, 64 (1955), 174–92 at p. 178. He continues, "Both special and general rights share two important characteristics: a. to have them is to have a moral justification for determining how another shall act; b. the moral justification of a particular action does not arise from the character of the particular action to the performance of which the claimant has a right; what justifies the claim is simply . . . that this is a particular exemplification of the equal right to be free" (p. 188).

this presently attractive status. Under the Modified Right statehood does not carry with it a higher standing with respect to self-determination and is not singled out as the most attractive option in achieving self-determination. The Modified Right does not require equal statehood for all, but equal self-determining status. Self-determination is never unconditional: even state-endowed groups possess it only in relation to other such groups within a given territory. They mutually limit their capacity to self-determination based on the recognition of every state's equal entitlement. For example, the European Union imposes many limitations on its members' powers, but the Member States remain self-determining because they joined voluntarily and can maintain their self-determining status in relation to others. The Union respects their equality before the Constitution and their national identities.²⁵ The Member States can challenge decisions of the Union they deem unjust or restrictive of their ability to control their political future.²⁶ They also can submit proposals for the amendment of the Treaty establishing a Constitution for Europe and there is a procedure for its amendment. There exists the right of exit for the Member States.²⁷ The diminished degree of control over the items traditionally understood as representing state sovereignty is not an indicator of a diminished degree of self-determination. Thus, the national groups' diminished degree of control in the multinational state does not preclude them from exercising self-determination which can be limited only by the equal right of other self-determining groups.

The Modified Right provides a framework for the realization of two important ends. First, self-determination achieved in accordance with the right becomes a constructive rather than a destructive project. The goals of national groups change from competing for a state to cooperating within a state. Second, the Modified Right limits aggressive behaviors of those groups that do not want to respect the rights of others. The ways of satisfying self-determination claims that aim to diminish, even if incidentally, the self-determination of others are not compatible with the right, because they undermine the expected equality of status among national groups and should be outlawed if we are to preserve the basis for equal citizenship in a multinational state.²⁸ Thus, the Modified Right does not allow state and non-state groups to enjoy their freedom at the others' expense.

The Modified Right aims at safeguarding territorial integrity of states not just for purely pragmatic reasons. It sets up a norm of legitimacy which is attached to the moral right of a state to territorial integrity: a legitimate multinational

²⁵Article I-5.1 of the draft Treaty establishing a Constitution for Europe (CIG 86/04).

²⁶The European Parliament, the European Council and the European Court of Justice provide forums for this.

²⁷Article I-59 of the draft Treaty establishing a Constitution for Europe (CIG 86/04).

²⁸For example, the requirement of equality is undermined by negative and aggressive attitudes of other national groups (e.g. "our self-determination consists in driving all Xs out or killing them," or "they do not deserve a say in what the Constitution is going to be").

state cannot treat its citizens equally if it ignores their national identities. Moreover the Modified Right advocates the self-determination of sub-state groups with limited sovereignty not only because independent statehood for all groups is not practicable, but because a system that links nationhood and statehood is historically contingent and unjust.

It of course remains to be seen whether self-determination will retain its value in the eyes of national communities if it is not associated with independent statehood. There are reasons for thinking that it will, for it represents an important element of freedom for political communities. If self-determination loses its value, national groups may still want to pursue statehood for reasons other than the realization of their self-determination claims. The Modified Right assures, however, that their quest to acquire statehood cannot be justified on the basis of their rightful claim to self-determination. I will explain how to address claims to statehood in cases like this in my reply to objections in Section III.

The Modified Right has a broader scope than just dealing with moral claims of non-state combatants. However, in this article I limit the discussion of its effects only to this area, while I appeal to its broader scope when I answer an objection that it can create more problems than it solves. How does it respond to terrorism and other forms of asymmetrical warfare?

II. THE MODIFIED RIGHT AND CONFLICT RESOLUTION

The Modified Right defines the framework for the other-regarding behavior of different national groups that provides a background guarantee of the mutual standing of the sides aimed at a more equitable distribution of power among them. The resulting international institutional arrangements are more just, because they reflect the moral equality of different national groups underlined in the UN Charter by treating similar groups similarly with respect to their entitlements. They are more stable, because they aim at safeguarding territorial integrity while addressing competing self-determination claims advanced within multinational states. With respect to non-state combatants advancing self-determination of their national groups, as I argue below, the Modified Right undercuts “just war” justifications of asymmetrical warfare (Section II.A), provides incentives for stateless groups to participate, and to avoid pressure tactics in negotiations (Section II.B), and finally, creates additional responsibility on the part of these groups (Section II.C).²⁹ I demonstrate that the Modified Right creates conditions for both state and non-state agents to satisfy their goals, which creates prospects for the right being voluntarily maintained by its subjects (Section II.D).

²⁹I bracket the question of whether the recognition of the Modified Right as a legal right as opposed to a widely shared understanding of the meaning of self-determination and its universal status is required to achieve the effects I discuss below. The Modified Right has the potential to be realized as a legal right and this is what is important for my argument here.

A.

The granting of equal status with respect to self-determination to all of the sides in a conflict underscores which legal norms ought to define legitimate avenues for the achievement of self-determination and just arrangements of multinational states. The Modified Right is reflective of the self-perception and aspirations of non-state groups because it recognizes them as they want to be recognized. Hence, it renders ineffective “just cause” justifications of asymmetrical warfare by undercutting the claim that the attainment of equal status is the just cause that a group seeks to advance through its belligerent actions. If the Modified Right is followed, stateless national groups are provided with a framework that allows them to assure their existence through legitimate and peaceful means. Thus, the survival of their political communities is no longer an issue and “supreme emergency” justifications of terrorism do not apply. If the Modified Right is not followed, however, they may have a right to secede. In both cases the members of national groups cannot legitimately claim that they either have a just cause for asymmetrical warfare or that terrorism is their last resort in the response to a supreme emergency.

Where does this leave the international community with respect to its response to asymmetrical warfare and, in particular, terrorism? The moral force of the action behind retaliation is diminished if terrorists have some moral justification for their actions. The same reasons which outweigh (but do not eliminate) the moral wrong of the means employed by terrorists in the “supreme emergency” justification (the threat to the political community’s survival or limitation and destruction of any self-government) can weigh in as independent reasons in determining the international community’s response. This can then result in the conflict of a duty to punish and a duty to support justice. Other things being equal (including of course the means by which it is carried out), the more just the cause the greater the chance that it outweighs the moral wrongs of a “terrorist” act. This then could discredit, partially or completely, the international community’s response, assuming that terrorism is not defined in some question-begging way that makes it always unjustified *a priori*.³⁰ The implementation of the Modified Right hence eliminates a possible moral conflict for the international community in its response to a terrorist action. If terrorists have no normative justification, they can be held to a full measure of responsibility for killing civilians and be treated as what they have become—mere international criminals.

B.

The Modified Right provides incentives for non-state groups to participate in negotiations concerning the resolution of the conflict they are involved in. Basic

³⁰cf. J. Angelo Corlett, *Terrorism: A Philosophical Analysis* (Dordrecht: Kluwer, 2004).

principles which could bring the warring parties together and basic terms upon which they can negotiate are more effective if they define the status of the parties with respect to one another not only in the context of negotiations, but in principle. Then the moral status of non-state groups in international relations is not negotiated but assumed. The proper international standing maintained by minority groups both during and after negotiations secures not only a better negotiating position but also a better chance that the provisions they agree upon with their state counterparts are followed through after the negotiations are over. Otherwise, a minority group may fear that even if the negotiations are successful, nothing will prevent other parties from breaking agreements. A non-state group's equal entitlement to self-determination guarantees their continuing international status regardless of the outcome of the negotiations and creates additional assurance for the group that the international community would back the group's legitimate claims.

A stateless national group's secured international standing dissipates the desire of the group to use pressure tactics in negotiations to counteract, what it perceives as the unfair advantage of the state-owning groups.³¹ The lack of the proper international status, on the other hand, is often what the militant actions of national minorities aim to rectify in the first place. If a non-state national group is not recognized as a self-determining political entity or even respected as such in negotiations, the group may resort to terrorism and other destructive strategies as a means of leveling the playing field with its state counterparts. The group members will not be willing to give up what they perceive as their only bargaining tool—being dangerous. Although it is impossible to guarantee equality for the group in all respects, the recognition of equal status levels the playing field by protecting the group's basic entitlements. Otherwise, it appears only prudent to the members of the group to maintain a level of political violence that is necessary to sustain a continuous pressure on their opponents and to push for their demands to be satisfied while they are armed.

For example, in the Palestine-Israel conflict, demanding that the Palestinian side disarm prior to any settlement of the conflict and without any background guarantees of equal standing upon doing so did not seem to work. It asked the Palestinians to disarm without the assurance of satisfying their particular demands. Now, it may happen that the militants would continue their struggle even if equal international standing is afforded through the formation of the Palestinian state. But in this case they will have no justification for such activities, at least not based on the survival of their political community. The Palestinian state and the international community will be able to employ all means possible

³¹On the underdog's use of unconventional tactics to counteract the unfair advantage of its opponent. See Shannon E. French, "Murderers, not warriors: the moral distinction between terrorists and legitimate fighters in asymmetric conflicts," *Terrorism and International Justice*, ed. J. P. Sterba (New York: Oxford University Press: Oxford, 2003), pp. 31–46 at p. 34.

to eliminate the terrorists without being held back by the supposed justice of the terrorists' cause because this cause will no longer be just. If the Palestinian state aims at the destruction of the state of Israel and uses state terrorism and other ways to employ political force, the international community could intervene and deal with the situation as in any case of aggression it legitimately can: by protecting the state of Israel.

C.

Turning non-state national groups into accepted international actors creates an increased responsibility for their international behavior. If they are equal subjects of international law and parties to the war convention, their responsibility is similar to that of all state-endowed subjects. As recognized international members who are expected to behave in accordance with international norms they accept by virtue of their membership, they can be held responsible if they do not comply with the relevant norms. In this case, they would incur a fully justifiable retaliation on the part of the international community.

Making a national group's behavior a condition of whether it is going to be included in the international community is unproductive as an assurance of its compliance with international norms. First, affirming one's equal standing through proper conduct is much more appealing than merely trying to qualify for such equal standing with the same behaviors. This is so because setting special conditions goes against a group's deepest moral claim that it is equal to other national groups *as* a national group. It is unjust to hold national groups responsible as if they were members of the international community but to deny them membership and its privileges. If they are to be held responsible they have to be given the status of a normally responsible member of the international community—a member with the capacity for self-determination. If a national group is unconditionally acknowledged and protected as a member of the international community, restricting the group's entitlements based on its breaking of international norms is less threatening to the group whose primary struggle is to realize its agency by achieving a proper international standing. Second, the lack of guarantees that when a stateless national group stops its pressure it will achieve its goals, makes a group reluctant to change its conduct. Refusing to acknowledge that the members of the group are who they claim to be stands as the biggest proof to them that other—legally accepted—members of the international community may not be truly committed to settling the conflict on terms acceptable to all parties. Moreover, when a national group's cooperation is needed, it is simply unproductive to refuse to address the group based on its self-definition.

For transitional societies, defining the principles that qualify groups as right-holders and the norms to regulate their behavior once the national composition

is finalized could help to guide a peaceful transition. The availability of such a framework for the satisfaction of self-determination claims within a host state renders unnecessary and unjustified the resort to extreme measures to protect the existence of a national community. Moreover, sub-state groups are assured that, if they comply with the rules, they will avoid retaliation and be able to gain a significant degree of control over their political future.

Equal self-determination may appear difficult to harmonize with another consideration—that national groups that consistently use terrorist tactics or oppress some of their own members, e.g., women—don't have and shouldn't be accorded equal moral standing with other national groups. This is a valid concern. However, the Modified Right limits the aggressive behaviors of a national group towards others both with respect to other equally self-determining subjects and with respect to the group's own members. The Modified Right places restrictions on what qualifies as a valid claim to self-determination. Thus the exercise of the right is conditional in part upon the group's goals and behavior (although it retains its status as a national group). There are situations in international relations that allow a state's sovereignty to be violated. For example, if a state unjustifiably attacks its neighbors, and has to be invaded to arrest its advance, it does not mean the state is not in principle an equal international agent. Precisely because of this status, it is held up to a standard of behavior expected of all such agents. A national group can be deprived of the enjoyment of its right to self-determination if its behavior violates equal self-determination of others.

If a national group abuses human rights, the condition of its members would not get worse if the group is self-determining, because, as a member of international community, it ought to respect human rights. If it exercises its self-determination within a multinational state, it will be pressured by other groups in the state to respect human rights because otherwise the international standing of the state will be in question and it may be subjected to sanctions, which would adversely affect everyone's freedom. While the Modified Right protects national groups from unnecessary interference with decisions pertaining to their political future, it also justifies restrictions imposed by the members of a multinational state on one another to assure everyone's equal freedom. Those groups which respect human rights have a right to demand a similar respect from others lest everyone's international status is jeopardized.

Moreover, not giving a group the right to self-determination decreases the likelihood that its members' rights will be respected. For, in the name of survival the group can tighten control over its members and violate their rights "until better times" for the group. If attaining the recognition as a self-determining group ceases being its primary goal, the group can attend to the normalized responsibilities as a member of the international society.

D.

The Modified Right can realistically be maintained because both stateless and state-endowed members of the international community are motivated to cooperate to uphold it. For, the Modified Right helps them realize their respective goals of achieving self-determination and safeguarding the territorial integrity of the state. The Modified Right maintains a “situated” standard of justice derived within the framework of practical limitations. As a theoretical illustration of a “pragmatic normative approach” I would like briefly to consider Hobbes’s derivation of the norm governing the interactions of free agents aimed at preserving their rights³² and Kant’s explanation of why such a norm can be maintained by agents themselves.

Both philosophers agree that a community of free and self-interested agents can operate peacefully only on the basis of a system of norms that guides the agents’ interactions so as to preserve what belongs to the agents naturally—their freedom. They disagree about whether such norms can be maintained by the agents themselves. In Chapter XIV of *Leviathan*, albeit in his discussion of individual and not group agents, Hobbes demonstrates that the Right of Nature—the right of each man to preserve his own life—requires for its maintenance a corresponding law which prescribes mutual limitation. The Second Law of Nature, which is an important example of a pragmatically derived norm, states that “a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe.”³³ This law, though derived from the nature of the agents, cannot be maintained by them and requires strong power for its implementation. Given this, the prospects of the enforcement of the norms for the international community are rather bleak. If we assume that mutual limitation of self-interested, free, and equal agents is the best law to follow, how can the proper operation of the international community based on this law be enforced?

Kant acknowledges that no sovereign strong enough to maintain peace in international relations through political violence could exist. Nonetheless, he is optimistic that the law of mutual limitation can be maintained by its subjects through their voluntary compliance based partly on their self-interest. The members’ voluntary compliance with the law is the best prospect for peace.

³²One caution for using Hobbes’s norm is that it applies to physically roughly equal subjects—and national groups possess different resources and influence. However, Hobbes argues that agents are equal because the weak can always kill the strong by forming factions or using weapons. In the age of powerful weapons the weak—including sub-state national groups and terrorists operating on their behalf—can create significant damage and thus they are somewhat “equal” with those who are stronger.

³³Thomas Hobbes, “Of the first and second naturall lawes, and of contracts,” *Leviathan* (Harmondsworth: Penguin, 1986), ch. 14, pp. 189–201 at pp. 189–190.

Through such compliance each member implicitly assumes that others also comply. This means some limitation, but the equal limitation, on the freedom of members. If the rules are not followed, the system breaks down, war ensues, and no one is free. The members' mutual compliance with the rules as a condition of the rules' successful implementation is therefore the best incentive to comply. Hence, if the members are free and self-interested agents, the best coordination game is one that maintains the equality of their status. Kant argues that a political form which can preserve and secure freedom of each nation is a federation of nations, which does not aim to acquire any power like that of a state, but merely to preserve and secure the *freedom* of each confederated state. A free federation is a guarantee that international law retains its meaning.³⁴

Both Kant's and Hobbes's views call attention to the importance of the presupposition of equal freedom. For, according to them, the individuals are willing to accept limitations upon their powers if their freedom in some form is preserved (or relinquished no less than that of others). Overall, a pragmatically derived norm, although relying on presuppositions about the agents' nature, is mainly based on the regulation of the agents' interactions so as to preserve the agents' aims. Although the enforcement of such a norm relies upon the agents' willingness to comply, their interests make it likely that they will comply.

Presently, the lack of a coherent rule of membership in the international community contributes to tensions among members and non-members. This happens when non-members believe that they are agents of the same kind as those who are members and that, therefore, they are denied membership unjustly. The present international community aims at sustaining peaceful relations among its member-states. However, stateless national groups who are not members of the international community are very capable of initiating war within or with member-states. Moreover, since membership carries with it certain privileges and protections, non-members are required not to interfere with the freedom of members while their freedom is restricted. Keeping dissatisfied non-members who have become or are about to become aggressive in check often increases the volatility of an already tense international situation. The international system has a better chance at stability when all similar world actors enjoy equal status and when the maintenance/enjoyment of this status in itself serves as an incentive to members to comply with the rules of membership. It is easier to enforce the rules of civil international behavior if it is more profitable for stateless national groups to obey than to break the rules. Membership in the international community with corresponding rights and obligations is more attractive than being outlawed, creating the motivation for national groups to respect international legal regulations.

³⁴Kant, "Perpetual peace: A philosophical sketch," *Political Writings*, ed. Hans Reiss et al. (Cambridge: Cambridge University Press, 1991), pp. 93–130 at p. 105.

Hence, to increase chances for peace the international community needs to involve non-state national groups in the regulation of relations among its members by recognizing such groups as having a claim to self-determination equal to that of others. How to equitably satisfy this claim and whether it needs to be done on a case-by-case basis or according to an additional set of international principles are further questions, which ought to be settled based on the acceptance of this basic norm of regulation of other-regarding behavior.

The right to choose among a set of options and not let some dominate in this choice does not guarantee that disputes about options will not arise. However, the Modified Right helps to resolve disagreements through negotiations between participants with equal standing. This, in the end, assures that all sides have control over their political future based on principles acceptable to everyone involved.

III. OBJECTIONS

Major objections to a project like mine have to do with a concern that even if the Modified Right undercuts moral claims made by terrorists and other non-state combatants on behalf of national self-determination, it can create more problems than it solves. It can give national groups unreasonable expectations and hand them a justification for destructive behavior by legitimizing their claims to self-determination. Ultimately, the Modified Right undermines one of the major principles of international law, territorial integrity.

My reply to this is that the Modified Right would curb rather than encourage destructive behaviors. Distributing international status according to the universal legal right to self-determination is destabilizing only if self-determination is associated with statehood (as it is now). I do not see statehood as a necessary condition for self-determination. The Modified Right protects the self-determination of national groups and stimulates their cooperation while preserving the territorial integrity of a multinational state. It reduces the destabilizing factors that result from agitation by stateless national groups whose aim is to acquire international status equal to that of the state-endowed groups by providing a normative ground for the resolution of conflicts between stateless and state-endowed groups.

It may be said that non-state groups may still want to engage in destructive behaviors even if provided with equal status. Given the endorsement of their claims to self-determination, they will try to gain more power by acquiring a state of their own. They may not want to stop “halfway” but push for a fully independent statehood. However, the Modified Right permits dealing with any type of secessionist claims only after equality within the state is assured. Only on this basis can a national group put forward its request and try to achieve its goals through peaceful negotiations respective of the requirements of distributive justice and the rights of other groups on the territory of the host state. If they

want to be recognized as a self-determining people, they have an opportunity to satisfy this demand. If it is a state that they are after and in spite of a guarantee of equal self-determination or a right to secede (if their status is not respected or by mutual agreement with other national groups), they decide to secede unilaterally, this behavior is destructive and unreasonable and can be justifiably punished. The resolution of conflict in this case would be the suppression of illegal behavior and the guarantee of the equal self-determining status within a multinational framework. National groups may still want to justify some of their actions as acts of self-defense, the right now given to any state actor. However, it would not be possible for them to claim either that the very existence of their community is in peril due to the lack of recognition of their rights by the international community, or that they do not have legitimate means of solving their problem available to them.

The Modified Right can be said to have a reverse side. A group that is not being treated by its state as if it has the right may employ terrorism to get its entitlement specified by the right; in which case, the Modified Right could reinforce its supreme emergency justification. Under the Modified Right, however, this national group may have a right to secede. In order to establish this right, the group should show that the state it belongs to did not provide for the equal recognition of its self-determination. The group would also have to show that it did not reject reasonable suggestions put forward by the remainder state, or even the very participation in negotiations with that state.³⁵ The remainder state can defend its entitlement to territorial integrity by showing that it respects both the self-determination of national groups on its territory and the human rights of their members, or at least that it made reasonable efforts to initiate the process of change. It is necessary that there be special international agencies, possibly courts, dealing with the issue. What needs to be shown is that equal participation is in principle available for the national group: the group enjoys reasonable equality within the state's borders and has an opportunity to question and contest the state's decisions, while the state has demonstrated its willingness to change. Thus, politics in multinational states should be understood as a process, not a once-and-for-all solution.³⁶ That the Modified Right allows for a qualified secession provides the best motivation for host states to respect their national groups. Admittedly, some states may gamble and think that they can use force to suppress their national minorities, but then they will be violating the Modified Right even if they do not violate human rights—precisely because of the norm of equality.

A special case of claims to change borders is that of irredentist groups. They can appeal to the meaning of nationhood as political culture associated with the

³⁵On the international adjudicative process see: David Copp, "International law and morality in the theory of secession," *Journal of Ethics*, 2 (1998), 219–45.

³⁶On this understanding of the political process see James Tully, "Liberté et dévoilement dans les sociétés multinationales," *Globe*, 2 (#2) (1999), 13–36.

meaningful limits of political authority and claim that such a culture exists across the borders of their host state, and that they ought to join their co-nationals abroad to satisfy their right to self-determination. Hence, it may appear that although the Modified Right diminishes “just war” justifications based on the achievement of equal self-determination as a goal, it does not help to resolve the conflict that may erupt over the acquisition of the independent statehood or secession to join the alleged “main” national group. If an irredentist part of a multinational state was acquired through occupation, it can legitimately secede. If not, giving them equal status within their multinational state tests their commitment to secede and join the remainder state. If they qualify as a nation (that is, they possess a required kind of political culture with which their members identify), it may be the case that in the end they would not want to perceive their self-determination project as one of unification with their remainder state. For example, Moldova’s nation-building project after the split of the Soviet Union was initially aimed at re-uniting with Romania, but later on Moldovans decided to remain an independent state and developed a separate national identity. If an irredentist group does not qualify as a nation without the remainder state, the problem ought to be solved between this state and the host state. But it is not immediately clear how, with the border separating them, it can be established with certainty that the irredenta and its remainder state share the same political culture and thus are really members of the same nation. In any case, the irredentist group itself does not have a claim and a right to secede according to the Modified Right.

Including the requirements of justice towards national communities within multinational states as a subject of international legal regulation may be thought to require a degree of international involvement that the international community is not able to provide. However, establishing the norms of acceptable international behavior concerning national groups is helpful in and of itself in the following respects. A state violating the norms of fair treatment of minorities on its territory crosses the threshold of legitimacy in the international system and stops being a member in good standing. This alone could motivate some international actors to comply with the rules. The very existence of a just international norm can influence the agents’ behavior and assure their compliance; international agents normally want to be members in good standing or at least behave so as to not formally violate major norms.

There can be an indirect intervention through the imposition of sanctions on the violator-state, the suspension of important relations with this state or the denial of some privileges previously afforded to it as a member in good standing. If a national group agitates after it was given equal status within its host multinational state or the state has embarked on the process of change leading to such a status for the group, the state can justifiably penalize the group for its actions. In this case extra international intervention is not required.

The Modified Right permits the universal membership in a community of self-determining groups by redefining the institutional expression of the idea of self-determination. Hence, it can in principle be legalized. The recognition of the Modified Right fills the void in international law created by the present lack of a proper regulation of relations among national groups, as well as relations between states and national groups. It reduces the split between the absolute entitlement of state actors to self-determination and an almost entire lack of this entitlement for non-state actors. Although my approach does not provide a foolproof solution to the problem of justice and stability of multinational states, it is an improvement over the *status quo* for both state-endowed and stateless nations. The equality principle helps to improve the position of stateless groups with respect to power distribution in multinational states, and it is more just from their perspective than the *status quo*. It improves on the situation of the state-endowed nations because it helps make multinational states more stable. It is very likely that a group given a proper status within a multinational state would not want to secede. More often than not, it is profitable for such a group to be together with other groups in a strong viable state, rather than strike out on its own, especially economically.³⁷ Besides, even from the majority perspective making a multinational state more just can be considered a goal worth pursuing in and of itself.

³⁷For a discussion of this see Will Kymlicka, "Minority nationalism and multinational federalism," *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (New York: Oxford University Press: 2001), pp. 91–119. Kymlicka acknowledges that multinational federations will face secessionist movements. But he thinks that a well-designed multinational federation provides a framework for negotiating differences and, consequently, gives national groups good reasons to reject secession. Multinational federations have a weak kind of national unity, different from that which unination states often possess (p. 116). But, because federalism is often the only way of accommodating national differences, multinational federations have proven themselves to be surprisingly resilient (pp. 118–19).