

The subject of this thesis is national self-determination.

Nations claim self-determination when they fear for their culture, their place in the landscape and their survival. This is the romantic impetus, and it is fuelled by fear and grievance. Self-determination is also a political demand made against the sovereignty of the state, and this duality is a source of confusion. States and International Relations are adept at politics, but less sure when it comes to matters of sentiment. This thesis traces the source and development of the duality of the nation in its liberal and romantic aspects.

The modern *Weltanschauung* is dominant. Although there are states with pre-modern domestic social institutions, the sovereignty game is definitively modern, and played by modern rules, which are essentially liberal. However, rational theories of the state do not entirely explain nations. Ideas, events and contingency are intricately linked in shaping the social reality of nations, and I do not believe that a single explanatory approach can encompass their richness. Accordingly, my methodology is multi-disciplinary and goes some way to revealing the complexity of nations. Nations are political and cultural; only by paying attention to both elements can the nation's story be understood. There is a gulf in understanding between nations and states, but nations are supplicants, and they must use the discourse of the powerful. My conclusion is that the discourse of rights may provide an avenue for communication.

If nationals were secure in their fundamental rights their grievances may seem less urgent and their claims less pressing. States may resent the limits to their freedom that rights observance would entail, but this might seem a lesser evil than the challenge to their sovereignty that claims to self-determination represent.

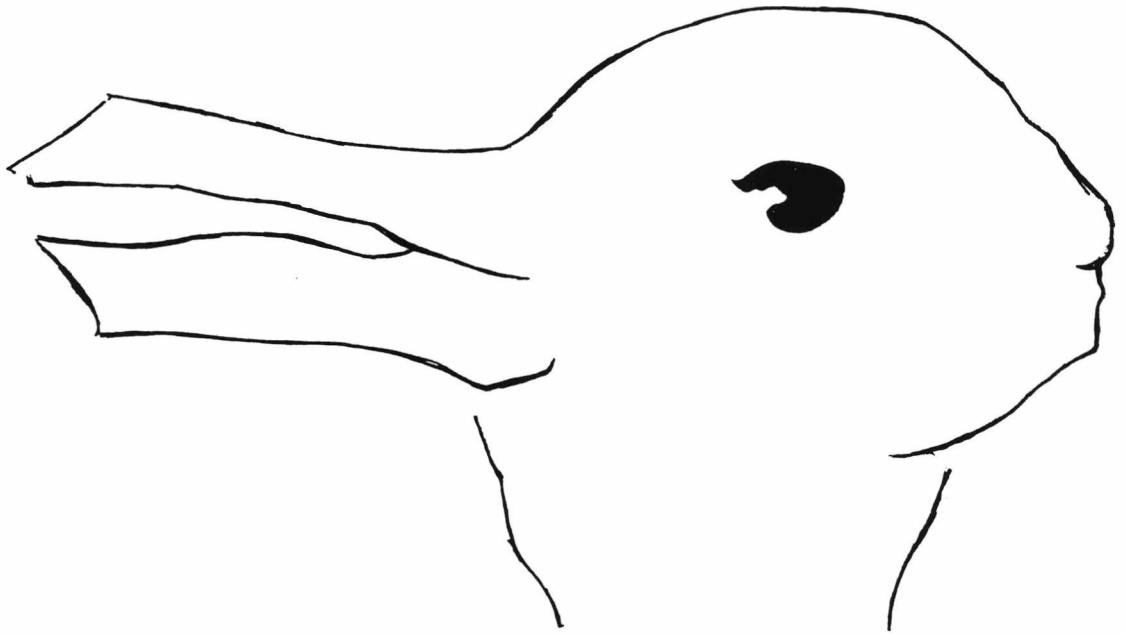
Self-determination or rights?
Problems for nations, states and International
Relations.

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Degree of Doctor of Philosophy

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If it quacks like a duck and looks like a duck
we may as well treat it like a duck¹.



Unless it turns out to be a rabbit.

¹The source is contested and variously attributed to: Groucho Marx, an American Bishop, Walter Reuther and others. The illustration was drawn from:
Gombrich, E. *Art and Illusion*. (Fourth Edition). Phaidon Press Ltd, London, 1972

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Notes

- The page numbers of citations are not noted where the article, or chapter numbers are shown in the reference.
- A full bibliographic reference is shown on the first mention of a source, thereafter the author's name alone is used. Where authors have multiple entries, an abbreviated version is used [in brackets].
- Newspaper entries in the bibliography are listed in the order in which they appear in the text.

Introduction

**Self-determination or rights?
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Sleeping nations wake and claim self-determination when they fear for their culture, their place in the landscape and their survival. Faced with disaster, nations see self-determination as their only salvation. This presents the host state, and the wider community of states, with a real quandary.

Theoretically absolute and indivisible, sovereignty is the defining feature of the state, and the foundational principle of international relations. Yet it is precisely this bedrock assumption that a nation's claim to self-determination challenges. States and nations are widely theorised across a range of disciplines, but as two distinct concepts that are rarely connected. The state generally serves either as the starting point, or the point at which the examination stops. As International Relations tends to favour state centric approaches, this may account for the discipline's sometimes muddled treatment of nations, which frequently sees nation and state conflated, or ignores nations altogether. Those theorists who do pay attention to nations as well as states generally seek to rehabilitate, or repudiate, nations within the liberal canon. In the messy world of imperfectly liberal and entirely illiberal states, states and nations also fail to bridge the gap between them. Nations claim self-determination to protect their culture, place and identity, to right past hurts and ensure their future survival. States hear only the threat to their sovereign integrity. The contest between nations and states is unequal because the sovereignty game is loaded in favour of states. Suppliant nations are therefore obliged to present their grievances in terms that states understand, and may find it prudent to do so within a discourse that does not mount a frontal assault on the state's sovereignty. The discourse of rights meets both requirements.

Nations raise a series of problematic issues. Why, for example, is Spain's claim to self-determination accepted as of right, whilst Catalonia's is denied? If state legitimacy rests on consent, Catalonia, in claiming self-determination, would seem to have withdrawn it. Spain is a decent rights respecting

democracy, yet the Basques, who already enjoy a high degree of regional autonomy, desire self-determination so passionately that some of them are willing to commit acts of terrorism to further their goal. Galicians, in contrast, do not claim self-determination at all. What of the claims of indigenous nations? The lands of America's Plains Indians, New Zealand's Maoris and many others have been settled over centuries and cannot be restored, but time does not right the wrong done, or solve the difficulties they face today. Kurds claim national self-determination, but Turkey denies that they are a nation at all, they are just Turks. They cannot both be right.

This points to the nub of the dilemma. States and nations cannot both be right. In part, the explanation lies in the past. State and nation are not static concepts, and the rules and norms that govern their behaviour are subject to revision. So, for example, when Canada was colonised during the early wave of European imperialism, the legal personality of indigenous peoples was recognised and their territorial rights were guarded by treaty. In the later occupation of Australia there was no such recognition and indigenous lands were deemed empty. Acquisition of *terra nullius*, colonial occupation and empire are no longer acceptable practices in international relations. At present, a nation's claim to self-determination can only be met at the expense of a state's sovereignty, but maintaining sovereignty is the state's ultimate rationale.

States therefore favour the *status quo*, and only in the gravest circumstances, where the nation's survival is at stake, will self-determination even be considered. The difficulty here is that nation and state are likely to use different criteria for judging the threat. Nations fearing for their place and culture may sincerely believe that their survival is at stake, whereas states are likely to conclude that survival is at stake only where gross rights violations threaten the physical security of individuals. This may trigger humanitarian intervention, but nations face another hurdle. Self-determination is always

conditional. It may be granted after the event, where nations already enjoy *de facto* self-determination, it may be granted to restore the *status quo ante*, or in the commonest scenario, self-determination is granted where it suits the political interests of the powerful. Conditionality varies, but it nearly always depends on the assent of existing states. Nations may now find that a successful claim to self-determination is conditional upon their own commitment to observe rights. Here, my interest is limited to first generation rights which I take to be those negative rights aimed at preserving personal security and autonomy, which would include; freedom from torture, cruel or degrading punishment, arbitrary arrest, freedom of speech and conscience, the right to a fair and public trial and the right to own and keep property. This thesis examines the origins and progress of the battle for self-determination that nations have waged against states. It has been, and remains, an essentially ethical contest, with both sides claiming justice and right on their side.

Although sovereignty is the fundamental principle of international relations, states are also committed to rights observance, however insincerely and imperfectly individual states manage in practice. If nations suffer the injustice of rights abuse, the demand that the abuse cease, and that the individual rights of their people be respected, are moral claims that have to be taken seriously. Thus the people of East Timor suffered centuries of Portuguese rule followed by twenty five years of appalling rights abuse under Indonesian occupation. Now, following intervention under the auspices of the United Nations, their claim to self-determination has been met and they have been rewarded with full state sovereignty. This intervention and subsequent recognition was a rarity; the international community is generally reluctant to intervene, and for every East Timor there is a Kashmir and a Tibet. Nations claiming self-determination are embedded in states, and their host states are often unwilling to grant it, as the Biafrans learned to their cost. Macedonia's Albanians have had a measure of success. Like the East

Timorese, in making their claim to self-determination, they observed the laws and norms of decent behaviour, and have been rewarded with a degree of autonomy and minority protections. Macedonia too, by taking rights seriously, has reduced the risk of state dismemberment that Albanian self-determination entails. In contrast, neither Russia, whose army is rampaging across Chechnya or the Chechens themselves terrorising civilians, have given much indication that they take rights seriously. However, whilst many nations do not suffer such egregious rights abuse, they still claim self-determination.

The international community may well conclude that only gross rights abuse justifies intervention, or recognition of a nation as a new state. This may be inevitable, given the practical and political realities of the modern world of states. Nations too, may bow to the inevitable. If they are secure in their enjoyment of rights, their claims to self-determination may seem less pressing, but some nations will persist in measuring welfare in terms of their culture and place. Most people cherish the idea of home, the land where their ancestors are buried and where their kin live; the familiarity and security that being with their own kind brings. This is what nations provide, and it appeals to sentiment not reason. Rational political theories that explain and justify the state and the individual rights bearer, and International Relations, with the focus firmly fixed on the interactions between states, have a nation-shaped blind spot.

My methodology is eclectic. Reflecting on the theoretical insights of a number of disciplines, I trace how this opacity arose, and the consequences this has in the present. Although nations are distinct from states, and may be considered independently for the purpose of analysis, nations and states occupy the same spatial temporality. However, the gulf in understanding is not confined to theoretical disconnectedness; nations and states also seem to be conducting a dialogue of the deaf. Accordingly, I seek an interpretive

understanding of how nations and states see themselves as actors on the world stage. Now, in as far as a nation wishes to be a state, or already resembles a state, then it can be treated as a sort of state-in-waiting; a unit that falls somewhere between the family and the state. Taiwan, for example, is not a recognised state, but for most purposes it looks and acts like a state. Nevertheless, states and nations are not the same, and state centric theories offer only partial answers. States enjoy privileges that are denied to nations, which is an attractive goal for the ambitious nation. Yet this fails to account for those states created by decolonisation, for example Kenya and Iraq, which attempted to build nation after attaining the privileges of statehood. Popular sovereignty underpins most liberal theories of the state, and it is this that legitimates its authority. So why do nations enjoying the freedoms and protections of a functionally sound, rights observing democracy, still claim self-determination? History clearly offers some explanations as to why this should be the case. More importantly, history teaches that ideas change. Self-determination at the start of the twentieth century was a benefit exclusively for European nations, but fifty years later, it had become the prerogative of Europe's colonies. Was it the idea of nation, or the meaning of self-determination that changed? Or both? What can this tell us about national self-determination now?

Anthropology can add a further dimension. Ethnographies bring insights into the culture, beliefs and social organisation of specific peoples, and illustrate how they interact with their neighbours. Functional and ecological perspectives explain how social identity is maintained, or adapts in response to change; a cargo cult here, a nationalist movement there. However, these perspectives fail to account for the actuality of states, and the difficulties that claims to self-determination present to the wider world of states. What of nations themselves? They at least should know why they want self-determination; and indeed they do. The nation has suffered such injustice that a state of their own, that they can govern for themselves, is the only possible

solution to their plight. That Francophone Canadians, or Italy's Northern League do not seem to suffer unduly is beside the point. The nationalist logic of one state for each nation also overlooks the sad fact that few nations have ever achieved a state of its own, which makes national self-determination a somewhat millenarian goal. The fundamental difficulty for nations is that the idea, or feeling of being a nation is endlessly fluid and divisible. If the Basques were to achieve statehood, it might not be long before French Basques or urban Basques came to be seen as not authentically Basque after all, and there would be a new nation claiming self-determination. The one nation equals one state logic also fails to account for those nations who seem quite content to share their states with other nations; German, French and Italian Swiss, or hyphenated Americans. Nations themselves, anthropology and history all bring insights to the problem of nation. However, states and the states system, its institutions, laws and practice, provide the context within which nations suffer their injustices and make their claims, which places nations squarely in the domain of International Relations. Ultimately, it is for states to decide whether a nation should, or should not, be granted self-determination. Nations seem to take International Relations by surprise. By borrowing what seems useful from elsewhere, the discipline may come to find claims to national self-determination less puzzling.

The central organising device of the thesis is based on the view that nation is a modern phenomenon. Rooted in the Enlightenment, modernity embraces the secular, rational approach to science and philosophy, the assumption of progress, perfectibility and so on. Historically linked in Europe to the Peace of Westphalia, the modern era has seen the growth and spread of the nation, state, the sovereignty game, liberalism, communism and its demise, industrialisation and rapid technological advance. Predicated on the assumption that man is the source of moral legitimacy, modernity is the dominant contemporary *Weltanschauung*. The pre-modern is simply everything that came before.

The pre-modern world-view was radically alien; stable and inhospitable to innovative ideas, low technology and low population densities were ubiquitous, with land and labour the limiting factors. Surplus was rare, so wealth was not a source of power. Social organisation was rigid, although given the immense historical time scale, different arrangements occurred. Extrapolating from contemporary ethnography, Stone Age societies are believed to have been egalitarian and acephalous, whilst after the Neolithic emergence of agriculture, land became a valuable asset and ownership, equated with rank, became the source of social and political power. Social organisation was vertically structured; men were valued according to their position within the social hierarchy, which was legitimated in terms of divine will or nature. The world-view that will emerge when modernity has run its course is unknown.

However, the post-Cold War, twenty first century world does seem to be witnessing a shift in values. The change is not so radical as to qualify as a new *Weltanschauung*, but it may be sufficiently novel as to qualify as a distinct late phase of modernity. The state faces challenges that are changing some of the long held certainties of modernity, and also the practice of states. Globalisation is, in many respects simply bypassing the state; aid, trade and international capital flows on the one hand, and the fragmenting competition from nationalisms and other non-state actors on the other. However, the demise of the state is not imminent, although change is afoot here too, principally regarding rights. This would suggest a point of access for International Relations. Rights observance and good governance feature in theories of the state, but the post-Cold War era may be more hospitable to their realisation in the practice of states, and allow reformulation of the relationship between man and state that also accommodates nation.

Although the pre-modern, modern and late-modern were historical periods in Europe, the world-views of each are also extant in the present. This seems to

have been overlooked in those theories that take a uni-linear approach to progress, which assume a hierarchy of social and developmental landmarks; from tiny groups of hunter-gatherers, to tribe, nation and eventually state. The world of states is modern. The sovereignty game, itself a definitively modern practice, has evolved to further the interests of states, and all states, in their relations with each other, must play by modern rules. However, the domestic social and political arrangements of states vary radically. The modern state is essentially liberal and democratic, and the rights of its citizens are taken seriously. Sovereign inviolability is their principal guide to action in the practice of international relations. However, America, India and Switzerland are all examples of the modern state, and their varying commitment to their citizens' rights, and the sovereignty rights of other states, illustrate the degree of variation and ambiguity amongst modern states. Those with a late-modern view of the world mirror the modern state domestically, but have a more relaxed attitude to sovereignty; they are willing to pool it, and allow reciprocal interference in their domestic and international affairs. The European Union is the exemplary late-modern experiment, but even here sovereignty is only surrendered under certain circumstances, as the dispute between Spain and Britain over the status of Gibraltar reveals. Spain's apparent disregard for the wishes of Gibraltarians also indicates ambivalence towards the principle of self-determination. There are many pre-moderns.

At the international level, they share the moderns' commitment to sovereign inviolability, but their domestic social and political structures display the rigidities and hierarchical patterns of historically pre-modern forms. The pre-modern covers a variety of governmental forms; from monarchy in Swaziland, theocracy in Iran, to military rule in Myanmar. Many are in transition to democracy, or are hybrids. Pakistan for example, has a recognisably modern administrative structure of federal parliamentary government, but this is superimposed on a landed aristocracy, maintained by

patronage and a village based system of traditional rulers that administers customary justice. The pre-modern and modern do not fit easily, because the assumptions on which the differing world-views are based are fundamentally distinct. Princely or divine sovereignty stands in direct competition with the sovereignty of people. The democratic values of public participation, the belief that all men should be equal before the law, that justice should be impartially administered, rest on the basic assumption that men are of equal moral worth; the status of citizen is simply incompatible with the status of subject, vassal or laity. In such inhospitable climates, democracy is usually fragile, and the state's commitment to securing their citizens' rights is often unenthusiastic. Modernity therefore presents the pre-modern with a crisis of transition.

That nationalism is a response to the crisis of modernity is an insight that all the useful theories of nation share. History and ethnography illustrate how pre-modern social organisations responded and adapted, or failed to adapt, to contact with the West and modernity. The kingdom of Benin did not recover from the ending of the slave trade or the forced abandonment of ritual cannibalism, whereas the kingdom of Saudi Arabia has adapted to modernity, albeit with the benefit of valuable oil reserves. In each case, the process was culturally mediated, so no national story is identical. The modernist school decisively refuted the primordialist view of nations as ancient, organic social facts of life, although this is often how nations present themselves. This has generated some confusion. All evidence points to nations as social artefacts of relatively recent provenance, and from this, some have concluded that nations are somehow not real, or not really important. Given that states, the sovereignty game, international laws, norms and practice are also social constructs with a similarly short pedigree, this conclusion is somewhat quixotic. Historically, nations arose in Europe, and it was the fusion of politics and ethnicity that created the modern state. Nations, on this reading are historically specific and transitional. This insight has been further refined

by incorporating the idea that nationalism is a reflexive process, through which myth and culture shape, and are shaped by, belief. The idea of nation is extremely malleable, and may therefore serve as one amongst many social identities, or congeal into a malignant, exclusionary conception of communal self that endorses any brutality meted out to the enemy other. This fluidity exacerbates the theoretical difficulty that nations present to International Relations. The sovereignty game, through the laws, norms and practice of states, functions to maintain equilibrium. Specific states move up or down the rankings, but the game itself changes slowly, so International Relations deals with a fairly stable body of variables. In contrast, nations are far more slippery, being constantly reinvented to adapt to new challenges and crises.

By viewing nations as a process, and a response to modernity, many valuable insights have been drawn, but they carry the largely unexamined implication that the process has now stopped, except for the laggards such as India or Nigeria, who will catch up in due course. With the arrival of modernity, the historians and anthropologists pack up their bags; nations have become states, and this is the business of politics. International Relations, with its focus on the state, takes this as the departure point. The nation's theoretical role in justifying and legitimating the liberal state continues to receive attention, as do the difficulties faced by contemporary minority nations, but again, the idea of nation is taken as essentially now fixed. The linkage between nation and state is of course crucial, but the state is not simply a theoretical construct; nations everywhere are embedded in states. Citizens of a decent liberal state may still cherish their nations, for largely apolitical reasons, but nations also find themselves embedded in imperfectly liberal, and abusively illiberal states, and modernity itself is not static. Crises recur and new ones emerge, and nations continue to adapt accordingly. Pre-modern, modern and late-modern states are all contemporary players in the sovereignty game, and each brings their own perspective to the balance between sovereignty rights and human rights, and their approach to the claims of nations. Nevertheless, it is states who

must ultimately judge whether a nation should, or should not, be granted self-determination. Some criteria are essential, and the new civilisation standard of rights observance would seem to be the most important, as rights may bridge the gap between theories of nation and theories of state.

The first two chapters are broadly historical. Starting from the premise that nation and self-determination, and ideas about the state and legitimate governance are subject to reformulation and revision, Chapter One takes the long view in tracing their evolution from the pre-modern to the modern. Nation, state, the states system; the rational premise of liberalism, progress and rapid technological change are all emblematic of modernity. Their co-emergence in Europe goes some way to explain why nation and state are so often deemed synonymous. The chapter concludes with an account of two modern approaches to the nation that continue to shape contemporary understanding; the Anglo/liberal approach which depicts the nation in largely political terms, and the romantic which stresses the rather more complex issues of sentiment and belief.

In Chapter Two, the view narrows to the twentieth century. Three broad, and radically different manifestations of national self-determination are examined. These coincide approximately with the end of the major conflicts that disfigured the century; the First World War, where self-determination was granted as part of the victors' war aims, and was restricted to Europe. The Second World War and decolonisation, where the link between nation and self-determination became attenuated, and the principle applied only to Europe's overseas holdings, and lastly the post-Cold War period. The idea of nation is now even less certain. Some of the precedents established in the two earlier periods seem to hold, but new formulations seem to be occurring, which underscore the point that ideas about nation and self-determination are always adapting to circumstances, and that the problem of nations never stays settled for long.

In Chapters Three and Four I consider the nation's congruence with the state and kin based forms of social organisations, in order to illustrate the distinctions between state and nation, and bring some clarity to the terms as they are currently understood. Chapter Three commences with the state, which is justified for a number of reasons. States are the principal players of the sovereignty game, and nations everywhere are embedded in states. This is the context in which nations act. It is plausible that the delineation of the state will reveal the nation, and in so far as the nation's justification for self-determination is the same as the state's, these are made explicit. Various essentially liberal normative and explanatory theories are considered. The chapter concludes with a brief survey of the more promising modernist accounts of the nation, which largely fall under the Anglo/liberal political interpretation of the nation. Turning next to the refinements of later theorists, Chapter Four focuses on the family, interpreted here in its widest sense as a kin based community linked by ties of blood and soil.

Here, the romantic interpretation of nation is to the fore. This stresses the role of culture and sentiment in the construction of social identity, and the value that membership of the nation brings. Nationality serves as a gateway to other forms of social good, but is simultaneously a strategic claim to communal entitlements. The obligations arising within and between bounded communities are examined, and the recruitment and boundary maintenance mechanisms used by states and nations are compared.

The last chapters are also paired. Nations always seem to see themselves as victims, so here I consider injustice. It is plausible that the nation's suffering will factor in evaluating a claim to self-determination, but given the impulse of states to preserve the *status quo*, it is likely that only the most severe abuse will be considered. The difficulty here is that states and nations use different standards of judgement. Again, the distinction may be characterised as liberal and romantic. Chapter Five therefore looks to the prior question; are rights

taken seriously? This question is considered from the perspective of the pre-modern, modern and late-modern state, and focuses on the tension between sovereignty rights and human rights. I also examine the charge that the sovereignty game and the norms and rules it enshrines, is a Western invention imposed by the powerful. I therefore examine whether rights are culturally specific, and whether different rights apply in different places.

Chapter Six shifts the focus to the nation's view of injustice. The possibility of an objective evaluation is considered, and rejected. Apportioning blame and identifying the victim is an impossible task when both nations and states consider themselves the injured party. Nevertheless, judgement is required. States are the principal actors in the sovereignty game and it is they who will decide if a claim to national self-determination should be granted. Nations therefore face the hurdle of presenting their claims in terms that states can accept. Given the pivotal role of fear and the subjectivity of grievance, nations may find this impossible, but some sort of reconciliation with the past would seem to be crucial. The chapter concludes with a consideration of the options available to nations in making their claim to self-determination heard. To succeed, nations must use the discourse of the powerful. They may fail to attain their goal, but if they were secure in their rights, they might cease to fear for their culture and their place in the landscape.

Ideas shape reality and reality shapes ideas. The interplay is complex and unpredictable. The modern *Weltanschauung* dominates, but it has not supplanted the pre-modern world-view that existed before, although it has modified it. Modernity itself is not static, as the development of a late-modern interpretive approach indicates. The historical development of the nation and the variation in claims to self-determination, the evolution of ideas and the theoretical insights brought to nations and states are central to my thesis. However, this is not a historical study, nor a study of the history of ideas. It is not a work of political philosophy. As far as the nation is concerned, it is my

firm belief that these distinctions can only be maintained through artifice. Nations are caught in a maelstrom of ideas and events. My task here is therefore to reveal the complexity of the inter-relationship between them.

Chapter One

Self-determination: roots of the idea.

What is the current meaning of national self-determination? In seeking the answer, international relations is presented with a variety of problems. In part, these are matters of definition and taxonomy, but they also stem from history. The meaning of words and concepts change over time, accruing nuances and associations. At points, they develop quite specific significance, which may later be lost or rendered irrelevant in a different context. This first chapter examines these issues in order to illustrate why nation is so often conflated with state, or simply ignored altogether. In particular, it traces the modern co-emergence of the state and the nation, which occurred in Europe at approximately the same time, and has been a source of confusion ever since.

In this section (1:1), the difficulties considered are inter-linked, but may be grouped as problems arising from: firstly, the ambivalent use of terms within the discipline of International Relations, further compounded by use of the same terms in everyday language. Secondly, ideas change over time. A third source of difficulty is the translation problem¹. Unexamined bias, which can result in the sometimes mistaken belief that meaning is shared, arises from a general tendency to interpret words or ideas in terms of a concept that is already familiar, or more insidiously, to allow the accumulated baggage of familiar concepts to filter the interpretation. The fourth source of difficulty stems from the proposition that the meaning and use of concepts change according to context. Autonomy is a fundamental liberal value, nonintervention in their domestic affairs is highly prized by sovereign states, and democracy entails some form of participatory government. These concepts are clearly linked, but not identical, so what do nationalists have in mind when they claim self-determination?

¹In linguistics, this is referred to as schema theory which is derived from the *Gestalt* theories of the 1920s, but the difficulties of cultural interpretation are very similar to those of linguistic translation.

The organising taxonomy of the thesis is also introduced, and three difficulties arising from Cooper's² tri-partite classification are identified. Whilst Cooper's neatly fits the arguments that I wish to make, it is an arbitrary selection; other authors select whatever best supports the arguments they wish to make. So, for example, Gellner³ and Smith⁴ employ quite different classifications. Further, whilst the pre-modern, modern and post-modern were chronologically sequential in Europe, they also represent contemporary world-views. Finally, Cooper's: "post-modern" is renamed: "late-modern" as it does not represent a radical departure from the modern *Weltanschauung*, and it disassociates the idea from the critical and epistemological approaches usually indicated by the term post-modern.

In the next section (1:2), I consider the pre-modern, and the arguments in favour of Gellner's central thesis, widely supported by Anderson⁵ and others, that nations could not have emerged prior to modernity. I turn first to foragers, noting that whilst Palaeolithic foragers would not have recognised nations, contemporary foragers do. Like all contemporary societies, they are embedded in the modern world of states. By selecting an evolutionary time scale, Gellner effectively scotches the arguments of Smith, Trevelyan⁶ and others who cite the Declaration of Arbroath (1314)⁷ and such as evidence of pre-modern nations. Gellner's second pre-modern category, the agrarian is considered next. Due to the rigidity of the social structure and technological stability, the agrarian age was inhospitable to innovative forms of social power. The section concludes by noting the most serious flaw in the modernist account of nations; the mistaken

²Cooper, R. *The Post-Modern State and the World Order*. Demos, London, 1996

³Gellner, E. *Nationalism*. Weidenfeld and Nicolson, London, 1997
[Nationalism]

⁴Smith, A. *Nationalism and Modernism*. Routledge, London, New York, 1998
[Nationalism and]

⁵Anderson, B. *Imagined Communities. Reflections on the Origin and Spread of Nationalism*. Verso, London, 1983

⁶Trevelyan, G. *Illustrated History of England*. Longmans, Green and Co, London, 1956

⁷ Encyclopaedia Britannica: 2002

assumption of linearity. The following section (1:3), explores modernity, the prevailing contemporary world-view. Modernity differs profoundly from the pre-modern. For convenience, the start of the modern era is given as the Peace of Westphalia (1648) and the end of the Thirty Years' War, and Europe's gift to international relations; the nation and the state. Modernity did not emerge abruptly, and it continues to evolve in the present. Nevertheless, the social, political and technological innovations that characterise modernity represented a profound dislocation to the certainties of the pre-modern, and nationalism was the response. The final section (1:4), concludes with a study of the two most significant and divergent trajectories of modernity that have shaped present understanding of national self-determination. Both are rooted in the Enlightenment, and are characterised as liberal and romantic. The Anglo/liberal is predicated on the autonomous individual as rights bearer. Influenced by the American and French Revolutions, themselves a source of instability⁸, the community is presented as a vehicle for popular democracy. Its value is purely derivative, depending on how well it promotes individual rights. The romantic course, closely associated with Germany by Cobban⁹ and others, and drawing on concepts such as the *Zeitgeist*, contributed to the idea of the blood and soil nation which accords primacy to communal rights.

(1:1) Meaning varies by use and context.

Why commencing with a string of definitions is unlikely to be helpful.

Endorsing the approach of those such as Bartelson¹⁰ and Puchala¹¹ in asserting that meaning and use change over time and according to context, means that

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- ⁸Halliday, F. *Revolution and World Politics: The Rise and Fall of the Sixth Great Power*. Macmillan, Basingstoke, 2000
- ⁹Cobban, A. *National Self-Determination*. Oxford University Press, London, New York, 1945
- ¹⁰Bartelson, J. *A Genealogy of Sovereignty*. Cambridge University Press, Cambridge, 1995 [Genealogy]
- ¹¹Puchala, D. *International Encounters of Another Kind*.

some alternative approaches become unavailable. Thus, I do not commence with the: “best” definition of self-determination, followed by a comparative case study of claims to self-determination to establish which examples most closely match the criteria selected. Whilst this method may be appropriate in other fields, it is unlikely to prove fruitful in an area where terms have wide currency, both in ordinary usage and in a more specialised sense, but which, at the same time, are also highly fluid and contestable. A generously drawn definition that could plausibly be applied in most circumstances would have to be couched in such general terms that it would, at best, be no more useful than a commonplace understanding of the subject. At the other end of the spectrum, a narrow stipulative definition is even less appealing; any gain in precision would be offset by its restricted applicability and the violence done to ordinary language. As Wittgenstein¹² notes, being inexact is not always a reproach, and precision should not always deserve praise.

For the present, I will aim at praiseworthy inexactitude and refrain from offering definitions, although I return to this issue in Chapters Three and Four. This reticence stems from recognition that self-determination is a highly charged and emotive issue, and that, in common with other terms and concepts, its meaning is fuzzy. Weber¹³ argues that because these concepts are evolving, any attempt at definition would imply a spurious fixity. Only by considering the context in which it is used, and the intentions of both speaker and audience, can meaning be inferred. The Somali case is illustrative. Lewis¹⁴, an acknowledged expert in the field, shares the Somali view that their claim to self-determination is manifestly legitimate. A well defined and autonomous community since the seventeenth century, as far as the Somalis were concerned, self-determination

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- ¹²Wittgenstein, L. *Global Society*, 11 (1), Jan 1997 (pp. 5-30)
Philosophical Investigations. Anscombe, G. (transl.) (Second Edition). Blackwell, Oxford, c1963
- ¹³Weber, C. *Simulating Sovereignty. Intervention, the State and Symbolic Exchange*. Cambridge University Press, Cambridge, 1995
- ¹⁴Lewis, I. *The Modern History of Somaliland. From Nation to State*. Weidenfeld and Nicolson, London, 1965 [Somaliland]

meant the reuniting of their people and the dismantling of arbitrarily imposed colonial borders. In contrast, their neighbours, Ethiopia and Kenya, viewed the Somali goal as irredentism and an incitement to secede to their own citizens. The Kenyan delegation to the OAU¹⁵ Conference in 1962 made their views perfectly clear:

"The principle of self-determination has relevance where FOREIGN DOMINATION is the issue. It has no relevance where the issue is territorial disintegration by dissident citizens. . . We in Kenya shall not give up even one inch of our country to the Somali tribalists, and that is final"¹⁶.

Since United Nations' (UN) troops left in March 1995, Somalia has been left to its own devices. At the time: "many saw Somalia's collapse as anarchic and incomprehensible"¹⁷, and feared that chaos would engulf the entire Horn of Africa. Yet the situation now seems less bleak. Mogadishu apart, open warfare has largely ceased, and social and economic conditions are improving. In a reflection of clan affinities, Somaliland and Puntland have established functioning autonomous administrations, and similar developments can be described in a number of other regions. So, for the anthropologist and the pan-Somali nationalists, self-determination means the restoration of a state to the nation; for neighbouring governments, it is a ploy to foment domestic civil unrest and destabilise borders; for the international community it has, of late, meant abandonment. These are only three interpretations. How would an international lawyer, a political theorist or a moral philosopher interpret self-determination for Somalia? What would the IMF¹⁸ or an aid organisation say? The point here is simply that self-determination is not reducible to a single

¹⁵Organisation of African Unity, now the African Union (AU).

¹⁶Hoskyns, C. *Case Studies in African Diplomacy: 2. The Ethiopia-Somali-Kenya Dispute 1960-67*. Oxford University Press, Dar es Salaam, 1969, (p. 39)

¹⁷*Economist* "A failed state that is succeeding in parts" 28/8/1999

¹⁸International Monetary Fund.

interpretation that would fit all circumstances, so meaning must be derived from the context in which it is used.

Self-determination is often presented as a right peculiar to nations, with the magnitude of self-determination somehow proportional to the authenticity and antiquity of the nation. In considering self-determination as a property of nations, it is evident that nationalist claims to self-determination can only be understood as part of a wider bundle of political concepts of justice that include: state, sovereignty, nonintervention, international law, and, most crucially, the role of the rights bearing individual. Like self-determination, these are essentially fuzzy concepts whose meaning can only be understood in terms of the context in which they are used, and are therefore also subject to the demands of inexactitude.

Definitional problems. The ambivalent use of terms.

National self-determination presents a difficulty for international relations, which is in part a consequence of semantic ambivalence. The assumption that nation stands for state is a convenient fiction which allows for the advancement of interesting debates and theories within the discipline. In some respects, this is not problematic; on the subject of international capital flows, for example, it is probably not crucial to have a rigorously defined concept of the units in play. Whether the subject is a state, a nation or a stock exchange is not a central issue to the study of global transactions. Likewise, an explication of capital transactions based on systemic or structural models need not be overly concerned with the nature of the actor, or the degree of its autonomy. The expert on financial markets is of course aware that there is a difference between nation and state, or country, ghetto, neighbourhood and so on; all indicate community and place, yet each is distinct. It is simply that the exact nature of the community and place is not very pertinent to the object of interest. On the question of self-determination the matter is entirely pertinent, because little of

use can be said if the identity of the relevant self is unexamined. The fiction that nation stands for state is, like the man/state analogy, powerful precisely because it is easily comprehended, but it carries the danger that equivalence becomes assumed, and its metaphorical status is forgotten. However, once the fiction is acknowledged, some major arguments lose their coherence. Realism, in particular, is seriously weakened when the assumption of synonymy is abandoned.

In its various manifestations Realism purports to explain international relations as a game played by states. Other actors are subsumed or marginalised. Yet power, and the use of warfare to secure it, is not the sole preserve of states. Nations, clans and groups identified by language or religion are increasingly in the business of wresting power from the states that house them. Morgenthau¹⁹ for example, offers a series of thumb nail sketches which summarise national²⁰ characteristics, in part as an explanation for aberrant state behaviour. With the benefit of hindsight, and that over half a century of it to boot, it is probably unfair to criticise Morgenthau for what now appears to be a ludicrously simplistic example of social Darwinism. Yet later formulations, such as Waltz's rigorously coherent Theory of International Politics²¹ also takes the unitary state as the principal actor in international relations, with behaviour largely dictated by structural determinants. Systemic or structural explanations may serve to explicate some behaviour on the international scene, but not all of it. It is now impossible to sustain a defence of the premise that states are simply billiard balls reacting mechanistically to the forces of national interest. Lapid and Kratochwil²² are rather more brutal, stating that Realism is a theory in denial. It

¹⁹Morgenthau, H. *Politics Among Nations: The Struggle for Power and Peace*. Knopf, New York, 1948

²⁰Morgenthau is also discussing states, rather than nations.

²¹Waltz, K. *Theory of International Politics*. Random House, New York, 1979

²²Lapid, Y. & Kratochwil, F. Revisiting the "National": Toward an Identity Agenda in Neorealism? In: Lapid, Y. & Kratochwil, F. (Eds.) *The Return of Culture and Identity in IR Theory*. Lynne Rienner Publishers, London, 1996, (pp. 105-128)

is only by the most extravagant contortion of words and facts that Realism can allow for nations, by rendering nations, and other non-state actors, as units similar to a state. The growing divergence between what Realism assumes of the world and reality is increasingly hard to ignore, and its position as the theory of choice is seriously eroded by the conspicuous role played by non-state actors, especially nations, in areas of conflict. My sympathies lie with Lapid and Kratochwil.

States, and the populations they harbour are heterogeneous, and the communal identities of which they are comprised shift and overlap. Different loyalties are evoked in different circumstances. National identity may sometimes predominate, but at other times aspects such as party loyalty or religious affiliation may be more salient. A more nuanced approach that admits of this complexity is likely to prove more rewarding, and the proliferation of normative approaches to international relations indicates a shift of emphasis. So, for example, Kaldor²³ and Campbell's²⁴ identification of new dilemmas suggest a willingness to embrace a diversity of approaches, even though the role of nation is not always their central concern. These advances are handicapped in that none approach the robustness of Realism, yet this is inevitable given the complexity of the world they seek to illuminate. Pronouncements on ethical foreign policy by the British Foreign Secretary, Robin Cook, however poorly realised²⁵, may be taken as evidence of a similar recognition of complexity in the practice of international relations, and I return to the issue of shifting international norms and practice in Chapter Five (5:2).

²³Kaldor, M. *New and Old Wars. Organized Violence in a Global Era*. Stanford University Press, Stanford, California, 1999

²⁴Campbell, D. *MetaBosnia: narratives of the Bosnian War*. Review of International Studies Volume 24, Number 2, April 1998 (pp 261-281)

²⁵In the aftermath of the September 11th attack on the World Trade Centre, SaferWorld concludes that Britain's arms exports to: "on side" regimes of dubious probity has notably increased. Independent. 25/11/2002

Definitional problems. Meaning changes over time.

The use and meaning of words and ideas can vary enormously at different times and in different contexts, providing plenty of scope for misunderstanding. There are, however, strands of continuity. For example, the broad sweep of European history is neatly divided into three chronological periods; pre-modern and modern in Chapter One, and the late-modern in Chapter Two. Each period is identified with a particular *Weltanschauung* that interprets the natural social order in quite radically different ways. Self-determination, as understood during each of these periods has been significantly reformulated. Likewise, the nature of the appropriate self has metamorphosed from the person of the king, to the body politic represented by government, and to the popular will of the people. Such re-readings of the natural order would have become widespread only gradually; as the context changed, so did use and meaning.

In, let us say, 1648, self-determination, of an individual or a people, would have been a difficult notion to explain. It could be paraphrased as sovereignty, but sovereignty-of-people would have been an oxymoron. The idea of individual sovereignty would have been recognised, but exclusively as an attribute of the person of the monarch. Nevertheless, once on the subject of kingly attributes, it would be feasible to discuss the government of his people and his relations with other kings, his strategy for the present and future security of his realm, and so on. It might even be possible to return to the alien concept of people's sovereignty, because the ground rules of international relations in the seventeenth and twentieth centuries were broadly similar. The same task could be attempted in, for example, the fourteenth century, although this would be more difficult because the Church and its teaching, ubiquitous at the time, has no ready equivalent in the present day. The great religions still retain authority, but they now compete with other ideologies, notably the modern concept of nation. In Chapter Five (5:1) the argument positing human rights as the late-modern ideological counterpart is advanced, although it may be premature to

suggest that these belief systems are as firmly entrenched as the Church was in its European heyday. Even so, the enterprise should be possible because international relations in the fourteenth, seventeenth and twentieth centuries share certain: "family resemblances"²⁶. It should also be noted that perceived family resemblances may be a source of error. Nation, state and popular democracy solidified at roughly the same time in Europe, as indicated in the following two sections, and it is tempting to treat these concepts as siblings. A wider panorama may caution that third-cousin-twice-removed is a closer family analogy.

Definitional problems. The translation problem.

Given the fluidity and flexibility of meanings attached to self-determination, unexamined bias affords numerous opportunities for misunderstanding, and given the varied circumstances in which it is invoked, it could be argued that the term is meaningless. How can self-determination be a divine attribute vested in a monarch by God, and also a mundane preference of common folk to sort things out for themselves? Both commoner and king claim it as a right peculiar to themselves, admittedly with fundamentally divergent justifications. Indeed, the same could be said for nation, democracy, freedom and so on, but to dismiss these words as meaningless is not very helpful. They are, after all, real words used by real people. The family resemblance is recognisable and we know, more or less, what they mean. More helpful would be an approach of the type used by Walzer²⁷ who argues that such concepts, although employed in varying circumstances, have a thin core of overlapping meanings that reveal points of mutual understanding, even though there is wide variation at the margins. Whilst these points of mutual comprehension make sense of some ambiguity, Walzer warns against the misunderstandings that arise when such concepts are

²⁶Wittgenstein (p. 32e)

²⁷Walzer, M. *Thick and Thin. Moral Argument at Home and Abroad*. University of Notre Dame Press, Notre Dame, London, 1994 [Thick and Thin]

presented, or accepted, in terms of an existing, thick, idiom, which can result in falsely perceived correspondence. In ordinary language, words and ideas are used without the need for qualification or definition, because we all know what they mean; we translate what we hear so that it fits into a frame-work that we already understand:

"a new experience is understood by comparison with a stereotyped version of a similar experience held in memory"²⁸.

Self-determination, sovereignty, the state; nation, culture, ethnicity; we understand what these clusters mean by listening to how they are used. Any translation may be inaccurate, or open to another interpretation. For example, nation stems from the Latin root *nasci*, to be born, whereas ethnicity has a Greek root, *ethnikos*, meaning race or nation. Both connote groups united by origin, culture and language, and in many contexts the words may be used interchangeably. Both words have deep roots and nuances that render one preferable in certain situations, for example: "ethnic food", carries the suggestion of generic foreignness and primitiveness, whereas: "National cuisine" is much more specific and sophisticated.

Food could stand as the ideal test of unexamined bias or overlooked nuance; all people need food that is an appropriate mix of protein, carbohydrates, vitamins and such. Yet what is considered edible varies enormously. In part, this may be explained by the local ecology, and some anthropologists, such as Harris²⁹ and Rappaport³⁰ have offered fairly plausible functional explanations as to why people living in certain habitats refrain from eating certain animals. The people concerned generally offer more spiritual explanations as to why some animals are sacred or reviled. Yet religious or ecological explanations do not give a

²⁸Cook (p. 9)

²⁹Harris, M.

³⁰Rappaport, R.

Cows, Pigs, Wars and Witches. Fontana, London, 1977

Pigs for the Ancestors. Ritual in the Ecology of a New Guinea People. Yale University Press, New Haven, London, 1984

complete perspective; snails and frogs' legs are listed on menus, not slugs or frogs' arms. Cheese is made from the milk of cows, goats, sheep, buffalo, but not pigs. Perhaps the best conclusion here is that the: "yuck factor" is culturally specific; a bias so deeply buried that it is not even perceived as such.

Definitional problems. Meaning is determined by context.

Simply put, speech is situated and purposive, and what is meant by any articulation depends on the story that is being told. Context is crucial because, as van Dijk³¹ notes, any given linguistic community relies on implicitly known rules which may not be known to an outsider. So, although unstated and opaque, the rules of the game of international relations are understood to be about the inter-relationships of political communities. Although inexact, it is understood that nations or states, their autonomy, their dealings with their fellows are part of the discourse, whereas the placing of the caesura in an Alexandrine verse, or the offside rule are not. This is not a novel idea, but one that is often overlooked. Although tangential to the issue of self-determination or the nation, Bohannon's³² attempt to tell the: "universal" story of Hamlet to a group of Tiv elders illustrates the danger of assuming that meaning remains constant across different situations³³. Words are embedded in an entire belief

³¹van Dijk, T. *Text and Context; explorations in the semantics and pragmatics of discourse.* Longman, London 1977 [Text]

³²Bohannon, L. Shakespeare in the Bush. In: Spradley, J. & McCurdy, W. *Conformity and Conflict. Readings in Cultural Anthropology.* Harper Collins, New York, 1994, (pp. 35-44)

³³Aware that she has a non-European audience, Bohannon translates the story with local referents, but fails to anticipate that her audience will likewise filter the tale through their own *Weltanschauung*. She expects shared indignation when she tells of Gertrude's indecently swift marriage to her dead husband's brother, but this is not forthcoming, as the Tiv consider it entirely proper that a man should marry his brother's widow. Likewise, she expects pity or outrage when she tells of Hamlet's cruel shout: "a rat", followed by his murder of Polonius, but the Tiv respond with incredulity at Polonius' abject stupidity. Men are always armed to the teeth and ready for the hunt; you shout out on sighting game to give other hunters the chance to shout: "its me" and avoid being killed by accident. The elders accurately predicted the final events of the story, but in terms of witchcraft. Laertes, Ophelia's only surviving male relative, obviously used his witchcraft to cause her to drown; he needed to pay off his gambling debts, but he could not do this by marrying her off (no one in their right mind would marry the

system, and carry nuanced meanings: "the meaning of a word is its use in the language"³⁴ and as Wittgenstein argues, this is dependent on the language game being played, and the importance of finding: "mutually understood conventions that give clues as to meaning"³⁵. In Bohannan's encounter with the Tiv, there was some mutual understanding of the rules of the game; they all understood that she was telling a story about crime and social relationships, but did not foresee that their fundamental understanding of what constituted a crime, a proper relationship or magic would be so radically different that the meaning of the story to teller and told would diverge dramatically. They were unable to identify the essential and non-essential elements of the story because they mistook the: "family resemblances" for congruence, a charge that has already been leveled at Realism on the matter of nation and state. Blum-Kulka³⁶ argues that there are four maxims for efficient communication: quality, quantity, manner and relevance, but concedes that they are subject to cultural variation, as Bohannan discovered. Indeed, linguists seem to have a penchant for maxims, which are often perfunctory³⁷ and fail to admit that many expressions have divergent meanings according to context, because meaning depends on a whole set of institutional arrangements and presumptions which are bound up with function³⁸. Language or speech is a form of action, which Austin³⁹ called a type of doing, that is determined by purpose and context. As Chomsky notes, language is not simply about communication. However, although meaning is a pervasive issue in this study, I will heed Chan's⁴⁰ injunction to avoid the risk of

favourite of the Chief's son), so he decided to sell her body to his fellow witches, and killed Hamlet when he tried to stop him.

³⁴Wittgenstein (p 20e)

³⁵Carlson, L.

Dialogue Games; An approach to Discourse Analysis. D. Reidel Publishing Company, Holland, 1985

³⁶Blum-Kulka, S.

Discourse Pragmatics. In: van Dijk, T. (Ed.) *Discourse as Social Interaction.* Sage Publications. London. 1997, (pp. 38-63)

³⁷Chomsky, N.

Language and Politics. Otero, C. (Ed.) Black Rose Books Ltd, Canada, 1988

³⁸McLellan, D.

Ideology. Open University Press, Milton Keynes, 1989

³⁹Austin, J.

How to do things with words. Clarendon Press, Oxford, 1975

⁴⁰Chan, S.

A Summer Polemic: Revolution, Rebellion and Romance. Some Notes Towards the Resacralisation of I. R. *Paradigms* 7 (1) Summer 1993 (pp. 85-100) [Polemic]

substituting a study of words and terms for a study of the world, and will leave the issue here for the moment.

The organisational structure.

A taxonomic strategy is commonplace; it is useful because it allows for generalisation, but does run the risk of attracting the accusation of superficiality that Chomsky directs at linguistic taxonomies. Other difficulties arise from the somewhat arbitrary nature of the periods selected, the implication of linearity and the labels attached. Cooper's tripartite classification of pre-modern, modern and post-modern is particularly useful as it limns the differing *Weltanschauung* through which nation, self-determination and such are understood. The first, the pre-modern era, is characterised by empire as the political source of stability, and hierarchical social structures, notably feudalism. Subsistence agriculture provided the main economic base, although mercantilism can be viewed as an early precursor to market economics. The prevailing world-view was definitively and pervasively Christian, which emphasised the spiritual rewards of living a properly devout and observant life. The start of the modern era, Cooper's second category, is a matter of intriguing debate, but as it is not crucial to the argument here, the Peace of Westphalia of 1648, will serve.

As Buzan and Little note, this date has an iconic status within International Relations, and there is: "near consensus"⁴¹ that it marks the transition to modernity, at least in Europe. Sovereignty was initially vested in the person of the king, but as the patron client relationships of feudalism were eroded and social structures became more horizontally ordered, sovereignty was also diffused. Technological innovation and the growth of industrialisation lead to profound social and economic change, and with it, the erosion of the certainties that had underwritten the earlier world-view. Religion was becoming a matter

⁴¹Buzan, B. & Little, R.

Beyond Westphalia? Capitalism after the 'Fall'. Review of International Studies, 25 (Special Issue) December 1999, (pp 89-104)

of private or local conscience, whilst public life was becoming increasingly secular. Balance of power became the ordering device of inter-state relations, although relations between the Western metropolitan centres and their dependant territories remained asymmetric. Modernity also saw the emergence of nation, state and new institutions of democracy in Europe. Cooper's third era, the post-modern was heralded by the end of the Cold War in 1989, and the growing salience of rights observance initiated the most conspicuous manifestation of post-modernity, namely mutual interference as signalled by the voluntary surrender of sovereignty. Technology and the social changes that have attended globalisation have shifted the focus to services and knowledge as the economic base of post-modernity. It also saw the rise, or reemergence of the nation, and other non-state actors in the international arena. This third element of Cooper's taxonomy is dealt with more fully in Chapter Two.

Difficulties: The arbitrary nature of taxonomy.

Classification is a useful device for organising material, but there is rarely a single accepted taxonomy. Much of the variation is readily explicable by differing interests. Gellner, for example, divides the pre-modern between foragers and agrarians, and has no separate classification corresponding to Cooper's post-modern. Jackson⁴² identifies only the pre and post World War Two periods, whilst Smith is concerned with five phases of theorising about nations⁴³. Here my interests coincide with Gellner's in trying to map some broad historical trends, whilst Jackson's concern with decolonisation and its legacy is central to the next chapter (2:3) and (2:5), and Smith's interest in competing theories of the nation is directly relevant to Chapter Three. There is some consensus on modernity. It is generally considered to be a property of the Enlightenment and carries a sense of contemporaneity. Cooper's other two

⁴²Jackson, R. *Quasi-states: Sovereignty, International Relations and the Third World*. Cambridge University Press, Cambridge, 1995

⁴³Primordialists; Perennialist; Ethno-symbolist; Modernist, and Post-modernist.

categories are simply a prefix and suffix to modernity, irrespective of where the dates that mark its limits are fixed.

Difficulties: The three eras represent chronologically linear periods in the context of Europe, *and* contemporary (and conflicting) models in the wider global context.

This chronological ordering is tidy, but may be misleading. With slippery concepts such as self-determination, tying changes in meaning to a sequence of pre-modern, modern and post-modern historic developments implies linearity, but this is not the case, with the partial exception of Europe. Similarly, whilst changes in use and meaning evince progress, this should be understood as akin to descent with modification. Evolution is progressive, but it can result in extinction as well as improvement. Whilst the appearance of linearity is a generalisation that may hold for Europe, it is not necessarily true that other areas and societies should also pass through the same phases, or in the same order. Furthermore, even if it is accepted that these are indeed phases through which all societies pass, it would seem that, at present, not all have yet done so. So, as the three eras do not represent linearity, it is not a simple matter of waiting for the new to supplant the old. All three coexist temporally in a state of varying disharmony. Thus, sovereignty is compromised by treaty obligations, self-determination for new or non-state units is at odds with territorial integrity, nonintervention is diminished by the conditionality attaching to participation in supra-state institutions, and the role of the state as the sole subject of international law is challenged by the establishment of war crimes tribunals. The clash of favoured principles between each category is most acute in the field of human rights, which often finds them in dispute with all the other principles of international relations.

Difficulties: The selection of labels.

Whilst following Cooper's tripartite classification, I will substitute: "late-modern" for his: "post-modern". This is in part because the: "post" appellation carries with it a whole raft of meanings, critical and epistemological approaches that I do not wish to invoke or imply. Late-modern continues to imply historical linearity, but avoids the suggestion that the associated *Weltanschauung* is profoundly divergent from that of the moderns, as I am not convinced that modernity has yet run its course.

(1:2) National self-determination in the pre-modern era.

As noted in the preceding section, the choice of classification is determined by the object of interest. To paraphrase Allison⁴⁴, where you sit influences both what you see and where you stand. Gellner's key insight, and the point his categorisation is intended to underscore, is that nations are essentially a modern phenomenon and could not have occurred prior to the onset of modernity. It is also self-fulfilling; by defining nations as modern, they cannot be anything else. For Gellner, modernity is an outcome of the Enlightenment, which persists to this day without qualification, or recognition that the end of the Cold War seems to be leading modernity in a new direction. Gellner, who is not primarily concerned with international relations, addresses this issue only obliquely, predicting larger political units with more regional autonomy, but does not view this as a departure from modernity, perhaps because he is working with a broad canvas in an attempt to depict how, in the sweep of human history, nations could have emerged only when they did. Accordingly, his taxonomy separates the pre-modern between agriculturalists and foragers, the latter sited historically prior to the Neolithic Revolution⁴⁵.

Pre-modern. Gellner's first classification: Foragers.

Forager societies are typically small, face to face communities, with most members deemed kin. Although they occupy diverse habitats, ranging from extremely arid desert conditions to dense tropical rain forest and the Arctic, their social structures display broad similarities, being egalitarian and acephalous. Conflict is dealt with through dispersal, social interaction is characterised by sharing, and although their

⁴⁴Allison, G., *Essence of decision: explaining the Cuban Missile Crisis*. Longmans, New York, Harlow, c1999
Zelikow, P.

⁴⁵The Neolithic Revolution is misnamed. Although settled agriculture represented a dramatic and radically new subsistence strategy, it was not an abrupt transition. Foragers are sometimes referred to as hunter-gatherers.

technology is simple, it is underpinned by highly expert local knowledge. A foraging mode of thought has been widely postulated by, for example, Woodburn⁴⁶, Lee⁴⁷ and Dunn⁴⁸, which displays certain traits:

"cultural adaptation is dependent on flexibility in every realm: physical mobility, exploitation of diverse resources, a variety of means of production, and, through their value system, manipulation of marriage choices and maintenance of multiple channels of reciprocity"⁴⁹

and it is now widely accepted that foragers form a distinct category. Gellner concludes that nation is not a relevant concept to foragers, because their social institutions are insufficiently structured to admit of what he sees as an essentially political concept. In so far as this is taken to mean social power, the egalitarian social organisation characteristic of foragers would certainly preclude the emergence of dominant groups. Anderson would probably concur, although not because he sees nation as an alien political concept. The crux of Anderson's thesis is that community identity is based on kinship; in small-scale societies, such as a forager band, everyone is kin. When the social milieu does not facilitate this, the nation, comprised of personally unknown but imputed kin, supplies a sense of community. Both Gellner and Anderson conclude that pre-modern societies could not, or need not, have embraced the concept of nation.

The choice of foragers as the earliest classification raises two interesting points. Firstly, whilst foraging was historically the original subsistence strategy for early humans and their hominid ancestors, it is also a present-day strategy, albeit for only

⁴⁶Ingold, T., Riches, D. *Hunter Gatherers 2. Property, Power and Ideology*.

& Woodburn, J. Berg Publishers Ltd, Oxford, 1988

⁴⁷Lee, R. & *Kalahari Hunters and Gatherers. !Kung san and their neighbours*.

De Vore, I. Harvard University Press, Cambridge, Massachusetts, 1976

⁴⁸Dunn, F. *Rain Forest Collectors and Traders: a study of resource utilization in modern and ancient Malaya*. Malaysian Branch of the Royal Asian Society, Kuala Lumpur, 1975

⁴⁹Peterson, J. *The Ecology of Social Boundaries. Agta Foragers of the Philippines*. University of Illinois Press, Urbana, 1978, (p. 112)

a few, marginalised peoples, such as the G/wi Bushmen, the Agta and the Koyukan⁵⁰. Whilst the generally accepted profile of forager society would support Gellner's contention that nation is an ahistorical and inappropriate political concept, contemporary foragers are embedded in the modern world of states. Accordingly, they use the language of modernity and couch their grievances in the modern discourse of denied nationhood and territorial claims. I return to this strategy in Chapter Four (4:3).

The second point is that by extending his taxonomy to include Palaeolithic societies, Gellner effectively draws the sting of critics such as Smith who inconveniently point out that nations existed before the industrial age, or others who point to the Declaration of Arbroath, and the like, as evidence that nations predate the Peace of Westphalia. Palaeolithic foragers go back a very, very long way, and set against an evolutionary perspective, quibbles about the exact onset of modernity look rather frivolous. Set out below is an illustration derived from one authoritative source⁵¹:

Foragers: approximate time scale

3. 5 million years ago:	Basal hominid (<i>Australopithecus afarensis</i>) transition to gracile, robust etc.
1. 6 million years ago:	<i>Homo sapiens</i>
100-300 thousand years ago:	<i>Homo sapiens sapiens</i>
12 thousand years ago:	Neolithic Revolution
2. 5 thousand years ago:	Recorded history
5 hundred years ago:	Modernity

⁵⁰These groups are located in arid, tropical and Arctic environments respectively. It should also be noted that they are not pristine isolates who have survived unchanged since pre-history.

⁵¹Tanner, N. *On Becoming Human*. Cambridge University Press, Cambridge, 1987

Against such a time scale⁵² it is plausible to argue that the Industrial Revolution, and all that has occurred in the past twelve millennia or so, is part of a recent trend that started when our ancestors began practising settled agriculture.

Pre-modern. Gellner's second classification: Agrarian.

Foragers on the whole are generalists; as Lee reports, every adult is equipped with the knowledge, appropriate to their gender and age to make or find what they need, and every member of the group participates in foraging. Agriculturalists, by contrast, developed food production and storage techniques able to support large settled populations, and economic, military and spiritual specialists not involved with food production: "one could say that complexity and hierarchy progressed together"⁵³. Given the growth of political concentration that such progress facilitated, it would have been feasible to consider the issue of political boundaries, and thus nations, yet Gellner's second pre-modern category, the agrarian age, was also inhospitable to the development of nation. Gellner's explanation is plausible; he suggests that, given the technological stability of the age, the only possibility of increasing output and creating surplus, which he equates with wealth, was to increase the factors of production. However, as land and labour are finite, the output was ultimately also finite, so the route to power was not wealth, but status. This, he concludes, led to a preoccupation with rank and a rigidly structured social hierarchy, in which the lack of ambiguity makes for order:

"That great classic of the social theory of agrarian society, Plato's *Republic*, in fact defines morality in these very terms: morality consists of each element in the hierarchical social structure performing its assigned task, and no other"⁵⁴.

⁵²On the scale of a day, *Australopithecus afarensis* appeared at midday. By 11pm real humans have arrived, and just over six seconds before midnight modernity began.

⁵³Gellner (p. 16)

⁵⁴Gellner (p. 20)

Social power did become concentrated, as illustrated by the medieval Church, and its conflict with the temporal authority of monarchs displayed the readiness of both parties to compete for power yet, although the personnel changed, social structures and institutions remained inhospitable to novel forms of social power, such as self-determination, and novel forms of claimant, such as the nation.

Pre-modern agrarian societies were, in many ways, highly differentiated. The hydraulic civilisations, epitomised by Egypt, China and pre-Columbian Mexico were extensive, complex and reliant on centralised bureaucratic control and specialisation. Although the Asiatic mode of production as formulated by Marx, later refined as Oriental despotism by Wittfogel has fallen into disrepute, the observation that such empires endured with remarkable stability remains valid. Similarly the "big man" ethos of Melanesian society produces structural stability. Sahlins⁵⁵ describes this as an: "Open system of status competition"⁵⁶; authority is dependent on the constant maintenance of personal prestige through the bestowal of gifts that confer a debt to the recipient. However, given the limited ability of swidden horticulturalists to maintain surplus⁵⁷, land being finite and increases in labour largely restricted to polygyny, prestige is eventually wrested by a competing big man. Ecological explanations therefore depend on some form of: "carrying capacity" calculation to establish: "the maximum population that a particular environment can support indefinitely"⁵⁸. Carniero's⁵⁹ formula, for example, has

⁵⁵Sahlins, M. *Stone Age Economics*, Routledge, London, New York, 1988

⁵⁶Sahlins (p. 135)

⁵⁷The most famous exception to this generalisation is the classic lowland Maya civilisation of Yucatan, that persisted for nearly two millennia, between 900 B.C. and 900 A. D. which was based on swidden cultivation and man power.

⁵⁸Ellen, R. *Environment, Subsistence and System. The Ecology of Small-Scale Social Formations*. Cambridge University Press, Cambridge, New York, 1989, (p. 41)

⁵⁹Carniero, R. Slash and burn agriculture: a closer look at its implications for settlement patterns. In: Wallace, A. (Ed.) *Men and Cultures: selected papers of the fifth international congress of anthropological and*

five variables⁶⁰, population, total arable land, length of fallow and so on, yet even this can give only the broadest of pictures. It cannot accommodate variation in weather, unexpected crop failure or bad luck, and takes no account of externalities such as trade, war or exposure to unfamiliar diseases. In short, ecological possibilism ignores the role of ideas and innovation, the main instruments of modernity.

Another contrast is provided by the structure of pre-modern societies in Africa and interior Asia. Here, political authority is institutionalised as an attribute of the chief; allegiance is owed to the office and not, primarily, to the personal skills of the office holder. In common with European feudalism, asymmetric reciprocal obligations and some specialisation underpin the social structure. Although ostensibly disparate, the defining characteristic of pre-modern agrarian societies is a social structure that remains largely undisturbed by changes in personnel. Again, pre-modern agrarian societies could not accommodate the nation, or simply did not need to. Agrarian society is essentially closed.

Gellner's conclusion that only moderns are equipped to recognise nation.

The conclusion here is that nations, as a product of modernity, are only recognised by moderns; hindsight and Hollywood account for Spartacus and Braveheart. Where we see national heroes fighting a foreign oppressor, Gellner's agrarian would see only an oppressor, and would not mind, or even notice, the foreignness of the oppressor or his replacement. This is a neat defence. By positing nation as a modern concept that only a modern is equipped to recognise, it effectively scotches any counter argument. Nevertheless, Gellner's conclusion is convincing.

ethnological sciences, 1956. University of Pennsylvania Press, Philadelphia, 1960

⁶⁰Carniero's formula has been superseded by more complex and sensitive formulae that incorporate more variables. The term: "carrying capacity" has also been superseded by: "ecological foot print" but the concept is broadly unchanged.

Although Smith, for example, points to some weaknesses in Gellner's account, notably that he overlooks the importance of culture in his depiction of nations as an essentially political concept, he does not refute the claim that nations are modern social constructs. The most coherent explanation of the nation that posits it as both a modern and pre-modern phenomenon is the perennialist account, which in its extreme form resembles the primordialist formulation; this depicts the nation as a natural communal unit that has endured over time. The trouble here is that the primordialist account is now entirely discredited because it is based on a series of assumptions that are simply not credible; nations are not antique, or pristine, or an organising principle of all human societies. However, nations are not a wholly novel kind of community, so the culturalist account of the continuities that nations represent has some value, and I return to this issue in Chapter Four(4:4).

A flaw in Gellner's account of nation; the assumption of uni-linear progression.

The most serious flaw in Gellner's approach is the assumption of uni-linear progress which, as noted in the preceding section, is simply not the case. Gellner's formulation depicts history as a tide sweeping over rough terrain, which leaves little pools of unevenly developed cultures. As an analogy, it offers a plausible account of social and technological diversity, but although he acknowledges that the: "cultural bow wave"⁶¹ that precedes industrialisation arrives unevenly, he fails to explore other implications of the analogy. Tides turn; they ebb and flow. Amongst contemporary foragers, for example, Schrire⁶² finds that they routinely adapt to prevailing socioeconomic conditions. The suggestion that present day foragers are Stone Age remnants is sabotaged by their pasts, which show that mining, horticulture, trading and such have been amongst their previous

⁶¹Gellner (p. 34)

⁶²Schrire, C. (Ed.) *Past and Present in Hunter Gatherer Studies*. Academic Press, Orlando, 1985

subsistence strategies. Having sketched the span and nature of pre-modern societies in the past 3.5 million years, I now consider the emergence of the modern.

(1:3) National self-determination in the modern era.

The onset of modernity cannot be tied to a specific date or event, and given the lengthy time scale, attempts to identify the precise start of modernity are somewhat beside the point. Whilst many have a favourite pre-modern candidate for first real nation, the preceding section (1:2) sought to explain why pre-modern societies were uncongenial to the idea of nation, and to novel forms of social power generally. Nevertheless, the contention that modernity differs from the pre-modern needs to be substantiated. If nation as an entity entitled to claim self-determination failed to take root in the pre-modern era, what was it that propelled it to pre-eminence in the modern era? What changed?

Modernity's antecedents.

The dissolution of the medieval empires and the Reformation's separation of spiritual and temporal power culminated in the Thirty Years' War, and the peace that ensued paved the way for modernity. The onset of modernity and demise of the pre-modern cannot be marked with precision, but with hindsight, it is clear that Westphalia was a watershed; there could be no return to the old certainties. Carr⁶³ states that nation was identified with the person of the sovereign, as Louis XIV's apocryphal remark: "*L'Etat c'est moi*" would indicate. Indeed, although the doctrine of Divine Right⁶⁴ depicted the king as father to the people, the relationship appeared to be closer to that between owner and object. This also illustrates the point made earlier (1:1) that the distinction between state and nation has often been blurred, in this case to the extent that king is also incorporated. As the old certainties of medieval Europe began to wane:

"the sacred communities integrated by old sacred languages were gradually fragmented"⁶⁵,

⁶³Carr, E. *Nationalism and After*. Macmillan & Co, London, 1945

⁶⁴Sir Robert Filmer's famous formulation was published as *Patriarcha*, in 1680.

⁶⁵Anderson (p. 20)

and the coherence of the: "religious community and the dynastic realm"⁶⁶ was undermined by a number of factors. Anderson argues that the most decisive element in the European context was language, specifically printed language. With the rediscovery of ancient Latin texts and the discovery of other civilisations with their own ancient languages, he concludes that Church Latin and Hebrew lost the high ground as pre-eminently ancient sacral languages. It has also been suggested that the rediscovery of the ancients allowed early modern philosophers such as Bacon to reconsider the metaphysics of time. Where the pre-modern world-view is essentially rooted in a changeless present, the moderns came to see time as a continuum stretching from the distant past to the unknown future. The growth of mass print vernacular texts further undermined the old world-view in two ways. New ideas were, by comparison with the past, rapidly and widely disseminated, and the challenge that this posed was not lost on the authorities. Indeed, fear of the uncontrolled written word has a pedigree stretching back at least to Plato, and censorship is still the hallmark of intolerance today; book burning is symbolic of oppressive regimes⁶⁷. Print also brought a fixity to language that privileged whichever local dialect most closely corresponded to the printed version; by the eighteenth century the sense of antiquity and continuity of language that hallmarked the modern view of time, was a central plank in consolidating the idea of the nation.

Anderson traces the widespread acceptance of the modern idea of nation to the Enlightenment, which witnessed the French and American Revolutions. These decisively shifted the focus to an overtly political conception, as nation became shorthand for popular democracy. This is not to suggest that the shift occurred out of the blue; from the mid seventeenth century the great thinkers of the European Enlightenment had been undermining the political assumptions on

⁶⁶Anderson (p. 20)

⁶⁷Tyndale was burned at the stake in 1536 for the crime of translating the Bible into English, yet only seventy five years later his work had become the basis of the Authorised King James Version.

which the traditional authority of Church and King were based. Nor is this to suggest that Enlightenment philosophy, or the two Revolutions, were universally embraced.

The gradual transition to modernity and a singular political loyalty.

As Cobban notes, democratic practice did not last long in France after the Revolution, but the idea that self-government and nationalism were synonymous retained its potency. This is possibly the strongest justification for ethical status for the nation. There are difficulties here though: not all nations promote popular, or any form of, democracy, and taking Paine's⁶⁸ argument as broadly representative of the liberal formulation, it is clear that the right to self-determination that he attributes to nations applies equally to states. However, the modern and pre-modern polity differ in other respects, notably allegiance. Scotland's wars of independence of the thirteenth century have been attributed to a sense of national unity, which Trevelyan describes as:

"a new ideal and tradition of wonderful potency. . . now we should call it democratic patriotism"⁶⁹,

and suggests that it was motivated by rage, not ideology. This interpretation is only superficially credible; theorising about nations and democracy came after the event. William Wallace may have been a truly remarkable leader, who effectively mobilised the lower ranks of the local aristocracy and their vassals, but these were the people who had borne the brunt of the occupying soldiery and inept governors that Edward I had installed. They already had a grievance and motivation to resist oppression which does not require a democratic or patriotic impulse to explain, whatever Wallace's beliefs on the matter were.

⁶⁸Paine, T. *The Rights of Man*. Everyman, London, 1969

⁶⁹Trevelyan (p. 218)

The pre-modern acceptance of multiple loyalties still held sway. Both England and Scotland were feudal monarchies and the stories of the Wars of Independence centre on dynastic marriage, competing claims to the succession, and the pragmatism of the main protagonists in opportunistically exploiting their opponents' political weaknesses. The higher ranks typically held estates in both Scotland and England, and thus temporal allegiance to the respective monarchs who granted the fief; spiritual allegiance was due to the Pope, but was tempered with a desire to secure ecclesiastical endowments for their families. To credit the barons with primary loyalty to the nation is not convincing. A sense of community united by grievance may have lent the Scots the appearance of national unity, but it is misleading to imply that loyalty to the nation trumped all others. Robert the Bruce, a statesman and military leader of great skill, did secure recognition of Scottish independence through the Treaty of Northampton (1328), but was hardly a democrat. A proto-nationalist, perhaps, but the price Scotland had to pay was great. Trevelyan's description is reminiscent of Hobbes' famous description of *warre*:

"For two centuries and a half after Bannockburn, Scotland remained a desperately poor, savage, bloodstained land of. . . anarchy, assassination, private war and public treason. . . no flourishing cities, no Parliament. . . no other institutions that seemed to give promise of a great future. . . What then had Scotland gained by resisting England? Nothing at all, - except her soul"⁷⁰.

Trevelyan and many contemporary moderns equate animosity to foreign oppression with nationalism, but Plamenatz⁷¹ draws a useful distinction; patriotism is depicted as a common feature of all ages and societies, whereas nationalism is a modern expression of hostility to outsiders:

"patriotism and nationalism are not the same thing; patriotism is a love of one's people which does not carry with it hostility to strangers, whereas

⁷⁰Trevelyan (p. 220)

⁷¹Plamenatz, J. *On alien rule and self-government*. Longmans, London, 1960

nationalism is emotionally in arms against the foreigner, the intruder, the outsider"⁷².

Non-linear progress.

Trevelyan's evaluation of the fate of the Scots after 1328 has disturbing implications for pre-moderns who gain self-determination, as it indicates that sovereignty is sustainable only by the suitably mature, and I return to this issue in the following chapter (2:5)⁷³. Whilst intuitively plausible, it undermines the assertion that modernity is not a developmental landmark through which pre-modern societies transit to late-modern. There is evidence from Moldova and other areas of the former Soviet Union⁷⁴ to support the argument that, under certain conditions, essentially modern polities can develop into pre-modern ones, at least in terms of technology. Somalia, in contrast, may develop into an entirely novel polity without transiting through a modern stage first. This is not the place to rehearse the debate on the nature of historical progress, but the cases of Somalia and Moldova are illustrative of some apparent contradictions. There is a long tradition of ranking men and animals, or different societies and culture, in a hierarchy, which generally puts us, whichever: "us" happens to be telling the story, at the top of the pile. The background explanation is that simple forms develop into complex ones, with complexity variously defined as adaptive specialisation or greater extractive productivity or historical necessity and so on. In contrast, others assume that some sort of equilibrium is normal, and change is explained by reference to external forces such as habitat loss or colonialism or predatory capitalism. A useful approach is one that recognises the validity of both interpretations by recognising that each seeks to explain different processes.

⁷²Plamenatz (p. 13)

⁷³This reinforces Gellner's suggestion that industrialisation is a prerequisite to nation, and suggests one explanation for the failure of so many post-colonial states.

⁷⁴Economist "Poverty in Eastern Europe" 23/9/2000

The first seeks to paint the broad picture of human development over time, whilst the second is concerned with the unique events of accident and history embedded in time. Service⁷⁵ describes this as the phylogenetic, or historical, discontinuity of progress which simply means that an advanced form will not beget the next stage of advance; the next advance will come from somewhere else. Progress has a zigzag pattern⁷⁶. Specialisation tends to equilibrium, but its lack precipitates innovation and progress. Thus, Somalia is not more advanced than the chronologically prior Western nations, but it enjoys what Service would view as the privilege of being backward; it may leapfrog modernity. The Djibouti peace conference that concluded in October 2000 with the election of a "transitional assembly"⁷⁷ would indicate that the attempt to establish a novel polity may be stifled by those aiming at a more familiar design. The strategic aspiration for a state is explored in Chapter Four (4:3). Moldova may likewise zigzag. Gellner's assertion that industrialisation is a precondition of modernity is plausible, but his uni-linear approach to progress would demand that both Somalia and Moldova industrialise first. A multi-linear approach would accept progress without the necessity of following the European pattern.

Gellner's point that industrialisation is a precondition of modernity is nuanced; it is not industrialisation *per se* that is the precondition, but its consequences. With industrialisation comes a mobile, anonymous urban society, with a dominant high culture that swamps the diversity of the pre-modern: "village green" cultures with: "a limited number of high cultures with political pretensions"⁷⁸. The belief system that had sustained the relatively stable equilibrium of pre-modern Europe could not be sustained in the face of such an onslaught. It is arguable that the relative modernity of American society allowed their revolution to succeed, whereas the lack of it in France caused

⁷⁵Sahlins, M. & Service, E. *et al.* *Evolution and Culture*. University of Michigan Press, Ann Arbor, 1960

⁷⁶For example, the Egyptian hieroglyphic rebus was very effective but also very specialised. It did not develop into an efficient alphabet system; that came from the Phoenicians.

⁷⁷*Economist* "Not yet reborn" 21/10/2000

⁷⁸Gellner (pp. 35-36)

theirs to falter. The Somalis do not have an industrialised economy, and on Gellner's terms, this may prevent them from developing a modern polity, but might not impede the development of an entirely novel one.

The first modern nation.

The English Commonwealth (1649-1660) is sometimes proposed as the first nation. It did not carry the secular impulse of later nationalisms, but shared the: "enthusiasm for liberty, its humanitarian character, its emphasis upon the individual and his rights"⁷⁹. Padfield⁸⁰ identifies the Orange invasion of 1688, which resulted in England becoming a constitutional monarchy, with royal prerogatives subordinate to common law. Others would nominate the American War of Independence (1775-1781) as heralding the first modern nation. This would certainly meet Gellner's judgement of eighteenth century social philosophy, which:

"consisted, basically, of a repudiation of this (the pre-modern) world: notoriously, its ambition was to see the last king throttled with the entrails of the last priest"⁸¹.

The American Revolution is almost a text book case of Enlightenment thought in action. The Declaration of Independence lists the colonies' grievances and repudiates the authority of a foreign monarch as: "unfit to be the ruler of a free people"⁸², and enshrines the fundamental liberal principles of a modern state:

"We hold these truths to be self-evident, that all men are created equal...with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights,

⁷⁹

Encyclopaedia Britannica. International Version, CD 98

⁸⁰Padfield, P.

Maritime Supremacy and the Opening of the Western Mind. John Murray, UK, 1999

⁸¹Gellner (p. 19)

⁸²

Declaration of Independence, 1776. Microsoft Encarta 97

Governments are instituted among Men, deriving their just powers from the consent of the governed"⁸³.

Such sentiments were a source of fear or inspiration, and remain so in much of the world. Their power is not diminished by cavils that: "the governed" excluded women or omitted Lee's condemnation of slavery⁸⁴.

Given the American precedent, Keitner is not entirely persuasive when depicting the French Revolution (1789) as the definitive inauguration of the modern conceptualisation of nation in fusing self-determination with popular sovereignty:

"In this picture, national self-determination replaced absolute monarchy as the standard for both domestic and international legitimacy"⁸⁵.

Although she argues that what was initially a political theory shifted into a form of essentialism; the French language was both an emblem of cultural and political solidarity, and constitutive of French national identity. This was coupled with an imperative to evangelise which challenged the authority of the European monarchs, by appealing directly to their subjects, and through more robust influence attempts of annexation, acquisition and direct military intervention. Keitner concludes that the outcome was an embrace of the idea of nationalism but a rejection of the aggressive export of the French variety. The conclusion here supports Gellner's thesis that the nation is a modern source of social power.

What changed?

The argument here is that nations are an essentially modern phenomenon that could not have occurred in pre-modernity⁸⁶. In one sense this is simply stating

⁸³ Declaration of Independence, 1776. Microsoft Encarta 97

⁸⁴Until the 19th amendment of 1920, or the 15th amendment in 1870, respectively.

⁸⁵Keitner, C. National Self-Determination: The Legacy of the French Revolution. Paper presented at ISA Los Angeles, 2000, (p. 9)

that the durability that characterised pre-modern society collapsed and changes occurred. Various catalysts have been identified as causal in the emergence of nation, yet whilst all may have been necessary it is not clear that any singly can be taken as a sufficient condition to account for the nation. As noted above (1:1), ideas and concepts are translated into a familiar idiom. As Smith points out, kin-based communities are a recurrent feature of human society, and it is not surprising that they are sometimes construed in the modern idiom of nations. Nevertheless, a fundamental shift in relationships ultimately resulted from the combination of changes that marked a new, modern *Weltanschauung*.

Anderson highlights the introduction of print technology because this allowed the rapid dispersal of novel ideas. New ideas, however rapidly spread, would seem insufficient unless they were of a particular kind, which is implied by Anderson's stress on the significance of print fixity and the privilege this conferred on one version of a spoken language, a point also stressed by Gellner. It is easy to imagine that the speakers of the privileged vernacular soon felt that theirs was superior, the equal of the ancient sacred languages, nor for speakers of an inferior argot to feel resentment. Yet grievance, a seemingly necessary feature of nationhood, was clearly well known in pre-modern societies. Similarly, the collapse of the spiritual and temporal authority of Church and King would have left a vacuum, but it is not clear that only the nation could have filled the void. Industrialisation, identified by Gellner as a precondition of modernity, certainly had devastating consequences in the short term and, arguably more profound repercussions in the long term. With modernity, the relevance of land-to-labour diminished; the context had changed, and so had the meaning. Changes had been accumulating; by the late seventeenth century it was evident that modern ideas had permeated the fabric and outlook of society, changing them as profoundly as the physical landscape. Locke notes that:

⁸⁶This also carries the implication that the nation (and its siblings, the state, democracy and such) will not survive the demise of the modern.

"in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile land doe in Devonshire where they are well cultivated"⁸⁷.

Fertiliser, pest control, plant and animal genetics; innovative tenure patterns, improved transport and irrigation infrastructures; sophisticated designs for ploughs and drills, crop-rotation, food storage and processing; modern scientific agriculture has increased output whilst reducing labour input, a trend that has accelerated dramatically in the twentieth century, with the Green Revolution of the 1970s and industrial agribusiness. Economic interdependence, increasing urbanisation and advances in technology and knowledge have redefined the role of land, reducing its geopolitical significance. Individually, none of these inexorably lead to nations, but in combination they did, at least in Europe. Communities are defined by their sense of us-not-them, but the traditional kin based sense of self could not be sustained against such pervasive discontinuity. As Anderson argues, loyalty to face to face kin was replaced with the imputed kinship of the nation. Further, the delineation of the nation is blurred and adaptable. Nationality is not so precisely or intimately reckoned as ties of marriage or consanguinity, and new kin can be more easily recruited. The nation provided an enduring connection between past and future; it represented certainty at a time when the old certainties had been lost. Cobban's observation that, by the eighteenth century, nation and self-determination were synonymous reflects a profound alteration in relational power. This is Plamenatz's key insight; that the modern polity represents a shift of emphasis in terms of loyalty. The multiple loyalties that pre-modern society sustained had been replaced by a single political loyalty; to the nation. Once elevated to the pinnacle of the hierarchy of values, alternative sources of authority could only claim secondary loyalty. With modernity, nations were now in it for themselves.

⁸⁷Locke, J.

Two Treatises of Government. Laslett, P. (Ed.) Cambridge University Press, Cambridge and New York, 1988, (p. 294)

Conclusion.

This brief sketch of some of the nations presented as the first true example of nationhood illustrates that, even over a relatively short period, the idea has evolved. It is also evident that each was influenced by previous events: Scotland, independent since the fourteenth century, profound political restructuring of England in the seventeenth century, American independence and revolution in France in the eighteenth century. Each produced thinkers and activists that shaped the future. In this reading, the Roman Empire was typical of the pre-modern in projecting a cosmopolitan structure. There was a single ruling culture but local elites were recruited into it, thus allowing a dual loyalty to Empire and home. In depicting Empire as a pre-modern political structure that permitted dual loyalties, and the modern as permitting only one, Plamenatz highlights a profound difference of outlook. Where Empires had an official administrative culture in which diverse local elites could participate, usually through mastery of the high language, this assimilation was restricted to the business of maintaining the imperial domain. In other areas, cultural, social and religious, local diversity was tolerated or ignored. Together with a static agrarian economic base, the overall pattern was of stability. With modernity came the nation and the state, with the assumption of unity that incorporated all areas. Culture, ethnicity, religion, a single privileged vernacular; all were subsumed by the nation, with the rest marginalised or subdued. The assumption of unity, and the historical experience of Europe obscured the distinction between nation and state.

Security implications: balance of power in international relations.

The Peace of Westphalia⁸⁸ formally recognised the sovereignty and independence of the states within the Holy Roman Empire, fixing their borders and reaffirming the authority of the prince to determine the religious affiliation

⁸⁸Together with the earlier Treaty of Passau (1552) and the Peace of Augsburg (1555).

of their subjects. Now, whilst the concept of juridically equal sovereign states was enshrined in law, there was still the matter of enforcement, given the reality of asymmetrical power between states:

"Iron pots are not more beautiful or even more useful than earthenware, but they give and take harder knocks. Put them amongst the others and the others are no longer safe"⁸⁹.

In an effort to secure safety, the European states embraced a balance of power doctrine whereby a coalition of weaker states sought to prevent the ascendancy of any one strong state. This is a doctrine with a long pedigree that recurs where the international scene comprises both iron and terracotta pots⁹⁰. Whilst there were casualties, the doctrine remained effective for a considerable period, but began to unravel in the early years of the twentieth century; perhaps there were too many iron pots. This seems to be Carr's conclusion. He argues that the relative stability of the nineteenth century was underpinned by the hegemony of the British Empire, which was tolerated on the basis of two plausible elements of: "make believe"⁹¹; that the economic order was global and neutrally driven by market forces, and that politics and economics were separate. The: "make believe" was no longer sustainable in the face of the German challenge to British naval and commercial supremacy. The institutional structure that had underpinned the twin goals of the Concert of Europe: "to prevent a single hegemon on the Continent and to avoid a general European war"⁹² had faltered.

⁸⁹Plamenatz (p. 50)

⁹⁰For example in the Period of Warring States in China (403-221 BC), and the Peloponnesian League that sought to resist Athenian hegemony. It was manifest in international relations from sixteenth century Florentine policy, through the coalitions that opposed Hapsburg dominance and later Louis XIV of France, then Napoleon, and post-unification Germany and Italy.

⁹¹Carr (p. 13)

⁹²Latham, R.

History, theory, and international order. Some lessons from the nineteenth century. Review of International Studies. 23(4), October 1997, (pp. 419-443) [History]

In this balance of power world, another piece of make believe also slipped in with modernity. Almost without noticing, nations became states, or that chimera; the nation-state.

(1:4) The nation's nineteenth century antecedents.

Plamenatz's observation that the modern world-view demands a single political loyalty is persuasive, and its logical counterpart is that:

"The first obligation of the modern national government, which no other obligation will be allowed to override, is to its own people"⁹³.

However, the assumption that all other loyalties are marshalled to sustain the idea of nation should be viewed as an extreme. All societies present different constituencies that vie for an individual's loyalty. Even in a forager band with an undifferentiated social structure, a parent may feel a greater obligation to his own child, for example. Individuals in societies with more complex structures face competing loyalties from a wider range than consanguinity affords, such as professional or political affiliation, sporting interest and such. Any single loyalty gains precedence according to circumstances.

The modern mind conceives political loyalty as exclusive; it may be given to only one nation or state or king. Thus, to the moderns, political loyalty to Pope conflicts with loyalty to King, and loyalty to a local liege would preclude loyalty to another more distant one. This holistic view of singular loyalty may closely approximate reality under certain conditions, and certainly appears central to the rhetoric of nationalism, but it is clearly not universal. Religion, language, ethnicity; any shared aspect may, sometimes, be deemed self evident corroboration of the nation, but not always. Yet not all states would wish to assimilate every aspect of diversity into a homogenised national psyche, nor would all nations wish for self-determination; some states nurture difference and some nations are happy to cohabit. "The fact is that not every state can be a nation and not every nation can be a state"⁹⁴. So, what is it that makes the nation singularly vital in one place, but relatively unimportant in another?

⁹³Carr (p. 31)

⁹⁴Archard, D.

It is intuitively plausible that, under conditions of severe stress and dislocation, the nation can become the solitary magnet for all loyalty, whilst in calmer conditions it simply represents one of many overlapping identities worthy of affection. As indicated above (1:3), closed pre-modern polities were not immune to disturbance, but social cleavages and discontent formed along different fault lines. Gellner⁹⁵, however, suggests that nationalism is the inevitable outcome of social turbulence where a rebellious or marginalised group is identified as different in kind:

"Bandit-rebels in Balkan mountains, knowing themselves to be culturally distinct from those they were fighting, and moreover linked, by faith or loss-of-faith, to a new uniquely powerful civilisation thereby became ideological bandits: in other words, nationalists"⁹⁶.

This almost jeopardises his main thesis, because nineteenth century Balkans were neither modern nor industrialised, but he averts this difficulty by concluding that Balkan nationalisms are always the exception to the rule. A more serious hurdle is that the world, even in the nineteenth century, was essentially modern. Like the foragers already discussed (1:2), it is a wise strategy to use the discourse familiar to the powerful. The idea that nation is the proper source of sovereignty has wide currency, and ambitious bandits are perceptive when they claim to be authentic nations, even if they do not fit Gellner's definition.

European nations and contingency. Two ideal types.

In the preceding sections it was argued that nation is an essentially modern concept that first materialised in Europe, yet even in this limited context it is clear that the idea of nation is construed and valued variously. Fear and uncertainty play a role, but historical experience and other contingent factors may better account for the diversity that arose in modern Europe. To clarify

⁹⁵Gellner, E. *Encounters with Nationalism*. Blackwell, Oxford, 1994 [Encounters]

⁹⁶Gellner, [Nationalism] (p. 42)

this diversity, two categories of nation are posited, although in reality, no nation could be neatly assigned to either box exclusively. The two categories may be characterised as liberal and romantic⁹⁷. Both stem from divergent post-Enlightenment trajectories which emerged in the nineteenth century. Both may be classified modern and share many of the same beliefs and assumptions. As befits the historical context, both can be seen as a response to the loss of certainty and the social dislocations that arose with modernity. Industrialisation and new technology; increased trade and contact with non-European civilisations; innovative social and scientific explanations; encroaching secularism, all were evidence that the sureties of the old order were waning. In their attempts to be reconciled to these changing realities, both brought to bear the modern belief in linear progress and the rational application of scientific method, but, as Coker⁹⁸ notes, they ultimately diverged profoundly.

The Anglo/liberal type.

The challenges posed by the Reformation, the revolution in England, and the later French and American revolutions, can all be seen as symptoms of the search for a new understanding of the world. As Halliday notes, the new ideas about liberty, democracy and equality which the revolutions had fostered were themselves a source of instability and war, as some sought to spread the word and others to counter it. The Anglo/liberal procession can be traced at least to Locke and Paine, and by the nineteenth century, to the writing of JS Mill and Bentham. It is predicated on the autonomous individual as rights bearer, and although a definitive list would be contestable, all first, and some second, generation rights would be deemed core civil and political securities, and would thus include: freedom of conscience, assembly and speech, freedom from arbitrary arrest or confiscation of property, and equal treatment before the law.

⁹⁷Many liberals who associate nationalism with fascism, would select a more pejorative term for the romantic construction of nation.

⁹⁸Coker, C. *War and the Illiberal Conscience*. Westview Press, Boulder, Colorado, Oxford, 1998

Influenced by the new orthodoxies of the revolutions, the nation is presented as a vehicle for popular democracy, and the fundamental source of legitimate political authority. The rights of the nation are purely derivative, being of value only in so far as it promotes individual rights.

The romantic type.

The romantic procession, in contrast, accords primacy to the communal right of the nation. As such, the individual is subordinate to its social organisation and goals, and it may be argued that the pre-modern hierarchical social structures of the old order lingered here for a while, as indicated by the opposition of the Vatican and Louis-Napoleon to challenges to their authority, in militaristic Lutheran Prussia and reactionary Austria. Given the diverse historical experience of Europe, some contexts provided a welcome home for the romantic approach. Whereas the liberal version of nation was consolidated broadly in the West, the romantic version took hold in Eastern and Central Europe. Here, the focus was on the sovereignty of the nation, not the rights of individuals, which justified the policy of: "denationalisation of minorities"⁹⁹ annexation, and ultimately, war. Herder¹⁰⁰ and the romantic theorising of the *Zeitgeist*, the writing of Hegel and Nietzsche, the still ambiguous concept of *Leitkultur*¹⁰¹, all contributed to the idea of the: "blood and soil" nation, and pursuit of a view of the natural order that differed from that of the liberals:

⁹⁹Cobban (p. 9)

¹⁰⁰It should be noted that in English speaking countries, Herder is often associated with the idea of nation as an exclusionary, racist concept. Spencer argues convincingly that this is the result of a limited acquaintance with his work, most of which has not been translated into English. The opprobrium attached to his name has also been exacerbated by the claims of those nationalists who do hold exclusionist views, and who argue that Herder's philosophy intellectually legitimates their conception of nation.

Spencer, V.

Lecture. University of Kent at Canterbury, 24/5/2002

¹⁰¹The meaning of *Leitkultur* is ambivalent; it may be translated as the: "leading culture amongst Germans", or the: "German culture that leads" in:

Economist "Ja, a little proud" 4/11/2000

"the entire weight of romantic literature is on the side of fetishisation of landscape, of national culture as expressed in land-use"¹⁰².

Coker plausibly asserts that the experience of victory or defeat alters the protagonists, and with Cobban, identifies Germany as champion of the romantic approach whilst tying the liberal approach specifically to England, noting that: "Philosophical ideas, of course, reflect the reality of the age in which they are formulated or held"¹⁰³.

Latham argues that support for national self-determination was the defining feature of liberal modernity in Europe. Dependent on a combination of lofty liberal principle and popular struggle, it nevertheless failed to achieve salience until the twentieth century. In the absence of any international legal or customary institutions, support and recognition of aspirant nations was decidedly uneven, and in the age of imperialism, this was tempered by the interests of the major powers. Whilst it is tenable to conclude that the nation was the moderns' response to vicissitude and fear, Gellner suggests that the liberal / romantic divergence can best be accounted for by ideology. He argues that the Enlightenment project, in its various forms, was founded on reason and broadly cosmopolitan values that rejected the: "My Station and Its Duties"¹⁰⁴ ethos of the agrarians, and with it, loyalty to local polities. The romantics, in turn, rejected rationality in favour of shared sentiment, thus:

"The value and merit of human beings lay not in what they all had in common, but in what distinguished various communities from each other"¹⁰⁵.

Those communities in the grip of maximum economic and social distress as a result of industrialisation, beleaguered by French cultural imperialism, British commercialism and the liberal's messianic impulse to assert values on behalf of

¹⁰²Gellner, [Nationalism] (p. 108)

¹⁰³Coker (p. 13)

¹⁰⁴Gellner, [Nationalism] (p. 63)

¹⁰⁵Gellner, [Nationalism] (p. 68)

all humanity, needed a method of asserting their own particularist value, and this was provided by rooted nationalism. Carr concludes that in both East and West, by the nineteenth century, the cosmopolitan impulse of the Enlightenment had been overtaken by a view of nations as: "sublimated individuals" credited with the honourable attributes of a monarch, but not the: "equally princely qualities of aggressiveness and greed"¹⁰⁶.

Experience or ideology?

Although Coker characterises the English as liberal and the Europeans as illiberal, this is not to imply total antithesis or consistency. The English produced many illiberal thinkers and many liberals held deeply illiberal ideas. Like their European counterparts, the English were also creating excuses for belligerency. Most significantly, this included a collective identification predicated on the other which was naturally disgusting and frightening, and the cult of manliness, in which successful aggression was deemed robust good health. In like vein, Jabri argues that the Western discourse of war portrays it as part of an Hobbesian natural order, a pragmatic response to insecurity and arbiter of last resort, but it is also constitutive: "War makes states just as states make individuals"¹⁰⁷. As Gellner notes, romantic nationalism was a repudiation of bloodless cosmopolitanism and a return to ancient values. Coker comes alarmingly close to attributing the difference between liberal and romantic attitudes to quirks of national temperament, but rescues the argument by introducing *Zeitgeist*, which he treats as shorthand for the accumulated effect of collective experience. Plamenatz is more specific, arguing that it is the nature of the experience that is the deciding factor.

It is certainly plausible that some ideas will have greater resonance in different contexts. Although Coker generally contrasts the English and German

¹⁰⁶Carr (p. 9)

¹⁰⁷Jabri, V.

Discourses on Violence. Manchester University Press, Manchester, New York. 1996 (p. 44) [Discourses]

experience, it may be more useful to distinguish between the long established states and those that emerged in the late nineteenth century, in their reaction to loss of certainty. For the latter, Coker argues that there was a tendency to intellectualise nationalism and to rationalise history, to seek a complete and authentic being:

"It was a commentary on the crisis of identity that played perhaps the decisive role in moulding the illiberal search for national authenticity"¹⁰⁸.

By contrast, the older nations from the vantage of security, could rely on nostalgia, trading on images of the past, not ideas, although Coker rather underestimates the power of nostalgia. The leitmotif for nationalists is the awakening of the slumbering nation, and yearning for the past home a recurrent rationale¹⁰⁹.

Four historic phases of European nation building.

Gellner¹¹⁰ and Plamenatz, like Coker, focus on local history and recent experience as the source of security or insecurity, which shaped the divergent strains of nineteenth century nationalism. Four geographically and temporally distinct phases are identified, but they should not be generalised as good liberal variants and bad romantic ones. Both Gellner and Plamenatz acknowledge that even in the kinder phases, minorities were often treated abominably. The first phase arrived in the West, where state and shared culture corresponded, more or less, and the pre-existing political identities of the French, British and Iberians could readily accommodate an overlapping national identity. Likewise, the second phase, the Holy Roman Empire, had a pervasive high culture that encompassed a variety of communities, so the main response to the idea of

¹⁰⁸Coker (p. 181)

¹⁰⁹For example, the announcement that the Illois are to return to the Chagos Archipelago after an enforced exile of thirty years, was greeted almost exclusively in terms of homecoming.

BBC World Service, 3/11/ 2000

¹¹⁰Gellner, [Nationalism]

nation was unification and the formality of states that roughly overlapped pre-existing communities. In delineating the third phase, Plamenatz concludes that east of Trieste, nation was not so easily accommodated; the political landscape was complex and fragmented, offering neither an overarching culture, or familiarity with the structure of states:

"If the nationalist imperative - one state, one culture, was to be satisfied... then both state and culture had to be created"¹¹¹,

often with great brutality. The fourth and final phase identified is the Bolshevik legacy, viewed by both as something of an aberration. Nationalism was successfully kept at bay, and although similarly unscrupulous and ruthless population transfers featured as mechanisms of Soviet social control, it was not aimed at ethnic homogeneity. Gellner¹¹² predicts that, following the collapse of communist ideology, the post-Soviet lands of the East will progress to normal modernity, and that nationalism will begin to assert its influence. He refrains from predicting whether such nationalism will be virulent or innoxious. I return to the issue of post-Cold War conditions in the following chapter (2:4).

Romantic nationalism reached its apogee in the twentieth century, and for many it remains indicative of the brutalities of two World Wars and countless lesser conflicts that inflicted untold misery throughout the period. For many, nationalism is pathological, and should be consigned to history alongside fascism, imperialism and colonialism as irredeemable. Given these baleful associations, Barry¹¹³ is disturbed by what appears to be a liberal attempt to rehabilitate the idea of nation. The virtues of tolerance and respect for cultural difference are in danger of conferring respectability to moral relativism, because in his view, the argument in favour of multiculturalism:

¹¹¹Gellner, [Nationalism] (p. 54)

¹¹²Gellner, [Encounters]

¹¹³Barry, B. The limits of cultural politics. Review of International Studies, 24 (3), July 1998, (pp. 307-319) [Limits] 62

"is, manifestly, the pluralisation of the romantic nationalist ideas of the incommensurability of national moralities"¹¹⁴.

Conclusion.

In this first chapter, I have made no attempt to define what nation, self-determination or any of the related concepts mean today. They remain fuzzy, with meaning determined by use and context. Cooper's tri-part taxonomy of historical eras was introduced, which serves as the central organising device of the thesis. In Europe the pre-modern, modern and late-modern were chronological sequences, but they are also contemporary and competing world-views. Pre-modern societies were inhospitable to change. They were limited by their subsistence strategies and their social and political organisation, but given a timescale of millennia, different patterns emerged. The pre-modern world-view differed radically from that of the modern. Stemming from the Enlightenment, modernity is predicated on progress, rationality and innovation. Although Gellner¹¹⁵ equates modernity with industrialisation, or rather its consequences, this does not weaken his argument that nation is an essentially modern phenomena. The chapter concluded with a consideration of the Anglo/liberal and romantic constructions of nation.

Both are modern and rooted in the idea that legitimacy ultimately derives from man. The liberal conceptualisation is essentially political, and the nation is of value only in so far as it promotes individual welfare. The romantic is essentially cultural and sentimental. The nation is unique; it connects man to his place in the landscape and ties him to his fellow kin. However, the romantic stress on an exclusionary authenticity had pernicious consequences, and events during the twentieth century polarised opinion. In recognition of the sheer magnitude of suffering that nations and nationalism caused, for many, the nation was seen as pathological. In the next chapter I continue to trace the

¹¹⁴Barry (p. 317)

¹¹⁵Gellner, [Nationalism]

development of the idea of self-determination, focusing on the twentieth century.

Chapter Two

Self-determination: the twentieth century.

The evolution of national self-determination is also the subject of this chapter, although the exploration continues on a narrower timescale; a single century. Here, I consider self-determination in the various guises it assumed after: the First World War (2:2), the Second World War (2:3) and the Cold War (2:4)¹¹⁶. Self-determination did not, of course, change abruptly at a given date, but the centre of gravity shifted. The incorporation of new ideas was gradual, and the process continues, and changes in the meaning and use of self-determination reveals shifting currents in the underlying normative values that shapes social reality. Each period of conflict lead to a flurry of state creation, border adjustments, population transfers and such, after which, the problem of national self-determination was deemed solved, only to re-emerge later. Agreements made at Versailles and Yalta, and later during the decolonisation process, sought to settle these issues. The post-Cold War period has no comparable arena in which solutions could be agreed, and no victorious or colonial powers able to agree solutions, still less impose them. The United States, as the sole remaining super-power is reluctant to assume the role of hegemon, and whilst the UN may have the moral authority to act, its freedom to do so is constrained. It is evident that the problem of national self-determination does not remain settled for long.

This first section introduces the late-modern, the third of Cooper's historical eras. However, as the world-views of the three eras are also contemporary, the last section (2:5) considers the difficulties arising from this. Like the modern and the preceding pre-modern, the competing world-views represent a major source of confusion in the present understanding of national self-determination. Meaning and use are determined by context; self-determination is so mutable because it is dependent on the underlying sense of self, and can no more be

¹¹⁶This conventional depiction of twentieth century conflict as a trilogy is itself problematic. Hindsight permits a delineation that may not have been apparent at the time, and allows a neat, but implausible, separation of cause and effect, and many would argue that the two World Wars are better treated as a second Thirty Years' War.

divorced from time or place than any other aspect of identity. I return to the malleability of identity in Chapter Four (4:1).

(2:1) Self-determination: the big idea of the twentieth century.

Heater¹¹⁷ argues that self-determination was the big idea of the twentieth century. Popularly held as a universal right, the concept was certainly novel when set against the prevailing imperialism of the past, but Heater's claim is undermined from three directions. Firstly, for two decades, from 1969 to 1990, national self-determination simply did not feature on the international agenda¹¹⁸. The problem had been solved. This was not really true, of course; nations and those claiming special rights for them, did not suddenly disappear, but there seems to have been a reversion to the fiction that nations were simply natural outcomes of history, and that they had now evolved into states. The unsuccessful aspirants to national self-determination were relevant to international relations only as objects of aid, or where the export of conflict, or refugees, threatened the *status quo*.

Secondly, from 1945 to 1968, the claim for self-determination became directly equated with decolonisation. Given that the borders of the colonial states had generally been imposed on an arbitrary basis, nation, as a preliminary requirement, was omitted from the equation and, in a reversal of the European pattern, state preceded nation. This was also a period when constitutive recognition predominated, and the legitimating presumption of effective

¹¹⁷Heater, D. *National Self-determination. Woodrow Wilson and his Legacy*. St. Martin's Press, Basingstoke, 1994

¹¹⁸During the 1960s, nearly forty countries achieved independence, the majority in Africa. In contrast, the following two decades saw less than thirty do so, most of which were small and impoverished, such as Guinea-Bissau and the Solomon Islands, or small and wealthy, such as Bahrain and Saint Kitts and Nevis. The major exceptions were Bangladesh on its secession from Pakistan, Angola and Mozambique following protracted civil wars, and Zimbabwe after the fall of Rhodesia.

political control was ignored¹¹⁹. I return to the issue of state recognition in Chapter Three (3:1).

Thirdly, self-determination was a concept entirely familiar to the pre-moderns. Gray¹²⁰, for example, notes that the classical conceptualisation of freedom entailed self-rule for communities, a core value in any understanding of self-determination. Likewise, although peasant society is culturally and temporally differentiated, there are certain shared features, one of which, as Shanin¹²¹ notes, is the fervent desire to be left alone. Peasants are nature's anarchists; they do not seek to change state authority but to dispense with it altogether, although this may be more a state of mind than a radical political agenda. This last concession reduces the force of any serious challenge to Heater's claim. As a sentiment with universal appeal, self-determination may be an element of the pre-modern, modern and late-modern mind-set, but the relevant self is radically different in each conceptualisation. As a political principle to be applied exclusively to a self that is either a state or a nation, it was innovative.

National self-determination as a universal principle?

As Cobban notes, self-determination means different things in different political contexts and, like freedom and justice, democracy and the rule of law, it may be little more than an aspirational slogan. However, self-determination is an idea that appeals to: "common, garden variety justice"¹²²; we know what it means. Unfortunately, this is not entirely true as the variation in practice indicates. In each of the three phases self-determination was reserved for an exclusive group, some of whom were not even considered

¹¹⁹There are two formal approaches to state recognition. Under the constitutive approach, statehood is conferred by the act of recognition by other states. Declaratory recognition is conditional on *de facto* evidence of statehood.

¹²⁰Gray, J. *Liberalism*. (Second Edition). Open University Press, Buckingham, 1995 [Liberalism]

¹²¹Shanin, T. *Peasants and Peasant Societies*. Penguin, Harmondsworth, 1979

¹²²Walzer (p. 2)

nations. The lack of a rigorous theoretical conceptualisation, the absence of established institutional procedures for assessing and implementing claims, and the intrusion of conflicting interests, made the application of self-determination erratic. This imprecision was further compounded by: "the problem of how to define which nations have the right to self-determination"¹²³; unfortunately, recognition of this problem was accompanied by a failure to realise how: "indeterminate a criterion nationality might be"¹²⁴. Little has changed in the intervening years, and the idea of nation seems more fragmentary than ever. Like the phases that emerged after the First and Second World Wars, the post-Cold War phase did not emerge fully formed and armed out of nowhere.

In the Western democracies, nation has returned to the agenda in a number of ways. In the European context the principles of subsidiarity and harmonisation seem to be prompting questions about regional autonomy along national lines in many states, such as Britain and Belgium; even France, a self-consciously unitary state, harbours Bretons, Basques and Occitans. In the United States, the civil rights movement seems to have resulted in an incendiary process whereby preferential treatment is accorded to groups defined by nation, or ethnicity. This may be racism, but skin colour and first language are, in common with many attributes of nationality, bequeathed not achieved. Native aboriginal land rights in Australia, rising Fourth World¹²⁵ aspirations and the implosion of the Soviet Empire and the release of its client states has also seen a resurgence of the nation as a crucial issue for Central and Eastern Europe.

Against this background of ambiguity and uncertainty as to the proper self, self-determination would seem to have only a tenuous claim to status as a moral principle or universal right, especially when luck, self-help and *de facto* control

¹²³Heater (p. 7)

¹²⁴Cobban (p. 21)

¹²⁵Fourth World seems to be a blanket reference to nations who are recognised (informally) as nations, but not (formally) as states. It appears to be a UN term for indigenous minorities, and those suffering extreme poverty in the Third World.

remain the most effective route to its realisation. Nevertheless, inexactitude has its advantages; indeterminacy allowed self-determination to gain widespread popularity:

"National self-determination is a belief, which became a principle of international justice, that a people should have the right and opportunity to determine their own government"¹²⁶.

This belief, though shared, was not uniformly interpreted; the divided legacy of the Enlightenment endures, and as Cobban notes, the liberal concept of self government could not easily accommodate the principles of both individualistic rights based democracy and national liberation. For romantics in the newly unified countries of Europe, the sovereignty of the nation was prioritised, whereas the liberals focused on individuality. Coker argues that these differences were the foreseeable outcomes of history, with the former grounded in fear and the latter in complacency.

During much of the century the romantic experience was of defeat; this credibly accounts for the sense of victimisation and besiegement that seems to underpin the rooted vision of the nation, and I return to this issue in later chapters. It also accounts for the almost total disregard paid to the romantic account of nation by the victors. The Western liberals had concluded that romantic nationalism was pathological; the cause of war and conflict. As convention allows, the victors were telling the story, and the particularistic experience of nineteenth century liberals was presented as a universal feature of human nature. Gellner concludes that: "there is *no* way of implementing the principle fairly"¹²⁷. There was no dialogue between the Western liberals and the romantic idealists, nor, later, with the colonies, except war¹²⁸. Liberalism:

¹²⁶Heater (p. 3)

¹²⁷Gellner, [Nationalism] (p. 44)

¹²⁸Coker

"like all the important ideologies of the twentieth century...took few ideas seriously except its own. It was intensely self-regarding"¹²⁹.

I return to the liberal impulse to evangelise in Chapter Five (5:3)

Late-modern: arguments that support the view that this is a new world-view.

In the preceding chapter (1:3), the modern era was arbitrarily deemed to have commenced in 1648, and in like fashion, the commencement of the late-modern will here be counted from 1989, the end of the Cold War. International relations were abruptly transformed and the consequences continue to reverberate, and I return to post-Cold War events below (2:4). The point I wish to make here is that the latest phase does appear to signal a change of direction. The formal adherence to collective security may now be put into practice; pre-emptive intervention on humanitarian grounds has been realised, albeit imperfectly and unevenly; tribunals have been established in the wake of crimes committed during the conflicts in Rwanda and the former Yugoslavia, although not in response to equally gross abuses elsewhere, and a permanent ICC¹³⁰ is becoming a real possibility. The arrest of General Pinochet and Mr Milosevic¹³¹ sends a signal to abusive rulers that they may no longer expect immunity for crimes in office. These, and other recent developments, do not indicate a radical rewriting of law or theory; collective security was enshrined in the Covenant of the League of Nations; self-defence and the legitimacy of calling for assistance were state rights long before they were codified in the UN Charter; tribunals were established at Nuremberg and Tokyo immediately after the Second World War, and so on. It is not that these are innovative or boldly radical ideas, but that the emphasis of state practice has changed. I return to the argument that there are new norms in international relations in Chapter Five.

¹²⁹Coker (p. 21)

¹³⁰International Criminal Court.

¹³¹At present, both have been arrested under the jurisdiction of their home states for crimes committed in office. It is plausible that this was precipitated by external factors; Mr Milosevic remains indicted for war crimes at The Hague, and warrants remain in force for General Pinochet in a number of third states. Economist "Democracy's test" 3/2/2001

Late-modern: arguments that refute the view that this is a new world-view.

Is this evidence that the nationalism of the late nineteenth and early twentieth centuries was merely frozen during the Cold War and has now defrosted? Or is it something entirely new? The answer here depends on the construction of social reality in which the world-view is grounded. For example, there are many who would argue that the interest in nations is not novel. Far from heralding a new way of thinking about the world, the present represents a return to normal politics after the aberration of the Cold War. However, this interpretation itself rests on the assumption that international relations are essentially static, that the rules and norms remain constant over time. If this conclusion is sustained then the argument that the late-modern represents a new departure is snookered. On this reading, conflict and competition are the usual stuff of politics. Nationalist aspirations are simply opportunistic attempts to improve a sub-group's bargaining position. The resurgent interest in nations is thereby accommodated by treating nations as smaller versions of states, and the struggle for power proceeds uninterrupted. Rights claims, claims to self-determination, intervention on humanitarian grounds, international tribunals and the arrest of war criminals, can all be explained in terms of the exercise and pursuit of power, according to Gray¹³² and others predisposed to Realist interpretations of the world. In a similar vein Hawthorn¹³³ argues that the intervention in Kosovo was traditional power politics; the purpose was to impose NATO's¹³⁴ conception of justice on an enemy state, and the humanitarian justification was a feint. Far from being novel, the desired outcome was the restoration of order within the limits of the *status quo*. For Hawthorn, any acknowledgement of novelty is restricted to

¹³²Gray, C. Clausewitz rules, OK? The future is the past-with GPS. Review of International Studies, 25 (Special Issue), December 1999, (pp. 161-182)

¹³³Hawthorn, G. Liberalism since the Cold War: an enemy to itself? Review of International Studies, 25 (Special Issue), December 1999, (pp145-160)

¹³⁴North Atlantic Treaty Organisation.

linguistic style. Rights claims and moral justifications are simply the latest fashionable spin on interests.

This interpretation is not entirely convincing. It is equally plausible to argue that the intervention was honestly motivated by humanitarian concerns for those whose rights were being abused, and that the Kosovans' right to self-determination has been acknowledged and at least partially accommodated. Rather than a hypocritical sham, the attempt to hold the perpetrators to account is indicative that rights are being taken seriously. This does not represent a wholesale reformulation of international relations. Ethical considerations have not replaced interests as the principal guide to behaviour, and it is partly for this reason that Cooper's third classification was re-styled as late-modern. The argument here is that a group of related ideas, which include national self-determination, rights observance and humanitarian intervention, is gaining salience. They are not so entirely radical or unprecedented as to qualify as a new *Weltanschauung*, which the post-modern appellation would imply, but do indicate a change in direction. In particular, the increasing consideration given to both individual and group rights may encourage more mutual interference and reduce the legitimacy of the nonintervention norm in the practice of international relations.

The late-modern is merely the continuation of modernity.

For the resolutely modern, novel developments are best ignored, or interpreted as fashionable representations of fundamental human behaviour. For the less resolutely modern, or those such as Gellner whose interests lie elsewhere, the sub-division of modern is irrelevant. Likewise, for Berlin¹³⁵ an undifferentiated modern is sufficient although his position does accommodate change. For example, in tracing the progress of the liberal and romantic

¹³⁵Berlin, I.

Four Essays on Liberty. Oxford University Press, London and New York, 1969 [Four Essays]

trajectories identified in the preceding chapter (1:4), which Berlin refers to as: “humanitarian individualism and romantic nationalism”¹³⁶, he concludes that taken to the extreme, the results were communism and fascism, respectively. Rooted in the Enlightenment belief in progress and perfectibility, both are quintessentially modern although ideologically opposite. Berlin concludes that the consequences of fascism and communism were terrible and on an entirely new scale, but not of an entirely new kind. The twentieth century was not the first to see total war, although it was the first to endure World Wars¹³⁷. Berlin’s conclusion is plausible, in that the shift in underlying values which characterise the late-modern are essentially modern and grounded in the Enlightenment. It is arguable, however, that the scale of the calamities that resulted from these extremes of modernity is precisely what rendered them different in kind.

The late-modern is not radically different enough from the modern to qualify as a new *Weltanschauung*.

A final point that undermines the claim that late-modern thinking is different or represents a new direction, is the historical discontinuity of progress, referred to previously (1:3)¹³⁸. In accordance with the conventional Out of Africa thesis, the pre-modern arose in Africa and spread across the world. Millennia later the modern arose in Europe. Challenges to state sovereignty are considered further in (2:4) but, despite the claims made for globalisation and the pace of technological and scientific innovation, it is evident that modernity has neither permeated every quarter of the globe nor endured to the same extent as the pre-modern. This latter point may not pose an insurmountable difficulty as there is no compelling logic that requires the modern era to match the extent and duration of the pre-modern era. However, discontinuity is the key word, and the analogy would require that the post-

¹³⁶Berlin (p. 5)

¹³⁷

Economist “Why Germany made it global” 12/5/2001

¹³⁸Sahlins

modern should be entirely different and start somewhere else. This scuppers any argument that a new era and radically novel *Weltanschauung* is dawning in the heartlands of modernity, but it does not weaken the more modest claim that in the post-Cold War present, the late-modern, differs in some significant ways from the immediate past.

Conclusion: the late-modern represents a modest departure from the modern.

The conclusion here is that the late-modern does presage a new direction which is reflected in changes to the laws, norms and practice of states. Domestically, welfare provision is a central duty of state and no longer the preserve of individual conscience and charity; universal suffrage has been extended to women as of right, and groups previously excluded from citizenship status by virtue of their religious or ethnic heritage are no longer disfranchised. Internationally, territorial acquisition by force is no longer acceptable; non-interference in the domestic sphere no longer affords *carte blanche* for state action, or protection from intervention and so on. Until the last century or so, such developments would have been viewed as unnatural, or as impossibly millenarian aspirations, but none of them would have been incomprehensible to Paine or Locke, or any of the early liberal theorists. These are not radically new ideas, but what does seem to be new is the shift in weight accorded to rights. America, as befits her status as the first modern state, takes both individual and sovereignty rights seriously. Those states with essentially pre-modern domestic social and political arrangements, are very keen on sovereignty rights, but are often indifferent to individual rights. The late-moderns who are willing to experiment with pooled sovereignty, also seem more willing to divide it by allowing regional devolution, for example, and to give rights primacy. Nationalists may thus find them sympathetic in evaluating their claims, but stringent in the terms they attach to recognition. However, late-modernity is a recent development, and no state is unambiguously committed to rights over

sovereignty rights. It is against the background of this tri-part taxonomy that the subject of contemporary national self-determination will be considered.

(2:2) The First World War.

The big idea's first outing.

Heater identifies the 1856 Treaty of Paris which ended the Crimean War, as a major milestone on the route to the emergence of self-determination as a universal principle. Instead of simply dictating terms, the powers conducted a plebiscite in the Danubian Principalities of Moldavia to establish the will of the people. This set the pattern for the next decade, and a number of plebiscites were held across Europe. Heater concludes that these were often deeply flawed, being conducted with only cursory regard to standards of impartiality, and were frequently rigged. Much like present attempts to conduct elections in precariously established democracies, the results were hardly reliable representations of the peoples' wishes, but they symbolised a new willingness to pay attention to their wishes. I return to the contemporary difficulties with authentic voice in Chapter Six (6:4). In principle at least, the wishes of the people regarding their governance would be considered, and they would no longer be treated as cattle to be disposed of at their master's bidding. As a new universal principle, the idea of self-determination took time to become established.

In parallel to many of today's pro-democracy movements, this is partly because, as noted above, there is little consensus as to what the term really means; beyond a general sentiment that self-determination is a good idea, there are no readily defined criteria by which its presence can be judged, and no established procedures for its inauguration or defence. Also, like democracy, justice and other virtues, it threatens great inconvenience to those in a position to enjoy the *status quo*, and is often portrayed as a luxury, or some grown-up treat to be enjoyed in the future when the people are ready for it. These impediments were evidently present from the outset. Whilst foreign rule was clearly not self-rule, it was equally clear that

self-determination was a principle that would be considered only in the European context. Furthermore, it was a principle that would be subordinate to the strategic goals of the imperial powers, and to chance.

1848 had seen a wave of revolutions aimed at self-determination. Poles, Danes, Hungarians, Slovaks, Romanians, Croats, Czechs; the list of European nationalists seemed endless, although their success was variable. Nationalist movements in Greece, Italy and Germany had successfully lead to unified and recognised states by 1871, whereas Finland, Estonia and Latvia were among those who had to wait until the post-war settlements; Ireland had to wait even longer¹³⁹.

The Paris Peace Conference saw the first concerted attempt to use the principle of self-determination as a guide to setting terms, although the provisions of the resulting Versailles Treaty illustrate the difficulties involved in putting principles into practice. Heater catalogues five major areas of contention that were to prove obstacles to an even-handed settlement: disputed territories that were subject to competing claims, Europe's colonial possessions, the remaining Ottoman holdings in Arabia, the Russian Empire and the Austro-Hungarian Empire. Other impediments came in the form of partisan loyalties and hypocrisy.

Self-determination as a principled guide to action.

Woodrow Wilson is generally credited with being the father of self-determination in its first twentieth century phase. He appears to have been motivated by strongly held ethical convictions, and is described by Heater as an overtly moral Christian. He championed the classic liberal freedoms and, influenced by his strict Calvinist

¹³⁹The Treaty of Adrianople (1829) marked the independence of Greece from the Ottoman Empire. Italy was united by 1861 and finally free of Austrian rule by 1871, the same year that saw Germany united under the leadership of Prussia in the Second Empire. Finland achieved independence in 1917 from a distracted Russia who also formally renounced claims to Estonia and Latvia in 1920.

up-bringing and understanding of American history, his philosophy was rooted in a fundamental belief in individual self-government. This was tempered with a streak of paternalism. Like John Stuart Mill, Wilson viewed self-government as a moral characteristic of maturity and, as such, something to be learned; this status had to be achieved for oneself, not gifted by another. In this respect, collective self-government was analogous to the personal. Heater notes that Wilson shared the view, widespread at the time, that the First World War was just another outbreak of the usual Balkan misery, and failed to anticipate its extent and duration.

Consequently, from the outset there was much discussion as to the form that a just settlement should take. A consensus emerged that this would be based on the idea that each nation, defined by language, would have its own country, with local wishes determined by plebiscite. This consensus was ill-defined and inconsistently applied, a point not lost on the Germans and Austro-Hungarians, who were to be the main losers. It was also clear that the British and French were quite happy to have these principles applied to others, but were reluctant to consider them in relation to themselves. As Cobban suggests, it was also rather difficult to advocate liberal principles and freedoms with Tsarist Russia as an ally¹⁴⁰. This last embarrassment was eliminated by the Bolshevik Revolution of 1917; the Tsar was overthrown and the new government fully endorsed the principle of national self-determination. It is not obvious how the nationality principle meshed with the main tenets of Marxist theory, particularly the assertion that class was the basis of social identity. Heater concludes that it did not fit at all, but that it was endorsed because everyone felt sorry for the Poles. Superficially at least, the Allies' war aims now appeared similar. Wilson's aims were set out in his Fourteen Points¹⁴¹,

¹⁴⁰This is a problem that seems to be recurrent; alliance with Stalin's Soviet Union in the Second World War and Putin's Russia in the war against terrorism. Dubious partners are, of course, not confined to Russia, and I return to the issue of: "our bastards" in Chapter Six (6:2)

¹⁴¹Wilson's speech of 8/1/1918.

and although not referred to specifically, six of the points reveal his understanding of self-determination:

"V. "impartial adjustment of all colonial claims, based upon the principle that in determining all such questions of sovereignty the interests of the populations concerned" be given equal weight to the government.

"IX. Italian frontiers to be re-adjusted along lines on nationality.

"X. "autonomous development" for the peoples or Austria-Hungary.

"XI. relations in (the) Balkans to be determined by friendly relations along historically established lines of allegiance and nationality".

"XII. Sovereignty for the Turkish element of the Ottoman Empire.

"XIII. "An independent Polish state". . . "An evident principle runs through the whole programme I have outlined. It is the principle of justice to all peoples and nationalities"¹⁴².

Wilson's: "evident Principle" of self-determination was intended to guide territorial adjustments, but the principle itself was insufficiently expounded. Cobban suggests that Wilson believed that he would recognise it if he saw it, but this: "if it quacks"¹⁴³ definition of national sovereignty brought little coherence to the debate, and failed to deflect charges of inconsistency and hypocrisy. There was no agreement as to the extent of self-determination; was full state sovereignty to apply in every case, or would mandate status or some element of regional autonomy suffice? It was agreed that people should not be treated as chattels, but little consistency was applied in trying to establish their wishes, or in deciding the fate of minorities who would remain on the wrong side of the border. Attempts were made to address these issues, through population transfers and minority protection,

¹⁴²Heater (p. 41)

¹⁴³If it quacks like a duck and looks like a duck we may as well treat it like a duck. The source is contested and variously attributed to: Groucho Marx, an American Bishop, Walter Reuther and others.

but the plebiscites were conducted sporadically with little regard for accuracy, population transfers did result in people being herded around like cattle, and imposed minority protection laws undermined the concept, however framed, of self-determination. Further, it is evident that it was not universally deemed to be an overriding principle and, in any event, not all war aims were linked to settling territorial questions. Inconsistency again played a part; Schleswig was not mentioned, and Trotsky cynically used: "national self-determination as a stick with which to beat the imperialists"¹⁴⁴, and he alone advocated self-determination for Alsace-Lorraine¹⁴⁵. The colonies in Africa and Asia were matters for equivocation. The question of governance was restricted to deciding who, among the victors, should assume control of the German and Ottoman colonies which were given mandate status. Self-determination for the subject peoples was not even considered. In all, the terms of peace: "would constitute an attack on the standard of living of the defeated"¹⁴⁶, and as Cobban notes, the main area of consensus was dismantling the German Empire.

Wilson later published his Four Principles which acted as a codicil to the Fourteen Points, and were more forthright:

¹⁴⁴Heater (p. 43)

¹⁴⁵Poland apart, no mention was made of the Bolshevik promise of self-determination for other elements of the Russian Empire. The British and Russians mentioned Romania's claim to Transylvania, whereas Wilson and the Enquiry ignored this. The Balkans were seen as a problem by all parties although, as Wilson's point X1 illustrates there was little consensus and probably a good deal of ignorance as to the causes of the conflicts there. Germany was to be curtailed as a continental power by being stripped of her entire colonial holdings, and losing nearly fourteen percent of her European lands (approximately 71,000 sq km). The wishes of those concerned and the principle of national self-determination were ignored when inconvenient, for example the plebiscite in Upper Silesia produced a majority for Germany, but most of it was awarded to Poland and Czechoslovakia despite a good claim to nationhood, at least on linguistic grounds. The Saar region, for example, was a particularly contentious issue; the 300,000 Saarlanders were accepted as self evidently German, but the natural resources of the area were too tempting a source of recompense to France, as was Alsace-Lorraine. West Prussia and Posen likewise went to Poland, not because Poland had a better claim to them than Germany, but because France saw a further opportunity to weaken the latter.

¹⁴⁶Carr (p. 31)

"To grant a people independence they do not request is as much a violation of the principle of self-determination as forcibly handing them over from one sovereignty to another"¹⁴⁷; "peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game"¹⁴⁸.

The Fourteen Points were accepted as a discussion document, with certain clarifications: point V, for example, was to apply to German colonies only, and the "interests of the populations concerned" meant only that the colonial powers were to act as trustees, not that independence was to be granted. Events on the ground were also pre-empting the statesmen's agenda. Point XI had already been made redundant by developments in the Balkans, and by October 1918, the Austro-Hungarian Empire was disintegrating. Ideally, the advocates of self-determination would have liked to start from scratch but this was not an option; indeed, they were not even able to start from a settled base line. Trades, deals and swaps had proceeded with no regard to the nationality principle. The Russian, Ottoman and Austro-Hungarian Empires were unravelling and the remaining powers were staking rival claims to the choice remnants. Insincere promises and inducements, outright lies, and naked self-advancement formed the background to the Paris Peace Conference; given this ambience, it is not surprising that Wilson's ideals were diluted by pragmatism and distorted by hypocrisy.

Wilson came to the Conference with twin goals; self-determination and the League of Nations, but others held less lofty goals. The French, in the person of Clemenceau, seemed more intent on revenge and reparations, and Lloyd George was more concerned with maintaining British economic superiority. The Germans, who were not party to the negotiations, had hoped that the principle of self-determination would work in their favour, mitigating the final provisions of the eventual treaty, but their hopes were not realised. In addition to these ill-matched

¹⁴⁷Heater (p. 72)

¹⁴⁸Heater (p. 44)

goals, hypocrisy and confusion, the participants were further handicapped by ignorance. The Supreme Council was faced with information overload; attended by a host of specialists who tried to summarise the massive amount of intelligence available, the Council found marshalling and digesting this almost impossible. Wilson, for example, was surprised to discover that:

"large numbers of Germans lived in northern Bohemia- a fact which the Czech leader Masaryk had somehow failed to mention in his talks with the American President before the United States afforded official recognition to the Czechoslovak state"¹⁴⁹.

Self-determination faced obstacles that ultimately proved insurmountable: greed; Realpolitik; the victors' wish for a settlement that suited them. Wilson's: "evident Principle"¹⁵⁰ was thoroughly compromised, but not abandoned; it accrued weight in succeeding years and, as Heater claimed, became the big idea of the twentieth century. A similar conclusion can be drawn with regards to Wilson's other big idea; the League of Nations.

The other big idea: The League of Nations.

The Treaty of Versailles also incorporated the Covenant of the League of Nations which was to form an integral part of the post-war settlement. It marked the inception of a new approach to international relations that, like the principle of self-determination, initially failed to meet the high expectations of its architects, but seems of late to have resumed course. The League represented the first systematic attempt to promote collective security as an alternative to balance of power, although little consideration was given to the fundamental opposition between the principle of sovereignty and an approach to global peace based on collective security. As Cobban notes, the attainment of self-

¹⁴⁹Heater (p. 56)

¹⁵⁰Heater (p. 41)

determination for some encouraged demands for it elsewhere. This development had been anticipated, but the League sought to mollify these demands through minority protections rather than through impartial and detailed procedural rules for the evaluation and implementation of claims. The League's powers to act were severely hampered and its authority truncated by the United States' nonadherence¹⁵¹. The pre-war normalities of the balance of power, the noninterventionist state, the free market and the gold standard, did not return. The League's peace and disarmament conferences continued until Germany withdrew in 1933, paving the way for the next conflagration, and I turn to this next.

¹⁵¹The Locarno agreements of 1925 sought to bolster the League's commitment to peace, and the Kellogg-Briand Pact of 1928 marked a high point in optimism that treaties, backed only by goodwill, could sustain it. The optimism was misplaced; the crash of the New York stock market in 1929 and the following depression magnified European bitterness over the terms of the peace, and everywhere protection, self-sufficiency and isolation seemed to offer the only escape from contagion. Against the magnitude of global economic melt down, violations of the post-war territorial agreements went unchecked and disarmament was ignored. In Asia, for example, Chiang Kai-shek's nationalist movement in China and Japan's equally nationalistic expansionist adventures in Manchuria resulted only in Japan's withdrawal from the League. In Europe, disarmament for France and Italy was unthinkable in the absence of security guarantees, and Germany naturally demanded equality of treatment.

(2:3) The Second World War.

The big idea's next outing.

The post-war periods of the First and Second World Wars shared similarities. Both faced the task of rebuilding a world devastated by conflict, and the same tools, collective security, military enfeeblement of the vanquished and economic redistribution, were to be employed. Self-determination remained a guiding principle, but there were significant differences, particularly in the overseas colonies. They had largely been ignored when self-determination was being allotted as part of the post-First World War settlement, but the colonies had now had nearly thirty years to think on this injustice; now was the chance to claim their freedom.

Collective security and economic restoration; a new take on self-determination.

The UN was to be more robust and inclusive than the League, its predecessor. Punitive reparations, territorial dismemberment and the hobbling of Germany's industry by the demands of demilitarisation were seen by many as contributing to the renewal of hostilities, and the impulse for revenge was tempered by realisation that a vacuum in the heart of Europe would be filled by Soviet expansion. The Marshall Plan was a novel approach to the restructuring of war shattered economies that proved remarkably successful. Instead of extracting reparations from the vanquished, \$13.2 billion was channelled by the US into the economies of the Western states¹⁵². Self-determination continued as a guiding principle of the post-war settlement, tempered as always by wider considerations than local preference. As before,

¹⁵²By 1952, the recipient economies had recovered and improved on their pre-war base, the US economy had secured a strong market for its exports, and, through other institutional arrangements such as Bretton Woods and GATT, Western Europe was economically tied to its US patron.

the focus remained on Europe; nationalist aggressors were to have their fangs drawn, Western allies rewarded and the growing threat of Soviet expansion contained. However, with hindsight, it was inevitable that the principle of self-determination would not continue to be accepted as a European perquisite. The past attainment of self-determination for some Europeans encouraged demands for it elsewhere. It: “was disintegrating as well as unifying in its influence”¹⁵³.

Successor to the League: the United Nations.

Although the League had failed to meet the aspirations of its architects, it served as the foundation for the UN¹⁵⁴. The UN Charter continued the League’s objective of fostering order through collective security, but its provisions differed from the Covenant’s in a number of significant ways that, it was hoped, would avoid its defects. The five permanent members of the Security Council, for example, secured a veto that effectively prevented action directed at them, thus giving the most powerful an incentive to participate. “Self-determination of peoples”, this time expressly linked to: “the principle of equal rights”, is cited in Article 1 of the Charter’s first chapter which sets out the purposes and principles of the UN. The precise meaning of self-determination remains ill defined, but given the task facing its drafters at the San Francisco Conference, this omission is hardly remarkable. The: “territorial integrity or political independence of any State” is secured under Article 2(4), and the state’s freedom from intervention over: “matters which are essentially...domestic”, under Article 2(7) were crucial protections that would induce states to ratify and comply with the Charter, but they are not protections that sit well with a robust interpretation of either rights or self-determination. Other instruments supplement the Charter, notably the Universal Declaration of Human Rights¹⁵⁵,

¹⁵³Cobban (p. 6)

¹⁵⁴The UN succeeded to the League’s organisational structure and property when the latter was dissolved in 1946.

¹⁵⁵UDHR.

the Genocide Convention and the four Geneva Conventions, all of which were revolutionary in that their:

“main targets remain governments, the key guarantors-and usually the key abusers-of human rights”¹⁵⁶.

These represent a statement of good intent, and, at least on paper, a higher moral authority than the unfettered power of the state. However, given the recent experience of the Second World War and the enormity of the suffering endured, the overriding purpose of the Charter was to avoid a third World War. Amongst its first tasks was the issue of decolonisation, which came to embody a new approach to self-determination.

A new variety of self-determination.

As noted above, the view of national self-determination characterised by its first outing was that it was a fine sounding, if vague principle that would help the Allies settle their war aims, but it was also profoundly appealing to those who had been excluded from its enjoyment. In: “The New Democracy” of 1916 Wilson had declared:

"We believe these fundamental things: First, that every people has a right to choose the sovereignty under which they shall live. . . Second, that the small states of the world have a right to enjoy the same respect for their sovereignty and for their territorial integrity that great and powerful nations expect and insist upon. And, third, that the world has a right to be free from every disturbance of its peace that has its origin in aggression and disregard of the rights of peoples and nations"¹⁵⁷.

Similar sentiments had been restated in the Atlantic Declaration (1941) which affirmed the: “right of all peoples to choose the form of government under

¹⁵⁶Manasian, D.

Survey of Human Rights Law. *Economist* 5/12/1998, (pp 1-16)

¹⁵⁷Link, A.

Wilson campaigns for progressivism and peace 1916-1917 (Volume five). Princeton University Press, Princeton, New Jersey, 1965, (p. 25) [Wilson]

which they will live”¹⁵⁸. The division of spoils at Yalta indicate that strategic considerations held primacy over principle, yet resentment at the selective dispensation of the gift had grown. It had fuelled the fascism of the inter-war years, and the sense of injustice felt by those whose wishes had not been considered. In particular, the overseas territories of the remaining European empires were no longer willing to wait until their colonial masters decided that they were ready for self-determination; it also became evident that these masters no longer had the capability or will to impose their wishes in the face of determined opposition.

Nation followed state.

Smith argues that the post-war decolonisation process was initially misunderstood by the metropolitan centres, as a result of Western bias and selectivity. In part, this was due to the ill-defined nature of nation. Wilson was not alone in believing that he would recognise a nation when he saw one, and with European examples in mind, it would seem that the overseas colonies simply did not look like nations. Even the natural affinities that were assumed to underpin national sentiments, such as shared language, religion and custom, were absent. These affinities were often absent in the European setting too, but subordination or assimilation of minorities allowed an impression of homogeneity to stand. Experience had taught that self-determination is what nations demand, and that the lucky ones receive it in the form of statehood, yet here were demands for self-determination, and statehood, being made by non-nations. Nationalism is often explained in functionalist terms, but at this time, the result was a blurring of moral judgement and historical contingency. The prevailing fiction was that in the West, nationalism had been a benign force, fostering social cohesion and patriotism, whereas in the East, it had lead to the malignancy of fascism. Thus, sociological factors were the defining factor in the outcome of what was seen as

¹⁵⁸Cobban (p.2)

essentially modern phenomena. Yet the familiar divergent Enlightenment forms of liberal or romantic nationalism were absent in this new context. The dilemma was solved by the expediency of dismissing any appearance of nationalist sentiment outside its European habitat as inauthentic, or explained through contagion; Indian or Arab nationalism, for example, had been picked up from contact with the West. Nation, the precondition for self-determination, was absent or false, therefore claims for self-determination were also false. The flaws in such explanations were exposed when non-European theorists and historians approached the subject¹⁵⁹.

This posed a challenge to the: “perennialist perspective”¹⁶⁰ which held that nation was essentially the natural communal unit of humanity, and I return to the issue of competing explanatory models of the nation in the following chapter (3:4). For the decolonisation movements, political reality excluded the idea of nation as a fundamental element of self-determination. Nevertheless, they embraced the notion that nation building was a good route to a better polity, so focused on the political aspects of nation as a territorial political community, the locus of primary loyalty, and a social identifier that would promote civic virtue and loyalty. The nation would be harnessed, and the newly independent states would be able to endure the trials that modernisation would demand. Faith in nations: “as a mass participant political culture and as a popular civic-territorial community”¹⁶¹ was misplaced. For some, this was further evidence that nation was an alien concept for non-Europeans, but this ignores other obstacles that faced the decolonised. The social dislocation of the newly urbanised had been pretty brutal during Europe’s move to industrialisation, and modernisation, even where deemed complete, took longer than the half century that has passed since decolonisation. The optimists trusted that the former colonies would, with help, follow a similar path:

¹⁵⁹Smith

¹⁶⁰Smith (p. 18)

¹⁶¹Smith (p. 21)

“Though freedom and democracy, as ideals, first emerged in the West, there is no reason whatever for believing that they are suited only to Western peoples or peoples of European stock”¹⁶².

Appeals to morality and pragmatism.

Plamenatz argues that claims for decolonisation succeeded because the moral support for colonialism was destroyed; there had been a shift in opinion that did not favour the empire holders. The US and USSR had formally repudiated it, although as the world settled into bipolarity, the influence attempts of the superpowers were frequently viewed as covert imperialism, a veil for vested interests and mendacity. Oppressors: “who preach freedom and democracy are easily taken for hypocrites”¹⁶³, and the colonial powers were vulnerable to Trotsky’s tactic of appealing to their high-minded regard for the principle of national self-determination. Many accepted their responsibilities to the newly independent, but for some, this was deemed discharged simply through formal recognition and withdrawal:

“Freedom is difficult to establish, and is not to be had for the asking. It depends on institutions and habits that do not emerge of themselves as soon as a colony gets independence”¹⁶⁴,

and it should be acknowledged that not all who demand self-government want democracy or freedoms for their fellow citizens. Plamenatz avoids the accusation of paternalism, which I return to in Chapter Five (5:3), by explicitly stating that this is not analogous to educating a child. Where a child is socialised into the local culture, other societies already have their own. The metropolitan centres should not seek to impose their preferences on others, but, where they had a hand in destroying pre-existing social structures and institutions, they had an obligation to assist in reconstruction. In the end, the

¹⁶²Plamenatz (p. vii)

¹⁶³Plamenatz (p. 171)

¹⁶⁴Plamenatz (p. 21)

main wave of decolonisation was swift due to the determination to have it, and a lack of will to oppose it.

Self-determination as decolonisation; some qualifiers.

In this second phase, self-determination is firmly linked to the decolonisation process, but the equivalence is not entirely precise. Decolonisation did not proceed uniformly throughout the half century that separated the end of the Second World War from the end of the Cold War. As noted above, during the 1960s, decolonisation was a rapid and predominantly African phenomenon, which saw the emergence of some forty new states. In contrast, the following three decades produced less than thirty, largely outside Africa. Further, even though the 1960s were the African decade, the experience of decolonisation was diverse. The imperial powers had widely different opinions regarding their obligations on decolonisation. The British¹⁶⁵ and French generally attempted to bequeath functioning political and administrative structures, but the Belgians, most notoriously in The Belgian Congo, simply abandoned their colonies. The colonies themselves varied hugely; Ghana, for example, inherited a reasonable administration system, and benefited from benign demographics; the population is fairly homogenous with a shared linguistic and cultural heritage, and relatively well educated and wealthy by African standards. In contrast, Nigeria, which also inherited reasonable political and administrative institutions, and

¹⁶⁵The experience of decolonisation varied widely. The British generally consider themselves to have met their obligations honourably and dismantled their empire with care, although this may have had more to do with the Crown Colony system that left most domestic management to local authorities, so relieving the empire of this administrative burden. This rosy assessment of the British withdrawal is not so warmly endorsed in the former colonies themselves; many of Somaliland's border disputes could have been resolved relatively easily by the British prior to withdrawal from Kenya; Zimbabwe continues to demand that the British provide compensation to white colonials whose land is appropriated, ongoing; although Britain had encouraged their relocation in the first place, little was done for the Asians who bore the brunt of this colonial initiative, either in Fiji, still ongoing, or for the 741,000 Asians expelled from Uganda in 1972. The grudging admittance of some as refugees, the debate about the small number of British citizens from Hong Kong who might be allowed refuge after 1997, and the dismal treatment of the Windrush generation, also ongoing, are testaments to a deficient sense of obligation and responsibility for the consequences of imperialism.

enjoys vast natural resources, is mired in conflict and poverty, with major ethnic, social, cultural and religious divisions amongst its people.

By the 1960s decolonisation was virtually complete, and the number of sovereign states had burgeoned. The UN admitted some sixty members in the five years following its inception, and the number nearly doubled in the following decade¹⁶⁶. The General Assembly in 1960 passed a Declaration on the Granting of Independence to Colonial Countries and Peoples, which by the end of the 1970s brought UN membership to about 150 states. Like the first wave, self-determination was largely granted as a matter of expedience, but in other ways, the principle underwent a profound change. It was a non-European phenomenon; the concept of nation as understood by the metropolitan centres had been severed, and anxiety over the fate of minorities or the need to establish the people's wishes was absent. Everything had been subsumed by the idea that self-determination meant freedom from white imperial rule. There were exceptions; the partition of India and Pakistan, and Bangladeshi secession for example, were not fuelled by a desire for non-white rule, but the fiction remained that this was so. Self-determination fell off the international agenda, and the world reverted to the familiar nineteenth century model of a society of states¹⁶⁷, where nonintervention and inviolable state borders were the primary rules of engagement. Once again, the problem of self-determination had been solved. This did not last long, and I turn to this next.

¹⁶⁶

UN Press Release ORG/1317 (26 September 2000) Updated
December 2000

¹⁶⁷Bull, H.

The Anarchical Society. Macmillan, London. 1977

(2:4) The Cold War.

The big idea's third outing.

The argument in this chapter is that self-determination manifested in three distinct phases during the twentieth century. Is the post-Cold War version of self-determination entirely new, or is it a return to one of the two earlier types?

A new variety of self-determination?

The answer here must be an indecisive “yes and no”. Firstly, whilst the two earlier periods are here presented as quite different, they should perhaps be regarded as ideal types. It is understandable that the architects of the post-war settlements paid attention only to the issues that were of greatest concern, namely those that they feared might spark off another war, but it is simply not credible that all would be secessionists evaluated their claims by the same criteria.

During the first period, European nations who were denied self-determination such as Ireland, did not meekly abandon their nationalist aspirations simply because their masters were on the winning side, nor did colonial territories such as India, cease to consider themselves candidates for self-determination simply because they were not located in Europe. Likewise, during the second period, it is equally untrue that nations absorbed by the Soviet empire, such as Poland, ceased to wish for self-determination simply because their masters were fellow Europeans, or that the nilotic people of southern Sudan ceased to view the nubian northerners who rule them as foreigners, simply because they were not white. In this sense, the picture has not really changed and the issue of self-determination remains as problematic and confused as it has always been.

Secondly, in contrast to the two earlier periods, there are no architects able to impose or negotiate a settlement for the post-war future, and to determine which version of self-determination should prevail. In this respect, the present is different; there are many varieties of self-determination in contention, but no obvious arbitrator to whom appeals should be made. Some are familiar and some new, as illustrated by the diversity of the thirty states that recently joined the UN¹⁶⁸, and the would-be states whose future is indeterminate.

Contemporary varieties of self-determination: three old and one new.

Old type: the end of empire.

As Williams¹⁶⁹ notes, events following the 1989 collapse of the Soviet Union represent the end of European empire and the unfinished business of the First World War. Kennan's¹⁷⁰ long telegram of 1947 predicted that the Soviets would be unable to digest the empire they had swallowed. Growing awareness of the outside world fuelled discontent with poverty at home, and eroded the legitimacy of the authorities. The fiction that the Soviet experiment would transcend bourgeois nationalism and ensure equality and prosperity for all had been exposed. Despite the attempts at Russification through a combination of economic controls, censorship and propaganda, police methods, suppression of minority cultures and churches, and the dispersal of populations, some sense of national identity seems to have endured. Following the collapse of the USSR, the once hidden nations returned to the scene, and represent the largest category of new UN members

¹⁶⁸ UN Press Release ORG/1317 (26 September 2000) Updated December 2000

¹⁶⁹Williams, A. Failed Imagination? The New World Order in Historical Perspective. Manuscript [Failed Imagination]

¹⁷⁰Kennan, G. *Realities of American Foreign Policy*. Princeton University Press, Princeton, 1954

to date, being seventeen of the thirty newcomers noted above, such as Azerbaijan, Croatia, and Latvia.

Other Eastern bloc nations such as Poland and Ukraine who were member signatories of the Charter at its inception, should perhaps also be added to the list, as they have begun to enjoy autonomy only in the post-Soviet era. Many of the post-Soviet states, in common with those who emerged from the first wave of decolonisation, face uncertain futures. In the cases of the three Caucasian republics and the five Central Asian states¹⁷¹, for example, their democracies and state institutions are fragile but it is too early to determine: “whether these countries become prosperous and independent or regress into kleptocracy and instability”¹⁷². It should of course be noted that national sentiment is not the sole motivation for seeking self-determination. There are considerable benefits accruing to formal statehood, and I return to this issue in Chapter Four (4:3).

Varieties of self-determination.

Old type: decolonisation.

There are few present examples of colonies demanding or gaining independence from white metropolitan centres in the decolonisation pattern seen after the Second World War, but of the remaining overseas territories, some seek to renegotiate the terms of their relations with the centre. New Caledonia and Dependencies, for example, have been granted internal autonomy and voted to remain part of France, although Melanesian separatists have boycotted elections and continue to contest the islands’ status. Others are subject to competing claims between centres regarding jurisdiction so, for example, Gibraltar remains a Crown Dependency, having secured internal

¹⁷¹Georgia, Armenia, Azerbaijan, and Turkmenistan, Uzbekistan, Kazakhstan, Tajikistan and Kirgizstan respectively, from:

¹⁷²

Economist Central Asia Survey. 7/2/ 1998

autonomy since 1964¹⁷³ and voting to remain British; the main opposition to this status comes from Spain who claims sovereignty under the terms of the Peace of Utrecht (1713-15)¹⁷⁴. Further, although rarely described as colonial holdings, there remain territories whose plight resembles that of the former colonies of the European empires, and who seek self-determination from alien rule, thus many Tibetans, Saharawi of Western Sahara and inhabitants of former Portuguese Oe-Cusse would welcome independence from China, Morocco and Indonesia respectively. Eritrea is a rare example of a new state that has succeeded in gaining independence from its erstwhile non-European masters. These examples are intended to illustrate broad similarities only.

Ethiopia's relationship with Eritrea was only superficially comparable to that of the European powers and their overseas colonies, which in any case were varied. The adjacent Italian and British administrations of Somaliland differed notably as Drysdale¹⁷⁵ suggests, but the difference in colonial experience was arguably as great between colonies as between metropolitan centres, as the former British holdings of Guyana, Zimbabwe and India attest. Further, depicting Indonesia and the others as colonial or occupying powers ignores different versions of the truth. China, for example, can argue quite plausibly that Tibet's reincorporation was simply a return to a *status quo ante*, and Morocco can accurately note that the majority of the Western Saharan population is ethnically Moroccan and in favour of the *status quo*. Disparate perceptions create alternative versions of events, and I return to the issue of telling stories in Chapter Six (6:3).

¹⁷³

Commonwealth Country Profile.
www.commonwealthknowledge.net

¹⁷⁴

Encyclopaedia Britannica: 2002

¹⁷⁵Drysdale, J.

The Somali Dispute. Pall Mall Press, London, 1964

Varieties of self-determination.

Old type: border disputes.

The experience of two World Wars and the fears engendered by the Cold War, made the prevention of inter-state war the priority of the post-Second World War order. The post-Clausewitzian¹⁷⁶ contention, that war could no longer be viewed as rationally instrumental, was underpinned by the doctrine of mutually assured destruction. This, and the relatively few inter-state wars in the latter half of the century, fed into the liberal presumption that war is pathological. Against this background, the apparent surge in cases of armed territorial dispute in the post-Cold War era seems to have taken many by surprise, yet the defence or acquisition of territory has been a perennial source of conflict.

A broad definition of territorial dispute that includes boundary disputes, irredentist issues, national liberation, secession, maintenance of state or empire and dynastic succession, demonstrates that the majority of wars since 1648 were over territory¹⁷⁷. A majority of conflicts arise between neighbours¹⁷⁸, perhaps because they have more opportunities to fall into dispute¹⁷⁹. Conflicts arising from living within the wrong borders are not new, and have always drawn international attention where they threaten to spill over borders, as in the long running conflicts in Israel, Kashmir and Cyprus. The relative paucity of armed

¹⁷⁶Booth, K. *New Thinking About Strategy and International Security*. Harper Collins Academic, London, 1991

¹⁷⁷Incidence of territorial wars :

	HISTORICAL PERIODS				
	I	II	III	IV	V
	<u>1648-1714</u>	<u>1715-1814</u>	<u>1815-1914</u>	<u>1918-41</u>	<u>1945-</u>
(Cumulative %)	86%	83%	84%	93%	79%

Table 4. 1, from Vasquez, J. *The War Puzzle*. Cambridge University Press, Cambridge, New York, 1993 (p. 130)

¹⁷⁸Vasquez notes that the COW (Correlates of War) data show that, of all wars between 1816 and 1980, all but 8 of the 67 inter-state wars were fought between neighbours.

¹⁷⁹Bueno de Mesquita, B. *The War Trap*. Yale University Press, USA, 1981

territorial disputes during the Cold War was more of a novelty than their resumption at its end. Sharing is often difficult and disunion may seem an attractive solution. Czechoslovakia split into separate republics at the first opportunity in 1993¹⁸⁰, and the former Yugoslavia is following a similar pattern of fission with rather more brutal tactics. Africa offers numerous examples of badly drawn borders where conflict may escalate into violence, and many of the long settled democracies are home to groups dissatisfied with present border arrangements and the resulting enforced cohabitation. Although there is widespread dissatisfaction, often expressed as a wish for self-determination, this does not necessarily mean full state sovereignty, but whatever the form independence takes, as noted before (1:4), it often appears that:

“the chief motive for national liberation is not to free oneself from minority status in someone else’s country but to acquire (and then mistreat) minorities of one’s own”¹⁸¹.

These, and similar arguments, lead to the inclusion of minority protections and population transfers within the newly drawn borders of Europe in the post-First World War settlement. Minority protection in the former colonies was given little consideration during the post-Second World War period. With their focus on negating European dominium, the newly independent states faced an enormous task in assuming self-determination. Conscious that any territorial claims would invite counter claims, they were wary of adding further complications to their burden. So, for a variety of reasons, there were relatively few border adjustments either in Europe or the colonies. The post-Cold War period may now be facing another rule change. Inter-state conflict may indeed be largely post-Clauswitzian, but in the vacuum left by the end of bipolar stability, unhappy neighbours and cohabitants seem willing to seize the opportunity to settle old scores.

¹⁸⁰

Encyclopaedia Britannica: 2002

¹⁸¹Walzer (p. 78)

Varieties of self-determination.

A new type?

Where political stability in the pre-modern was characterised by empire and rigid social structures, and the modern by diffused sovereignty and horizontal social relations, for the late-modern, sovereignty is not absolute, but conceptualised as highly qualified, and characterised by mutual interference and cooperation. Collective security is therefore an appropriate regulating mechanism for the late-moderns, and by this criteria, late-modernity could be linked to the founding of the League or the UN. However, the League failed, and collective security was not an effective regulating mechanism during the period of instability and conflict of the inter-war years. The ensuing period was effectively regulated, but the avoidance of a further World War is largely ascribed to the bipolar power distribution of the Cold War, which could plausibly be described as a balance of power with only two players, but hardly as collective security. The suggestion here is not that international relations are now regulated by collective security, although this may become the case, but that this has not previously been the case.

Although the trend to late-modern can be seen in various cooperative ventures after the Second World War, notably the EU¹⁸², the end of the Cold War presents an opportunity for wider cooperation and interference. Humanitarian intervention, tribunals for war crimes, access to international institutions made conditional on certain standards of domestic behaviour, all indicate that collective measures and interference are rising norms in international relations. These developments are likely to influence national claims to self-determination. The pattern of regional devolution seen in much of Europe and being attempted in Britain may serve as a future model, as may the interventions and occupations of Kosovo and Afghanistan, which are severely straining the concept of sovereignty.

¹⁸²The European Union.

Modern to late-modern. Mutual interference or old fashioned influence attempts?

The context of the post-Cold War differs from that of the First and Second World Wars in a number of ways. Firstly, whilst the Cold War was undoubtedly a conflict between opposing sides, it was not a military contest that was won by one side and lost by the other. The West can claim that prize only by default and is not in a position to dictate victors' terms. Secondly, the pace of change and innovation continues, and it is arguable that the disparities both within and between societies is greater than before. Geography and history have ensured this. The point here is that reality, and the self-evident importance of any given set of conditions, is a product of the context in which it is observed.

Climate, terrain, natural resources and population density are tangible, they can be described and counted. Deciding what to count is not so straightforward. So, for example, climate is crucial for subsistence agriculture, and a large territory, with its correspondingly large population, is valuable at low levels of technological development which rely on high labour input, as characterised by the pre-modern. For the modern, this diminishes in importance with the rise of increasingly specialised and industrialised output, but other resources come to prominence, such as access to trade routes, or petroleum, which was recognised as a valuable natural resource only once it became commercially valuable in the mid-nineteenth century. Now, easily defended borders and the protection of remoteness have lost salience with the development of rapid long-distance transit and communication systems, and a highly literate and well-educated population is essential. As noted previously (1:1), the economic base of the late-modern rests on services and knowledge¹⁸³, in contrast to the subsistence agriculture and industrialisation of the pre-modern and modern respectively.

¹⁸³These and related issues were explored in 1973 by Daniel Bell in his seminal: *The Coming of Post-Industrial Society*. Basic Books, New York, 1973

Thus, Litfin¹⁸⁴ advances the proposition that this represents an: “epistemic dimension of sovereignty” because knowledge, in contrast to other sources of control and authority:

“is communicable and storable, particularly given recent technological innovations, in ways that military force and economic wealth are not...the structures of technology themselves reflect-and, in fact, are part and parcel with the global knowledge structure”.

Crucially, the proliferation of access to knowledge amongst non-state actors is eroding the principle of territorial exclusivity that: “has been the defining feature of the modern system of states”¹⁸⁵, but for the late-moderns, territorial issues are dwindling in importance. Self-determination is intimately linked to place, and in a world of states, the relevant place is the territory of a sovereign state. Territorial adjustments are a zero sum game; recognition of a new state represents a loss for an old one. In contrast, whilst late-modern sensibilities accommodate notions of home and landscape, these can be cherished irrespective of international borders. Thus, a late-modern approach to self-determination would be a matter of mutual toleration, rather than a fight for control over a given parcel of land. In this respect, the late-moderns may be returning to the concept of multiple loyalties that characterised the pre-modern.

The modern concept of territorial exclusivity, and its concomitance, absolute independence of states within international anarchy, has always been a fictional nicety. Although the sovereignty principle may serve as a rule of thumb, it is always conditional. Formal equality, for example, has always been a rather Orwellian¹⁸⁶ concept; all states are equal, but some states are more equal than others. International law and organisations, treaty obligations, even the purely

¹⁸⁴Litfin, K. The Status of the Statistical State: Satellites and the Diffusion of Epistemic Sovereignty. *Global Society*. 13 (1), January 1999, (pp. 95-116)

¹⁸⁵Litfin

¹⁸⁶Orwell, G. *Animal Farm: a fairy story*. Penguin Books, Harmondsworth, 1956 101



functional institutions such as the ICAO¹⁸⁷, regulate and constrain the activities of states. This is not a new insight. Complex interdependence¹⁸⁸, explanations from structural dependency¹⁸⁹ and such, have offered plausible evaluations of state behaviour. However, it would appear that in the post-Cold War era, such arguments are gaining currency in the wider field of international practice. Taken together, these elements of the late-modern represent a shift of emphasis. Although in broad outline the goal of international peace and order between similarly constituted states, remains modern. The declining legitimacy of military force and the absence of a clear post-war victor have brought more subtle forms of coercion to influence attempts; persuasion, appeals to morality, financial aid and inducements, the threat of domestic unrest, institutions designed to reward favoured players and so on. These are not unfamiliar tactics, although they have been adapted to post-Cold War times, and may be seen as either a traditional carrot-and-stick approach or reciprocal interference. Jörg Haider's success in Austria's 2000 elections was greeted with despair in many other EU member states; it represented the first victory of a far right party in Europe since the 1930s, provoking fears that it was: "a new kind of fascism"¹⁹⁰, although the sanctions imposed by the other members seem to be justified by double standards. As a rich and democratic EU member, Austria simply ought to know better, but:

"The 14 have set a precedent for drastic interference in a member's domestic politics. They have asserted their right to frustrate the outcome of a national election"¹⁹¹.

¹⁸⁷International Civil Aviation Organisation: a UN specialised agency dealing with technical and administrative co-operation over safety standards, navigation facilities and such. From:

Shaw, M. *International Law*. (Third Edition). Grotius Publications Ltd, Cambridge, 1991

¹⁸⁸Keohane, R. & Nye, J. Realism and Complex Interdependence. In: Smith, M., Little, R. & Shackelton, M. (Eds.) *Perspectives on World Politics*. Croom Helm, London, 1981, (pp. 120-131)

¹⁸⁹Galtung, J. A structural theory of imperialism. *Journal of Peace Research*, 13 (2), 1971, (pp. 81-94)

¹⁹⁰*Guardian* 2/2/2000

¹⁹¹*Economist* "The Union expects Europe's voters to fit its political space" 11/3/2000

Elsewhere, the modern distaste for interference is tempered by the lure of EU membership. With entry linked to good behaviour, it may have nurtured the growth of institutional stability in the candidate countries of the former Soviet Union¹⁹², and although it is improbable that a new Economic Recovery Program of anything like the scope of the Marshall Plan will be instituted, substantial transfers of aid and assistance are involved¹⁹³.

Changing context: the growing prominence of non-state and unconventional actors.

The suggestion here is that, amongst the late-moderns, there may be some willingness to accommodate political units that are not sovereign states. As Walzer notes, containment is a common response to tribalism¹⁹⁴, a traditional modern approach that can be traced at least to the imperialism of the Hapsburgs and Romanovs, through the Soviet venture with communism. Yet, as he also points out, the belief that larger and inclusive political units are always better is unsupported by history. Although Carr predicted the demise of the:

¹⁹²

Economist "Europe after Communism" 6/11/1999

¹⁹³For example, \$5 billion has been transferred to the former Yugoslavia in the past five years, although the United States made payment of \$1.3 billion in June 2001 conditional on the surrender of Mr Milosevic to the international court in the Hague. This was viewed as blatant arm-twisting in some quarters, but there is also Litfin's epistemic dimension. At this time, the discovery of civilian bodies from Kosovo, hidden in graves near Belgrade, was widely reported, and has subsequently been followed by reports of similar findings. The accumulation of such reports, and their accessibility from a variety of sources that cannot all plausibly be rejected as black propaganda, may serve to undermine popular domestic belief in the innocence of Mr Milosevic and his regime. Although some Serbs view the Court as a tool of traditional victors' justice in the mould of Nuremburg and Tokyo, the conviction of non-Serbs may dispel such fears. The Court's neutrality is further enhanced by the credentials of its officials, which include Zambian and Chinese judges, hardly a "bunch of NATO lackeys".

¹⁹⁴Walzer's use of: "tribalism" is generally pejorative, being applied to groups who display a malevolent sense of identity. "Nationalism" is unsatisfactory as a derogatory term; he cannot apply it to all nations as he approves of some of them, and it would miss those communities which he condemns, but which might not be nations. The references to Carr and Gellner that follow are illustrative; for Carr, nation and nationalism are a source of endless trouble and their demise would be no bad thing. For Gellner, the terms are simply descriptive.

“old fissiparous Nationalism, of the ideology of the small nation as the ultimate political and economic unit”¹⁹⁵.

Gellner¹⁹⁶ predicted a reassertion of nationalism on the basis that it represents progress to normal modernity. However, his uni-linear conception of progress ignores the possibility that the Cold War did not simply interrupt history, which would then resume in an orderly fashion, but that it may have diverted it entirely¹⁹⁷. Unity: “in the West is itself the product of...separation”¹⁹⁸ and, crucially, was preceded by democratic (here meaning mass participatory) government. Perhaps equally crucially, Walzer also notes that in the West, this phase occurred before the ideology of nationalism took hold and the smaller nations had already been largely repressed or assimilated, thus, the nation-states, such as Belgium and Holland in Benelux and the old powers in the EU, that were to experiment with cooperation during the latter half of the twentieth century already had: “more or less identifiable boundaries and more or less committed members”¹⁹⁹. The: “more or less” qualifier is important; the assimilation of the smaller nations was not complete, or did not remain so. Britain, after devolution in Scotland, Wales and Northern Ireland, has been slow to embrace the notion of regionalism²⁰⁰, although demands for elected regional assemblies are growing²⁰¹.

In Cornwall, for example, this is still generally viewed as a fringe activity, whereas the demands of dissatisfied smaller nations elsewhere are firmly at the core of the wider political debate. Jose Ibarretxe, premier of Spain’s

¹⁹⁵Carr (p. 6)

¹⁹⁶Gellner, [Encounters]

¹⁹⁷The idea of the Cold War diverting the orderly progress of modernity would probably be dismissed by Gellner. It should be recalled that his conceptualisation of the modern and pre-modern was epochal. Although entirely different in detail, Medieval Europe, the Roman Empire and ancient Mayan civilisation were all pre-modern. The three part division of twentieth century history presented here are likewise details, and all entirely modern.

¹⁹⁸Walzer (p. 65)

¹⁹⁹Walzer (p. 66)

²⁰⁰

²⁰¹

Economist “Signal Failure” 28/7/2001
Independent 6/8/2001

Basque region, demanded a referendum on self-determination²⁰², although it is interesting to note that the demand falls short of full independence, largely because this would entail an unwelcome departure from the EU. The Basque's case is also illustrative of the point made above, that nationality problems do not stay solved for long. Despite having won a wide degree of autonomy since the democratisation of the 1970s, many Basques remain ambiguous as to their proper national allegiance²⁰³. As Jose Maria Aznar, Spain's prime minister stated: "The right to self-determination is not recognised anywhere in the world"²⁰⁴.

Although the late-modern may be more hospitable to diverse forms of polity, in many respects, the problems raised, and faced, by smaller nations could be accommodated within a strictly modern framework. Rules and procedures would have to be devised for their identification and recognition, existing borders would have to be redrawn, natural assets divided, the wishes of the affected populations considered and so on, but in so far as the new entities resembled existing states, albeit on a smaller scale, they would in principle, be no different. The pre-modern, modern and late-modern world-views vary radically and I consider their diverse responses to the international environment next.

²⁰²

Guardian 31/7/2001

²⁰³Over fifty percent consider themselves to be both Spanish and Basque, some fifteen percent consider themselves to be mainly or only Spanish, and the remaining thirty percent consider themselves purely Basque. As far as the wider Spanish population is concerned, it would seem that they should be only Spanish:

Economist "Can Basques make peace?" 28/2/1998

²⁰⁴

Guardian 31/7/2001

(2:5) “Past and to come seems best; things present, worst”²⁰⁵.

The pre-modern, modern and late-modern as contemporaneous world-views.

Whilst the post-Cold War period enabled the late-modern's debut, it is important to note that, like the pre-modern and modern, this new variation on the *Weltanschauung* did not displace the others; it joined them. It is safe to assert that, historically, the pre-modern was globally omnipresent, simply because it subsumes everything prior to the emergence of the modern. Although the modern dominates, it has not yet achieved the ubiquity of the pre-modern, and may never do so. International relations are, however, a thoroughly modern exemplar, and any actors engaged in the game perforce play by modern rules. In other respects, the balance between modern and pre-modern varies.

India, for example, as the world's largest democracy, is modern. Constitutionally secular, citizens enjoy political and civil liberties; Bangalore is India's silicon valley, and the country is home to a number of outstanding research institutions. Yet India retains its caste system, pastoral nomads and is home to militant Hindu fundamentalists. Likewise, although the late-modern is both contemporaneous and chronologically sequential, it is not entirely distinct from the modern, although time and practice may ensure that the late-modern eventually becomes pervasive. However, it may not be a simple matter of transition.

The logic of phylogenetic discontinuity demands that a radically innovative *Weltanschauung* should derive from an alien source. It should not be a modification of an earlier form, which is what the late-modern appears to be. War against other states and the freedom to abuse one's own citizens have, for

²⁰⁵Shakespeare, W. Henry IV Part Two. Well, S. and Taylor, G. (Eds.) *The Complete Shakespeare*. Guild Publishing, London, 1987, (Act 2, Scene 1) 106

example, long been part of the modern sovereign's repertoire, and the UN Charter, supplemented by a host of rights conventions, treaties and agreements represent an attempt to constrain excesses. What seems to be novel is that such behaviour is ceasing to be viewed as simply distasteful. As suggested in the previous chapter (1:1), the favoured principles of each outlook will remain at odds, most notably in the field of rights. Amongst the late-moderns there is a growing presumption that these legal instruments should be fully observed and robustly enforced, as evidenced by an increased willingness to intervene on humanitarian grounds to prevent war or large scale rights abuse, for example in Macedonia and Kosovo. If this assessment is correct, then it is probable that late-modern sensibilities will continue to modify the modern without supplanting it. The modern world-view will simply become more complex and disordered. The 1982 Falklands/Malvinas War is illustrative of the fusion of modern and late-modern understanding.

Illustration. Differences of perception; how the late-modern and modern differently interpret the same event.

In conventional modern discourse, the war was depicted as a squabble between centres, settled in traditional military fashion, with the islands' status determined in accordance with the victor's preferences. However, the justification for resisting the challenge to the *status quo* was essentially moral and late-modern; the islanders' wishes and their right to self-determination, in this case met by remaining a British colony, should be paramount. Perhaps like the disquiet voiced over the transfer of Hong Kong to China in 1997, this was simply Realpolitik in action, and any moral justification was spurious, being bolted on afterwards by the victors. For both Argentina and Britain, it was a foreign adventure aimed at shoring up domestic support, and the: "just cause" argument can be dismissed as propaganda. However, this view is not entirely convincing.

That the just cause was self-determination is itself revealing, and supports Heater's contention that this was the twentieth century's big idea. A purely modern evaluation would supply a purely modern just cause; national interest. Britain was simply acting in defence of her territory and her subjects, against the encroachment of a foreign aggressor bent on stealing it. Argentina was motivated by the traditional will to power, in this case through the acquisition of potentially valuable mineral and fishing rights, with the added bonus that it would deflect domestic criticism from President Galtieri, and boost national pride. This Realist account may be convincing, and the moral justification simply the tribute that vice pays to virtue. There is a venerable reductionism in international relations that asserts power as the ultimate determinant; that the strong do as they may and the weak endure what they must²⁰⁶. Where this essentially modern view prevails, self-determination, and personal autonomy, remain the natural preserve of the few. This is not to suggest that an ethical dimension is absent from modern or pre-modern justifications for action, but to underscore the novelty of positing self-determination as the universally relevant virtue.

Conclusion.

National self-determination manifested in at least three distinct phases during the last century. In each, the international environment altered and provided fresh opportunities; initially a perquisite for European nations, self-determination later became synonymous with decolonisation, and in the post-Cold War phase, its meaning and application is even more ambiguous. It is unclear how the nation and its claims to self-determination will adapt to future challenges. These may be successfully incorporated, thus reinforcing the modern world-view, or may serve to promote the changes that the late-modern would entail, but the global context is likely to change profoundly,

²⁰⁶For example: The Melian dialogue (Book V, Chapter 7) of Thucydides' *Peloponnesian War*.

with equally profound consequences for self-determination, and the rest of the bundle of concepts with which it is linked. These challenges may be termed: globalisation, players who bend the rules, and contingency.

The challenge from globalisation.

Firstly, states are not the only actors, and transactions between states are not the only affairs that occur in the international arena. Finance, aid, trade, the exchange of information and ideas, wars, the mass movement of people; the list of activities over which states have only partial control is immense, yet they form part of the international environment in which states exist. This has always been so, and globalisation may represent only a change in scale, but the changes now in motion may have far-reaching consequences. In so far as self-determination is not the primary objective, except in the widest sense that they would like the freedom to decide for themselves, the actors concerned in such non-state affairs are not central to this study, yet, as noted before (1:1), meaning and use is determined by context. As the global context changes, the modern model may not remain able to accommodate it without significant revision. There seem to be threats, now, that are novel and not simply in terms of scale; massive environmental degradation, international terrorism and the illegal narcotics industry, for example.

Threats of this nature are not easily addressed from a modern standpoint and states acting individually are unlikely to be effective in abating them. Although a late-modern approach based on cooperation may be more fruitful, it is likely that this will prove slow to develop unless a catastrophe in one sphere acts as a catalyst to cooperation elsewhere. There is also the risk that, rather than boosting cooperation, the advance of global trends or a catastrophe would have the reverse effect. “The tragedy of the commons”²⁰⁷ offers a clear

²⁰⁷Hardin’s 1968 thesis undermines the modern assumption of progress (and the technological fix) in a finite world. Individuals, or states, act rationally when they take

rationale for non-cooperation, and American rejection of the Kyoto protocol²⁰⁸ or the widespread attempts to keep immigrants out of rich countries, for example, can be interpreted in this light. Rich states as isolated fortresses in a sea of misery would also keep the world definitively modern, and the late-modern outlook considered here might then represent the rules of engagement between: “islands of civility”²⁰⁹.

The challenge from players who bend the rules.

Secondly, for most of the Cold War years, the bipolar international context demanded that states observe the niceties of sovereign equality. Despite the prevalence of proxy wars, covert interventions to assist or destabilise and other Cold War tactics, formal relations between states were, in general, ostensibly played by the rules. Various forums, notable among them the General Assembly of the UN, provided opportunities for the newly independent states to join the club of longer established states. As Jackson notes, this sovereignty regime relaxed the old empirical expectations that states should command both negative and positive sovereignty; statehood was no longer the prerogative of lucky Europeans, or those who met certain standards of international behaviour. In this respect, it represented a first step in the international accommodation of entities that did not approximate to Western states. However, quasi-states, as Jackson terms them, whilst benefiting from the modern’s respect for sovereignty, also faced increasing concern with their standards of domestic conduct regarding human rights when it became evident that:

something for free, for example discharging unprocessed sewage into the sea. This is, of course, not cost free, but the full benefit of free waste disposal accrues to the actor, whilst the cost of environmental degradation is born by everyone else. There is no incentive to limit such behaviour; appeals to conscience are ineffectual when everyone else is getting away with it.

²⁰⁸1997 follow-up to the Framework Convention on Climate Change.

²⁰⁹Kaldor (p. 120)

“the real benefits of independence, which is what freedom amounts to, have not yet arrived for most of their citizens”²¹⁰.

The close of the Cold War ended the rationale of patronage and support from the super powers, and quasi-states face uncertainty as the rules of the game seem set to change again. The other players are increasingly engaged on a basis of reciprocation that often demands submission to unpalatable restrictions, and may be unwilling to put up with players who demand the privileges but fail to accept the obligations that go with participation. With Cold War constraint lifted, this may manifest in more direct intervention, strictly conditional assistance or, in keeping with the trajectory of the late-modern, increasing reciprocal interference. There is also the moral hazard that mutual interference will encourage unilateral intervention, both for humanitarian reasons and more familiar reasons of state. The alternative may be abandonment.

The challenge from contingency.

Finally, there is the issue of unexpected consequences. A number of explanatory theories in International Relations are essentially static. Both structural and functional approaches assume that, whilst the identity of the players will change, the overall nature of the system will not. However, the assumption that the system will always return to equilibrium fails to reconcile experience or anticipate change. Fantastic technological innovations or massive calamities may have unpredictable consequences, but it is also likely that, in seeking to influence events to their own advancement, international players will also create unanticipated outcomes.

Future uncertainty therefore stems from both unpredictable events, and from how international relations will adapt to accommodate them. Intergovernmental aid and assistance has usually come with strings attached,

²¹⁰Jackson (p. 2)

but as Non-Governmental Organisations (NGOs) become the main vectors for distributing assistance, there is evidence that, in attempting to target aid more effectively, they increasingly seek to by-pass governments and deal directly with the intended beneficiaries. In Bangladesh, for example, Proshika has been directing loans and training at illiterate village women, assisted by £23 million from the British government²¹¹, although this has brought complaints of social engineering and cultural imperialism. Sanctions have long been used to influence behaviour, but have burgeoned in the post-Cold War era. Although the efficacy of sanctions remains doubtful, it remains attractive; domestic opinion is appeased and disapproval symbolised without the need for costly military intervention, but the outcome is generally a humanitarian disaster born by the most vulnerable, as Weiss *et al* note²¹². Dreadful civilian suffering more often results in renewed efforts to remain in power by the target government with consequently more domestic rights abuse, which in turn leads to calls for more intervention, either directly or in the form of humanitarian assistance.

Although the late-modern is characterised by mutual interference, and a growing willingness to interfere unilaterally on humanitarian grounds, other forms of unilateral interference may also indirectly challenge the *status quo*. Some may even have the unintended consequence of furthering cooperation, both amongst the moderns and late-moderns. For example, when considering possible outcomes in the aftermath of the destruction of the World Trade Centre in September 2001, Garton Ash suggests that America may cede authority to the UN:

²¹¹

Economist "Helping or interfering?" 15/9/ 2001

²¹²Weiss, T. *et al.*

Political Gain and Civilian Pain. Humanitarian impacts of economic sanctions. Rowman & Littlefield Publishers Inc. , Lanham, New York, Boulder, Oxford, 1997

"Instead of Samuel Huntington's "Clash of Civilizations", there is the defence of civilisation-in the singular. And the bedrock of civilisation includes the human rights of all, and international law applied equally to all"²¹³.

It may also lead to a reconsideration of American opposition to establishing a permanent ICC. For the first time since its inception in 1949, NATO's Article 5 has been invoked, which provides that members:

"agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all"²¹⁴.

This may be taken as evidence of mutual support and a first step to collective defence and reciprocal interference, but rather less optimistically, there remains the danger that interference will continue in its modern form, and, far from working as originally intended, the UN may continue to be bypassed whilst the protagonists ignore international law and rely on self-help and unconventional tactics. The most likely outcome is a mix; UN support where possible, and unilateral action as a fall back position²¹⁵. Whilst there are proposals to strengthen EU legislation regarding acts of terrorism by pooling information and harmonising procedures to avoid the need for extradition between member states²¹⁶, there is also speculation that the US will lift the legal prohibition against its security forces using extra judicial killings, or simply bend the rules²¹⁷. These and other issues raised by a new civilisation standard are considered further in Chapter Five (5:3).

Interference is condemned and resisted for many reasons, but the alternative, abandonment, may be worse. Cooper takes the view that the pre-modern, modern and late-modern are stages in social development, but although his

²¹³ Independent 13/9/2001

²¹⁴ NATO handbook.

²¹⁵ This seems to be the American and British view regarding intervention in Iraq, although the threat of unilateral action may be a bluff.

²¹⁶ Independent 19/9/2001

²¹⁷ Economist "Is torture ever justified" 11/1/2003

approach is linear, he allows for regression to an earlier stage.

Quasi-states, left to their own devices may therefore remain modern, or develop a late-modern outlook, but some face the possibility of collapse. The problem here is that the global context is essentially modern, and it is within this context that abandoned states would remain. They cannot disengage from the modern world, or withdraw to a pristine pre-modernity, because it no longer exists. In the pre-modern world, as Jackson notes, ramshackle states were an invitation to conquest, and it may be argued that the post-Cold War global environment is reverting to this pattern. Empire is no longer a respectable option, but humanitarian intervention may serve as a cover for securing strategic assets, as some critics of America's role in the Gulf War, 1990-91, argued, and this need not prevent looting by opportunistic neighbours, as in the Congo. Even if it were possible for a state to withdraw into isolation, it could not simply resume the course of progress interrupted by modernity, because that progress has already been dislocated. The adaptation to modernity may have been incomplete, but it cannot be unlearned. Attempts to reintroduce pre-modern socio-legal structures, as in the case of *Gacaca*²¹⁸ courts in Rwanda, are further hampered by internal and external factors. A dimly remembered jurisprudence may not take root when severed from the wider social structures in which it was previously embedded, and to date, the attempts made at reintroduction have occurred in circumstances bordering on anarchy. So, it would seem that abandoned states face chaos. From this they may proceed to some form of equilibrium that is characteristically pre-modern, modern or after-modern, but it would be a novel form of order rather than the resumption of an old path.

Alternatively, the uncertainty and miseries faced by those abandoned to their own resources may substantiate Gellner's²¹⁹ contention that industrialisation

²¹⁸

Independent 5/10/2001

²¹⁹Gellner, [Encounters]

is a prerequisite to sustainable modernity. That, as for Scotland after Bannockburn (1:3), premature self-determination simply prolongs the development to modernity, and that, rather than heralding a novel form of order, it marks a return to an older form: "And the life of man, solitary, poore, nasty, brutish, and short"²²⁰. The future of the nation and the nature of its claim to self-determination is obscure. In part, this is because the identity of the self is subject to reformulation. In the next two chapters, I therefore turn my attention to a consideration of the proper self in self-determination.

²²⁰Hobbes, T. *Leviathan*. Macpherson, C. (Ed.), Penguin Classics, London, 1985, (p. 186)

Chapter Three

The liberal self in self-determination.

Nations demand our attention when they claim, and fight for, self-determination in a state of their own. However, as illustrated in the first two chapters, the co-evolution of state and nation in modern Europe has often resulted in their conflation. States and nations, sovereignty and nationalism are inextricably linked, so before the examination of the nation, a consideration of statehood is required for three reasons. Firstly, formal statehood has been treated as the object of a claim to national self-determination, and its achievement the measure of success. If nations can reliably be treated as the embryonic form of the state, then taking their claims seriously is not theoretically troublesome. The outcome would simply be more states. However, a clear understanding of the final form may ease the maturation process, and suggest which steps are more likely to promise success.

Secondly, nations do not reside in a parallel universe, waiting to cross over into the real world of states. As Bartelson²²¹ and others note, the sovereign state is the foundational concept of international relations. Nations everywhere are embedded in states, and this is the reality against which nations make their claims and suffer their injustices, a point to which I return in Chapter Four (4:3). Again, a clear understanding of what states are, and how they interact, may illuminate the difficulties faced by a nation wishing to join the ranks of sovereign states.

Finally, if nations are uniquely entitled to claim self-determination, then it is intuitively plausible that their claim rests on the same arguments that states use to justify their own autonomy; nations may qualify as states in so far as they already resemble them. However, as this chapter demonstrates, considering nations from within the framework of liberal political theory reinforces the error of treating state and nation as coterminous, which overlooks half of the picture. Chapter Four looks to the missing half.

²²¹Bartelson, [Genealogy]

Many things are defined negatively by what they are not, and the delineation of one may reveal the other. Accordingly, this first section examines the state from the perspective of international law. International law is no more impartial than any other body of rules, but it seeks to comprehensively encapsulate the principles and customs that govern state behaviour, and although there are competing interpretations of the law, there is no competing law. The next section (3:2) turns to theoretical justifications for self-determination. The contestability of sovereignty is often asserted, but it is usually treated as the point of departure²²², and the self is left unexamined. The first three theories considered are not much affected by the nature of the self. Although the state is their primary subject, most of the arguments remain coherent when applied to the nation. Indeed, nation is commonly referred to in lieu of state. The remaining three are less pliant. The justification offered by constitutive theory applies only to ethical states, but may serve as a bench mark for the aspirant nation. The argument from territory applies to both nation and state, but for different reasons, and the justification from victimisation applies only to nations, where the attainment of statehood is presented as a remedy to persecution. The argument then turns to nations, considering (3:3) the debate regarding the empirical or constructed nature of the nation, and the final section (3:4), considers some of the most promising attempts from the Modernist School²²³ that have been made to pin down the idea. Nation as myth and nation as a political construct are particularly interesting. The former links the idea of nation as a process of reformulation with nation as culture, and goes some way to explain the importance of belief and the persistence of a sense of grievance that so often characterises the nation. The latter highlights the similarities that nations share with states, whilst providing a functional explanation for national behaviour.

²²²Weber

²²³This is the name Smith uses. Not all the authors considered here would necessarily be happy with the label.

(3:1) The State.

The mistaken assumption that nation and state should fit, and three strategies for dodging the problem.

Nation and state do not fit: the ostrich expedient.

Often, of course, it simply does not matter that the assumption that nation and state fit is mistaken. In the context of French nationality, for example, it is not always relevant to note that France is home to Bretons and Basques, but in the context of Breton nationality, it would be difficult to achieve much coherence without first distinguishing nation from state. History has denied most nations a state of their own. Japan is usually cited as the exception, but the argument is not entirely convincing²²⁴. Most nations cohabit within their states, but whilst some are content to share, others are not. Having concluded that the equation, one nation = one state, is empirically faulty, in what sense can self-determination be recognised as one's own when it is exercised on behalf of two or more different nations? The lack of one to one correspondence can simply be ignored, or reformulated as an ideal type; nations ought to have their own states, so nations will only be happy when they have achieved this goal.

²²⁴ Although the Japanese consider themselves ethnically homogenous, Japan is home to resident aliens, mostly of Korean origin, and the Ainu, an indigenous people, who are considered ethnically distinct. The Okinawans consider themselves culturally and linguistically distinct, and the Burakumin are burdened with an inherited, socially inferior class status. Each of these groups face varying degrees of social and legal discrimination. Although Japan has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, its provisions have not been incorporated into domestic law. (Concluding Observations of the Committee on the Elimination of Racial Discrimination, 20/3/2001 <http://blhrri.org>) Icelanders may have a better fit between nation and state; they are genetically homogeneous, but their lineage is relatively short, being traceable to settlers from Scandinavia and Britain who arrived in the ninth century. www.iceland.org

Nation and state do not fit: they will have to endure the situation.

A second approach accepts that the world is imperfect. As noted earlier (1:3), the development of the nation was, in part, consolidated by mass print which brought fixity to one local vernacular and privileged its speakers²²⁵, and this process of assimilation or marginalisation is ubiquitous. As Plamenatz suggested, the modern world-view is predicated on loyalty to a single political unit, so perhaps it is inevitable that where nations cohabit, they also compete for dominance. However, if self-determination is limited to the successfully dominant, it is unsatisfactory for subordinate nations. A robustly Realist response would indicate that this unfortunate situation must simply be endured, or resolved by greater assimilation or departure. This stance is not particularly helpful. Roberts²²⁶ is perhaps overstating the case when he asserts that the disjunction between state and nation has been the cause of every war in the twentieth century, but it is clear that an unhappy subordinate nation may resort to brutal tactics if assimilation or exit are not on offer. The dominant nation may prove equally brutal, and the list of culprits is depressingly long.

A more moderate response would indicate: “piecemeal engineering”²²⁷ as a safer course of action, perhaps through measures giving special minority protections coupled with adequate anti-discrimination legislation. This latter position may be seen as evidence of the late-modern’s willingness to accommodate multiple loyalties, and suggests a more promising response to the lack of fit between nation and state. The difficulty here is that, in a climate of fear and mistrust, such

²²⁵ Anderson

²²⁶ Roberts, A.

Communal conflict as a challenge to international organisation: the case of former Yugoslavia. *Review of International Studies*, 21 (4), October 1995, (pp. 389-410)

²²⁷ Popper, K.

The Open Society and its Enemies. Volume 1, The Spell of Plato. Routledge, London, New York, 1989, (p. 158)

protections may be resented as appeasement by those who grant it, and rejected as inadequate by those who receive it.

Nation and state do not fit: it does not matter.

Given the right circumstances, loyalty may be vested with both nation and state, with primacy dependent on context. Switzerland may serve as a model. By any measure, Switzerland is a highly successful state, yet the Swiss are highly heterogeneous²²⁸. It is plausible to suggest that, say, an Italian speaking Swiss could be proud to be a citizen of the world's oldest democracy, and of a nation that produced Le Corbusier and Herman Hesse. It would therefore seem that the happiness, or otherwise, of a nation is determined by the host state, through the mediation of its institutional arrangements, rather than through its status in relation to its co-nations. By unbundling the two concepts, it may be possible to see how nation and state can be made to fit. So, here I turn to the state as self, although I return the issue of the nation as self in the remaining sections of this chapter.

The State as self-determining self?

A consideration of states as distinct from nations poses familiar difficulties. In many circumstances, state and nation, (or people and country) may stand for each other. However, as Weber argues sovereignty is a foundational principle in International Relations, which is generally taken to mean:

²²⁸Famously neutral, Switzerland is constitutionally a federal republic; political authority is devolved to the highly autonomous cantons and communes, of which there are some 26 and 3000 respectively. Its citizens enjoy the world's highest per capita income, an excellent, publicly funded, education system, and high welfare provision funded through compulsory insurance. Its citizens are heterogeneous, with ethnicity generally defined by language, the major groups being French, German and Italian.

“the absolute authority a state holds over a territory and people as well as independence internationally and recognition by other sovereign states”²²⁹.

She berates scholars who claim that sovereignty is an essentially contested concept, then fail to contest it, and simply take it as their point of departure, yet omits to explain what she means by state, or sovereign state. Her inexactitude is praiseworthy; we know what she means. Her meaning, along with those who treat sovereignty as their departure point, is determined by use. Another familiar difficulty is that much of what can be said of a state can apply to a nation. Both have a geographical location, and an atlas will show its size, natural resources and major cities; the population likewise can be counted, its economic activities and child mortality rates listed and so on. Both may be:

“analysed in terms of social cohesiveness (ethnicity, race, language, religion, culture, history, consciousness of a common heritage), Political cohesiveness ... and organisational cohesiveness”²³⁰.

This quotation refers to a region. This list of facts about states (or nations, or regions) indicates that the object is less than global, and probably larger than a city, which is not very helpful. States do, however, differ significantly from other political communities in that they are the subject of international law²³¹.

States have their own body of laws.

International law is essentially modern. It shares its genesis with state and nation, and, like them, was originally European. Although recognisable elements can be

²²⁹Weber (p.1)

²³⁰Hurrell, A.

Explaining the resurgence of regionalism in world politics.

Review of International Studies, 21 (4), October 1995, (pp. 331-358)

²³¹Brownlie, I. (Ed.) *Basic Documents in International Law*. (Third Edition). Clarendon Press, Oxford. 1991 [Basic Documents]

traced to ancient times²³², Bartelson²³³ rightly suggests that the pre-modern worldview is so profoundly different from the modern, that it is perverse to consider them the founding fathers of international law. It is generally agreed that the true fathers are Bodin, with his systematic analysis of the emerging doctrine of sovereignty, and *Vitoria*, *Suarez*, *Gentili*, but above all, *Grotius*, who definitively placed reason, not God, at the heart of international law. This is not the place to trace the genealogy of international law, and it is sufficient to note that the meaning and interpretation, and indeed the law itself, has changed over time. It should also be noted that this process is glacially slow. Laws are essentially trailing indicators, and are only changed when there is overwhelming evidence that they no longer work. The furore in January 2002 over the treatment of prisoners captured in Afghanistan and imprisoned in Guantanamo Bay, Cuba, illustrates the problem, and reveals that international law is woefully inadequate to deal with some contemporary conditions.

International law is slow to address novel situations.

There are of course, wider political and ethical issues involved, and other legal issues concerning intervention, jurisdiction, proportionality that do not relate to the status of prisoners. The situation has been further muddled by allegations of torture, and dismay at the conditions in which the detainees are held. However, the necessity felt by their captors to class them: “unlawful combatants”, when in

²³²In approximately 2100 BC, the rulers of two Mesopotamian city-states, Lagash and Umma, the latter under some duress, signed a treaty agreeing to observe the border between them. Roman law, and its legacy, is evident in many contemporary legal systems, but it was applicable only within the empire. There was no question of reciprocal recognition, and although Islamic law did recognise other nations, it was on the basis of negative reciprocity. The ecclesiastic laws of the Holy Roman Empire were supranational, but it was the growth in the *Law Merchant* governing maritime trade that most closely resembles present international law.

²³³Bartelson, J.

Short circuits: society and tradition in international relations theory.
Review of International Studies. 22 (4), October 1996, (pp. 339-360)
 [Short Circuits]

international law: “detainees are either ordinary criminals...or prisoners of war”²³⁴ indicates disjunction between law and practice²³⁵.

The development of international law is also hampered by the need for consensus amongst an array of interested parties. Further, as Doty²³⁶ notes, laws are constitutive of those who are subject to them. Like criminals in domestic society, states may break the law, or wish that there were no consequences for doing so, but even the virtuous are prone to only fiddling with the details. Signs of serious mistrust in international laws, and the sovereignty game they uphold, are rarely found, except at the margins. On the whole, the practice of international relations, and the laws that validate it, are remarkably successful in socialising its constituent states into habitual observance. As Jackson notes, players want to win the game, but not at the expense of destroying it, which precludes:

“crusades, *jihads*, state sponsored terrorism, the global communist revolution, forcibly making the world safe for democracy, and any other actions in contempt of sovereignty”²³⁷.

The end result is a relatively static body of laws that uphold the *status quo*, which is essentially modern. So how do the pre-moderns and late-moderns fare in the

²³⁴

Economist “The prisoners’ dilemma” 26/1/2002

²³⁵The captors argue that the prisoners are nationals of a number of countries engaged in violence on behalf of *Al-Qaeda*, which is not itself a state. The captives are clearly not accused of committing ordinary crimes, so there have been demands that they should be granted Prisoner of War status. The argument in favour of PoW status is particularly strong in the case of Taliban detainees who were government forces engaged in action against foreign forces in their own country. There are two counter arguments, the first based on reciprocity. By their acts, the captives have themselves failed to observe the conventions on conduct and have thereby forfeited their right to protection under them. However, the prisoner’s conduct prior to capture does not affect their status, and they may still be tried for war crimes committed as soldiers. This argument also ignores the central question of culpability. The second, more plausible counter argument is that, as international law is largely silent on the issue of inter-state acts of aggression by non-state actors, their legal status should remain indeterminate. This would not preclude humane treatment nor sanction revenge against the captives.

²³⁶Doty, R.

Immigration and national identity: constructing the nation. Review of International Studies, 22 (3), July 1996, (pp. 235-255)

²³⁷Jackson (pp. 36-37)

sovereignty game, given the divergence between their world-views and those of the moderns?

Problems for the pre-moderns and late-moderns?

In many respects, international law is problematic from all three points of view. There is only one body of law, but there are many interpretations. For the moderns, sovereignty is paramount; for the late-moderns, sovereignty is subordinate to other goals, and elements may therefore be surrendered or pooled to achieve these. International law incorporates principles that support both positions, and difficulties arise when they conflict. So, for example, Article 2 (4) of the UN Charter prohibits use of force against the: “territorial integrity or political independence” of any state, and this is deemed by the moderns to trump the principles of: “self-determination of peoples” and: “human rights” enshrined in Article 55 and 55(c) respectively, on the grounds that they are essentially matters of domestic concern. For those with a late-modern disposition, the provisions of Article 55, elaborated by the UDHR and reinforced by further instruments, in particular General Assembly Resolution 2625 (1970)²³⁸, the situation is not so clear. The establishment of the ICJ²³⁹, the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Elimination of All Forms of Racial Discrimination (1965); all may be taken as evidence of a trend that renders sovereign inviolability conditional on observance of certain standards of domestic behaviour.

As noted previously (2:5), most states are inconsistent, and circumstances will dictate which legal principles to invoke. In this respect, although it is doubtful that present international law could be incorporated within a pre-modern world-

²³⁸The Declaration on Principles of International Law Concerning Friendly Relations And Co-operation Among States in Accordance with the Charter of the United Nations.

²³⁹International Court of Justice (1945)

view, contemporary pre-moderns must engage with the world on the basis that these laws apply, because they are embedded within it. Like the moderns and late-moderns, they appeal to those elements of international law best suited to their goals, and I return to this issue in Chapter Four (4:3).

Lack of enforcement.

Disagreement between the moderns and late-moderns in interpreting the law is further exacerbated by the absence of enforcement mechanisms, a difficulty common to many aspects of international law, which is in this respect Hobbesian: "Covenants, without the Sword, are but Words"²⁴⁰. The UN may stand for Leviathan in the international sphere, but unlike Hobbes' contractors, states have retained their right of nature, and the UN is greatly constrained in its ability to act. There is no supreme arbitrator and no police. States accused of illegal acts cannot be compelled to appear before the ICJ, and its rulings are binding only with the consent of the state concerned²⁴¹. This has led some to conclude that international law is a sham which merely hides the true regulator, which is brute force. This is an extreme and pessimistic conclusion, although it is hard to pretend that self-help and resort to threat or use of force are not widespread. Shaw is more sanguine. Whilst acknowledging that breaches occur, he argues that this does not invalidate international law because the law functions as a guide to good behaviour, and provides a common platform through which states can act to create new laws and norms. So, for example, the past fifty years have seen a trend away from the positivist focus on states as the only actors with legal personality, although the Realist ascendancy with its emphasis on power, may have obscured this in the early years. Shaw argues that the most radical change stems from the changed perception regarding the proper role of government.

²⁴⁰Hobbes (p. 223)

²⁴¹Sands, P., Mackenzie, R. & Shany, Y. (Eds.) *Manual on International Courts and Tribunals*. Butterworths, London, Edinburgh, Dublin, 1999

Domestically, government intervention has expanded, particularly in terms of welfare and surveillance, and this proclivity to interfere has been echoed by the expansion of international law to accommodate the interests of a wider range of participants and to curb the activities of states, and:

“for most of the same reasons which have to do with the doctrine of equal rights and equal dignity of all mankind”²⁴².

Limitations on sovereignty and mutual interference are characteristic of the late-moderns, and although the moderns are less enthusiastic, they too have come to accept that some restraint on wayward or powerful actors is prudent. From 1945, with the founding of the UN and the post-war military tribunals; the International Covenant on Economic, Social and Cultural Rights (1966); the International Covenant on Civil and Political Rights (1966); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), all evidence a trend to limit state activities and protect the well being of citizens.

Three significant properties exclusive to states.

Juridical constitutional independence.

The conventional definition of a state lists four qualities that a state must possess: a population, a territory, a government, and the ability to enter into relations with other states²⁴³. Whilst other political communities may display these qualities, states are unique in additionally having a distinct legal status. As Jackson notes, there is a plurality of states, but not of status, although mandate,

²⁴²Jackson (p. 17)

²⁴³The Montevideo Convention on the Rights and Duties of States (1933).

trusteeship, protectorate status and such may be revived in the future²⁴⁴. Serbia and Montenegro, for example, seem likely to replace the former Yugoslavia as: “semi-independent”²⁴⁵ states, sharing one UN seat on a rotational basis. This has the appearance of a political fix, intended to avert a secessionist free-for-all in the Balkans, rather than a new development in international law. Sunstein²⁴⁶ asserts that the defining criterion of statehood is juridical constitutional independence.

For example, Palestinians may, or may not, be an ethnic group, a religious group or a cultural community. They may be a nation. Their community has a degree of autonomy and exercises many of the functions of a state, but Palestine is not a state. Sunstein’s evaluation is helpful, in so far as it indicates at least one specific criterion unique to states, but it is not complete. The Turkish Republic of Northern Cyprus, for example, has had its own constitution since 1975, and evidently meets the four Montevideo conditions, but its constitutional independence has no force. However, whilst noting that international law is slow to accommodate changed realities, and ill equipped to enforce constitutional independence, the most significant element absent from the juridical test of statehood is not legal, but political. A state has legal status as a state if enough other states believe it is, or should be, a state. The UN is the arena for decision making in this regard, although as member states bring their own interests and agendas to the debate, recognition is sometimes granted unilaterally²⁴⁷, to pre-empt consideration of possible alternatives and to influence outcomes.

²⁴⁴Weapons inspections and the no-fly zone in Iraq, and the present interventions in Kosovo and Liberia, for example, may act as precedents.

²⁴⁵[Independent](#) 15/3/2002

²⁴⁶Sunstein, C. Approaching Democracy: a new legal order for Eastern Europe-constitutionalism and secession. In: Brown, C. (Ed.) *Political Restructuring in Europe*. Routledge, London, New York, 1994, (pp. 11-49)

²⁴⁷Germany’s recognition of Croatia, and the tantalising possibility of U. S. recognition of Palestine, for example.

Declaratory and constitutive recognition.

Shaw asserts that territorial sovereignty is the central issue in international law because it legitimates jurisdiction, which concerns:

“the power of the state to affect people, property and circumstances and reflects the basic principles of state sovereignty, equality of states and non-interference in domestic affairs”²⁴⁸.

Recognition is essentially a signal of approval by other states, hence the non-recognition of Israel by some Arab states, and the furore created in Nigeria by the premature recognition of the secessionist Republic of Biafra, (1967-1970), which was viewed as intervention in Nigeria's domestic affairs. As Roberts notes, recognition can have unpredictable consequences; it may create stability and external assistance, or provoke further strife as feared by Lord Carrington and Javier Pérez de Cuéllar in 1991 regarding Bosnia-Herzegovina. It is also granted for reasons of pragmatism, although as Fowler and Bunk²⁴⁹ note, the tests for *de facto* and *de jure* independence differ, and states may qualify under one, whilst failing the other. Kosovo is likely to remain in: “diplomatic limbo...the Taiwan of the Balkans”²⁵⁰ because of fears that recognition would further destabilise the region. The legal basis for recognition has changed over time, but as there is no definitive guide, states wishing for international recognition have a repertoire of strategies from which to choose, and naturally, they select that which best supports their claim to a given territory.

Some past options are no longer available; conquest or occupation of *Terra nullus*

²⁴⁸Shaw (p. 393)

²⁴⁹Fowler, M. & Bunk, J.

²⁵⁰

What constitutes the sovereign state? Review of International Studies, 22 (4), October 1996, (pp. 381-404)

Economist “Ibrahim Rugova, Kosovo’s awkward survivor” 4/11/2000

have ceased to be viewed as legitimate means of territorial acquisition, likewise sale, and the transfers attendant on dynastic marriage. However, the once dormant concept of prescription²⁵¹ seems to be enjoying something of a revival in the post-Cold War era. Indeed, there seems to be something of a reversion to a more robust form of state creation, and declaratory recognition is becoming more common, as it was in the dawn of the modern era, when sovereignty preceded state. It could be argued that the period of state creation linked to decolonisation was an aberration; during this period, as noted in the preceding chapter (2:1), constitutive recognition dominated. This was necessitated by the times; self-determination was considered by many to have become part of *jus cogens*²⁵². Many of the colonial states simply did not have *de facto* control, and although the old principle of cession was invoked, it failed to address non-territorial issues for the newly decolonised states. Whereas declaratory recognition requires a close match between sovereignty and empirical statehood, constitutive recognition as applied during decolonisation makes no such demands. It undercuts the grounding principle that international law functions on the basis of reciprocity regarding a state's rights and obligations. Jackson argues that the admission of quasi-states has changed the game rules.

Real states play by the old rules, but quasi-states demand: "sovereignty plus". Self-determination became compensation for colonisation. Sacrosanct borders denied it to any other self, dismissing them as separatists, irredentists and the

²⁵¹Prescription legitimates title through the passage of time. Declaratory recognition is based on *de facto* territorial control, and constitutive recognition is the process whereby other states affirm statehood. Cession is the peaceful transfer of territory between sovereigns.

²⁵²In the hierarchy of sources of legal authority, *jus cogens* refers to universally held principles that cannot be overruled by treaty or other agreement. *Jus dispositivum* in contrast, may be amended by the appropriate legislature. There is some disagreement as to whether *jus cogens* can be said to apply to international law, on the grounds that limitations on the freedom of states are imposed by pragmatism and interest, not a higher authority. However, there is a body of peremptory laws, such as those affirming the right to self-defence and the prohibition of aggression or piracy: "from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character" (Article 53, Vienna Convention on the Law of Treaties, in force since 1980).

like²⁵³, and determination became what whoever took over thought it to be. Reciprocity is a fine principle, but it only works where the players are evenly matched. Formal constitutional status apart, rich developed states and poor undeveloped ones are simply incommensurable. The modern sovereignty model, with its clear distinction between domestic and international matters, expected reciprocation only at the international level. The distinction has been increasingly blurred, economically and politically, especially with the growing emphasis on rights observance. The late-moderns, drawn from the ranks of mature and wealthy democracies, see mutual interference as an ethical obligation; it both polices and promotes the rights of citizens everywhere. To the moderns, it is just another hurdle, and another excuse for the powerful to meddle in the affairs of the weak. The playing field, far from level at the start, has been increasingly tilted, and always at the expense of new players.

Where real states are limiting sovereignty in the interests of human rights, quasi-states demand exemptions; international law makes no distinction between first, second and third generation rights, leaving quasi-states free to elevate socio-economic rights in the hierarchy of good. Welfare, in the form of international aid, is demanded as of right, but with no concomitant obligation to use it as the donor would wish. Jackson compares the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)²⁵⁴ and the Charter of the Organisation of African Unity. The former is binding, permits temporary derogation only under very narrow circumstances, and comes within the jurisdiction of the ECJ²⁵⁵ to which individuals may appeal. The latter is not

²⁵³Jackson lists some “ethnonationalties” who are barred from entering the game, but who evidence what he describes as empirical qualities of statehood: Baluchis, Biafrans, Tigreans, Ewew, Gandans, Karens, Katchins, Kurds, Pathans, Sikhs, Tamils. (This list is a tiny fraction of the total number of nations claiming self-determination, and a miniscule proportion of the potential).

²⁵⁴The Convention has been elaborated by five protocols that came into force between 1954 and 1971.

²⁵⁵The European Court of Justice adjudicates on matters relating to EU law, and the European

binding, places few constraints on member states who may vary rights by domestic law, and has no adjudicator similar to the ECJ. Jackson concludes that self-determination in post-colonial states is for the protection of their rulers, not their citizens. This point was unhappily demonstrated by the 2002 presidential elections in Zimbabwe; Mr Mugabe's victory was condemned as fraudulent by the losers, a view supported by many outsiders, with the significant exception of most fellow members of the AU. The situation has been further mired by accusations of neo-colonialism and racism, as the division of opinion has broadly fallen between black post-colonial states, and white former imperial states. This may be a legacy of the nineteenth century positivists who elevated the state as the sole subject of international law, leaving rights firmly to the jurisdiction of domestic law, but it resembles the pre-modern sovereignty game of princes. Although states may incur the opprobrium of others, expressed through sanctions, UN censures, intervention and the severance of diplomatic relations, there is no formal procedure for withdrawing recognition by the international community²⁵⁶.

Jackson's depiction of sovereignty plus is plausible, but the end of the Cold War has also changed the game rules. Constitutive recognition may prevail, but revert to the form that applied until 1945, where recognition was conditional on certain standards of behaviour. The civilisation standard of this earlier modern form was grounded in ethnocentric assumptions of European superiority, but the late-modern approach is likely to focus on rights observance and democratic political structures which, as Shaw notes, would suggest a return to the natural law tradition that focuses on the individual. I return to this in Chapter Five (5:3).

Court of Human Rights offers a forum for appeals after domestic courts have adjudicated.

²⁵⁶ Although individual states may do so, this is unusual. For example, the United Kingdom recognised Italy's *de facto* conquest of Ethiopia in 1936, and *de jure* in 1938, but withdrew recognition in 1940. The withdrawal of declaratory recognition is theoretically more likely in, say, the event of state collapse, as recognition is directly linked to *de facto* control. Where *de jure* constitutive recognition has applied, withdrawal of recognition is more difficult, although withdrawal of recognition of governments who lose *de facto* control is generally assumed.

UN membership.

UN membership is not a necessary or sufficient condition of statehood. Indeed, some of the earliest members were not states, for example India and Byelorussia, and not all states are members, such as San Marino and Switzerland²⁵⁷, but it is symbolic. Statehood is about entry to a privileged club. In theory: “club membership is closed in favour of the territorial integrity of established states”²⁵⁸, but issues of this nature rarely remain settled for long. It will be recalled from Chapter Two (2:3 & 2:4) that the two most significant waves of membership growth occurred as a result of the decolonisation movement and following the disintegration of the Soviet Union at the end of the Cold War²⁵⁹. New members are admitted to the UN on the recommendation of the Security Council and by a two-thirds vote of the General Assembly. The admittance of new members has, however, caused controversy, and the requirement that the five permanent members of the Security Council concur on new members has also been an obstacle. Like recognition, it signifies approval. Taiwan, for example, has applied to join five times but has been thwarted by China’s use of the veto on each occasion; in all there have been 59 vetoes blocking admissions²⁶⁰.

²⁵⁷Switzerland held a referendum on accession in March 2002, which favoured entry, but the margin was narrow, with only 55% in favour. The Holy See is the only other non-state member.

²⁵⁸Osterud, Ö. The narrow gate: entry to the club of sovereign states. *Review of International Studies*, 23 (2), April 1997, (pp. 167-184)

²⁵⁹Decolonisation had brought member numbers to about 150 by 1970, and the post-Soviet era membership is now 189 www.un.org. However, a definitive list of states is elusive; <http://www.wfuna.org> lists 186 UN members (omitting Burkina Faso, The Solomon Islands and Somalia), and notes three states (British Virgin Islands, Gibraltar and Switzerland) as non-members, whereas a comment from the same source indicates that the Holy See is also a state but not a member.

²⁶⁰www.globalpolicy.org There is no official list of Security Council vetoes. There have been over 245 since 1946, the majority exercised by the U. S. and the former Soviet Union, on a variety of issues.

Context determines what is to count as a state, so as Bartelson²⁶¹ notes, it is not simply a matter of listing the attributes of statehood and ticking off those that qualify. Nevertheless, there are some core attributes that are allowed to states that are denied, or usually denied, to nations. States have legal personality in international law, and international law applies only to them. They have constitutional juridical independence, and their own exclusive club, the UN, which symbolises their status as bona fide players in the game of international relations. Crucially, their status is affirmed through recognition. Finally, there is Jackson's point about playing to win, which may be illustrated by contrasting North and South Korea²⁶². Both have the core attributes of constitutional independence and are UN members. Both are widely recognised as states. The main contrast lies in how they play the game. South Korea has sought to become a respected member of the international community, and has accepted the curbs on sovereignty implicit in membership of various bodies such as the WTO²⁶³ and the IMF. It hosted the 1988 Olympic games, and its president, Kim Dae-jung, won the 2000 Nobel peace prize for his work in fostering human rights and democracy in the region. Domestically, it is an industrialised democracy and has enjoyed rapid economic growth in the post-war years. In contrast, North Korea, together with Iraq and Iran, form President Bush's: "axis of evil"²⁶⁴; often labelled a rogue or pariah state, it withdrew from the IAEA²⁶⁵ in 1994. It is widely believed to be exporting missiles and missile technology to the Middle East, and its tactical brinkmanship routinely causes alarm amongst the

²⁶¹Bartelson, [Genealogy]

²⁶²Democratic People's Republic of Korea and the Republic of Korea respectively. UN membership from September 1991.

²⁶³World Trade Organisation.

²⁶⁴A phrase used by President Bush in his state of the Union address in January 2002. It caused alarm in many quarters, notably North and South Korea, raising fears that it signalled a new, aggressively unilateral approach to American foreign policy.

²⁶⁵International Atomic Energy Agency.

neighbours²⁶⁶. Domestically, it is a centralised hereditary dictatorship, whose people endure extreme poverty and curbs on their freedoms. South Korea plays by the rules, North Korea bends them.

Having considered some of the legal issues relating to sovereignty, I now turn to some of the theoretical ones.

²⁶⁶Despite accepting \$95 million under the 1994 Agreement Framework in April 2002, North Korea admitted that it intended to resume its nuclear weapons program in October 2002.

BBC World Service 12/12/2002

(3:2) The nation-state?

Ducks and rabbits.

As noted (1:4), Enlightenment thought is essentially grounded in man as the source of political and moral authority. Emancipated from the superstition of earlier ages, its authors sought to harness reason and scientific progress to the goal of perfectibility, and a social ideal in which the rights-bearing individual could thrive. However, there was a foundational dissonance, which is still reflected in the division between cosmopolitan and communitarian schools of thought. For the former, society is instrumental. Its ethical value is derivative, and inherently limited to the extent that it enhances individual freedom. In contrast, the latter holds the view that society has intrinsic moral worth that is profoundly significant to the individual. Only within society can the individual be free and his rights respected. Indeed, rights are meaningless outside the social context. These competing views on the realisation of individual liberty go some way to explain the liberal's ambivalence toward the nation, and the romantic's embrace of it; the liberal attachment is conditional, but the romantic attachment absolute.

The liberal conception is political and functional. The role of the community is to provide an arena in which rights-bearing individuals can pursue their chosen ends, within a framework of democratically selected laws and institutions that facilitate experiments in difference, and to ensure that the core freedoms are equitably observed. In general, the community that liberal thinkers have in mind is the state, specifically the Western democracies with *laissez faire* economies. To conflate nation with state is not problematic because sub state loyalties, including nationality, are merely expressions of difference and choice. In this reading, the nation, and other sub-state groups that command loyalty, are instrumental; they

serve as a medium through which individuals aspire to a just life. The community should be left to conduct itself as it pleases, unless it infringes on the freedom of another community to do likewise.

In contrast, the romantic view deifies the nation as the paramount good in itself. The nation is held to be an ancient primordial community, mystically fettered to the ancestral homeland through ties of blood and history. The nation's history, often focusing on war and defeat, is presented as both heroic and profoundly unjust. Dates and places acquire a special resonance that imbue the national psyche, even centuries later; the defeat of Lazarus at the Battle of Kosovo (1389), and of James at the Battle of the Boyne (1688-89), can still conjure potent emotions. National history, language and culture all serve to connect the present to the past and the future. The manifest significance of the nation underpins the logic that each nation should enjoy its own state, but the exclusivity of the concept is innately volatile. What should happen where the geographical boundary of the nation incorporates a minority nation, or where part of the nation forms a minority within the borders of a contiguous nation²⁶⁷? The nineteenth century unification of Italy and Germany were exemplars of: "romantic patriotism"²⁶⁸. Mr Milosevic's vision of Greater Serbia appears to owe much to this idealisation, which indicates that he underestimated the West's revulsion at any hint of territorially defined greatness. The romantic promise of unification was poisoned during the twentieth century; fuelled by grievance, fascist ideology mobilised the romantic perspective. Stressing total loyalty to the nation through militarism and a measure of racism, the answer to indeterminate borders and multinational populations became forced

²⁶⁷It is probably not true that all romantically inclined nations are besieged by a sense of injustice, or that they always fail to accommodate minorities, but I have yet to find an example. The US is a possibility. Eire, Germany and Italy seem to have abandoned their romanticism. If the US is the singular example of a successfully self-determining nation that retains its romanticism, then perhaps this is simply another example of American exceptionalism.

²⁶⁸

Economist "Zoran Djindjic and Balkan Maps" 16/2/2002

assimilation; expulsion; secessionist violence; minority suppression; genocide and the most devastating war in human history. To the post-war liberal imagination nationalism had become pathological.

A binary opposition: nations are either bad or good.

Much of the contemporary debate regarding nations in International Relations is polarised. Can nations be rehabilitated, or should the idea be repudiated? As Miller²⁶⁹ concedes, self-determination is theoretically a positive value for liberals, but in practice, its tendency to foster rabid nationalism bordering on racism is entirely repulsive. In one camp stand those who would consign nations to history; the events of the past century and the legacy of contemporary conflicts show that the nation's potential for brutality can be neither accommodated nor tolerated:

“if the modern nation-state that served as the ineluctable condition for imperialist domination and innumerable wars is disappearing from the world scene, then good riddance!”²⁷⁰

The idea is dangerously potent and should be abandoned along with other now discredited notions such as imperialism and colonialism. However, as Berlin²⁷¹ argues, it is simply not good enough to compare the Herderian romantic tradition with the Anglo/liberal and find it wanting, because such a comparison is meaningless. Those wishing to rehabilitate the nation acknowledge the nation's potency and malign potential, but seek to salvage the benign elements. The strength of this less absolute stance is that it is grounded in the reality of

²⁶⁹ Miller, D.

²⁷⁰ Hardt, M. & Negri, A.

²⁷¹ Berlin, I.

On Nationality. Clarendon Press, Oxford, 1995 [On Nationality]

Empire. Harvard University Press, Cambridge, Massachusetts, London, 2001

The Crooked Timber of Humanity. Chapters in the History of Ideas. Hardy, H. (Ed.) Fontana Press, London, 1991 [Crooked Timber]

persistent nationalisms, which Alter²⁷² suggests has been the greatest force in shaping present day international relations. However, by emphasising the benign aspects of the nation such as nurturing identity and communal loyalty, apologists for the nation are vulnerable to the charge that these are not specific to nations. They also confront the liberal dilemma; extremist and racist views are abhorrent, but censorship and repression of unpalatable ideas are also problematic²⁷³.

Man as the source of moral and political authority.

This points to a paradox; if the liberal and romantic accounts of nation are so radically divergent, can the Enlightenment belief in man as the source of legitimacy underpin both? It seems that it does:

“Self-determination originally postulated peoples rather than princes as the only grounds for international legitimacy: that is, *national* self-determination. The “*self*” was a nation”²⁷⁴.

All other claims made on behalf of a nation, whether self-determination, mutual respect and forbearance from interference are reducible to this. Now, as anthropocentrists, this is not entirely surprising; humanity is usually depicted at the top of any hierarchy. However, asserting this intuitively pleasing conceit is not very helpful in explaining why nations deserve special status, when either the individual or the totality of humanity would seem to be more logical subjects, as a cosmopolitan approach would indicate. Further, even if the nation is uniquely deserving of special status, should this be reserved for only decent ones? The contention that each national culture has its own centre of gravity is an appeal to pluralism, although this view, held by Walzer and others with a communitarian

²⁷²Alter, P. *Nationalism*. (Second Edition) Edward Arnold, London, 1996

²⁷³Hainsworth, P.(Ed.)*Politics of the Extreme Right: From the Margins to the Mainstream*. Pinter, London, 2000

²⁷⁴Jackson (p. 75)

bent, is an argument in favour of plurality *between* communities, not *within* them. Pluralism does acknowledge that there is no single social order that is universally right, although Berlin poses a caveat:

“There are, if not universal values, at any rate a minimum without which societies could scarcely survive. Few today would wish to defend slavery or ritual murder or Nazi gas chambers...There is no justifications for compromise on this”²⁷⁵.

Are the justifications for state sovereignty and national self-determination the same?

On grounds of pragmatism alone, it is not difficult to make a case that states are the most significant actor in international relations, or to simply work from the assumption that this is so. Other units, such as nations, can remain unexamined. Most political theories concerned with social organisation rest on the assumptions that borders are fixed and defined, that the community is known and fixed, and that the central issue relates to man and state, not shared community, language or culture. As Van Dyke notes:

“The criteria for deciding whether a community should be recognised and what status and rights it should have are left virtually unexplored”²⁷⁶.

This criticism is not entirely fair; why should theories about the state be concerned with communities that are not states? Nevertheless, whilst the state is the primary object of political loyalty in the modern world, it is not the only one. Nations also command loyalty, and it may be acknowledgement of this that leads

²⁷⁵Berlin, [Crooked Timber] (p. 18)

²⁷⁶Van Dyke, V. The Individual, the State, and Ethnic communities in Political Theory. In: Kymlicka, W. *The rights of Minority Cultures*. Oxford University Press, Oxford, 1995, (pp. 31-56)

to the confusion of terms. Thus, Walzer²⁷⁷ speaks of community, and Paine about society, when both mean state, and although Paine does refer to the nation, by this he means people in general. Frost²⁷⁸, in common with many, largely ignores nations; the state is the departure point. However, many of the insights that such theorists bring to the state are central to this study. Nations everywhere are embedded in states, and states provide the context in which nations make their claims, pick their fights and endure their suffering. Equally important, many of the insights concerning the moral value of self-determination apply as well to the nation as to the state, although there are exceptions. The state, as indicated (3:1), is the principal player in the sovereignty game, and has special privileges and corresponding obligations. Nations have neither, although it is likely that nations aspiring to self-determination will be judged in part by how close their actions conform to the norms of international society, and I return to this point in Chapter Six (6:2). The following is therefore a consideration of some of the more interesting theories advanced to justify sovereignty, that also have significant relevance in justifying self-determination for nations. For the present, the self remains unexamined, and prior to the arguments for justification. I return to an examination of the self in the final section (3:4).

Six Justifications for self-determination and sovereignty.

The social contract.

One of the earliest modern justifications was the social contract, which sought to rationally legitimise the polity without appealing to divine will or tradition. The social contract explained why men living in a state of nature would choose to

²⁷⁷Walzer, M. *Spheres of Justice. A Defence of Pluralism and Equality*. Basil Blackwell, Oxford, 1983 [Spheres]

²⁷⁸Frost, M. *Ethics in International Relations*. Cambridge University Press, Cambridge, 1996 [Ethics]

renounce their anarchic freedoms and willingly submit to government. Hobbes' depiction of the state of nature was so hideous that he assumed that even the most authoritarian government would be preferable. For Locke, the state of nature was merely irksome, so the removal of its inconveniences justified only weak government. An obvious flaw in contract theories is that the state of nature is entirely hypothetical²⁷⁹. If no such state ever existed, constructing arguments on the basis of a situation that never occurred is somewhat quixotic. However, as a thought experiment, it remains a useful tool.

Walzer suggests that the social contract should be viewed as a process of negotiation and renegotiation, because the hierarchy of values changes; he says:

“I think it best to be governed democratically; but I don't claim that my political views have the definitive endorsement of God or Nature or History or Reason”²⁸⁰.

Walzer generally equates democracy and self-determination, which he considers a: “universal moment”²⁸¹ representing the thick local picture of preferences, rather than the thin rejection of tyranny as bad, whatever the variety. It is a procedural ethic that, once in place, determines the political ground rules, although it should be noted that, for example, in the post-colonial context, self-determination has not often translated into popular democracy and, as Jackson suggests represented a one off eviction rather than a continuing process. This points to another weakness in the theory. Although Rawls²⁸² famously used contract theory to construct a just

²⁷⁹By the seventeenth century, Europeans had come into first contact with numerous societies who seemed entirely alien and primitive. Coupled with the brutal wars that had raged across civilised Europe, and the recent experience of the Civil War in England that ended in 1651, it is quite possible that at this time, the state of nature was imaginable as an historical event, or as existing in some obscure part of the world.

²⁸⁰Walzer, [Thick and Thin] (p. X)

²⁸¹Walzer, [Thick and Thin] (p. X)

²⁸²Rawls, J. *A Theory of Justice*. Clarendon Press, Oxford, 1972

polity, as Charvet²⁸³ notes, little attention is paid to an unjust polity and although the contract is conditional, the reclamation of sovereignty is treated as a revolutionary last resort. Secession by unhappy minorities generally remains unexplored. For Paine and the classic liberals, rights are inherent and inalienable, not derived from society.

Society provides security and protection, but: “society *grants* him nothing. Every man is a proprietor in society, and draws on the capital as a matter of right”²⁸⁴ and the function of social and political institutions is to preserve these rights to liberty, property, security and resistance to oppression. “*The nation is essentially the source... of all sovereignty*”²⁸⁵. Charvet in contrast, argues that moral rights only arise in a state. He does not simply mean that the state alone has the power to ensure their observance, but that the state has moral validity on its own terms, although this is conditional. As Carr notes, one of the earliest tenets of modern liberalism is the belief that the:

“rights of nations were consciously derived from, and subordinate to, the rights of man which were in their very essence both individual and universal. A nation which did not respect the rights of its own subjects or of other nations denied its own essential character”²⁸⁶.

Whilst the social contract refers to an exchange of personal freedoms in return for the security of the state, another difficulty with the hypothetical nature of the concept concerns the matter of consent; how was this given and by whom? As Frost notes, consent is generally problematic for contractarian arguments. In practice, individual consent to a given form of polity has not been sought or given,

²⁸³Charvet, J. What is Nationality, and Is There a Moral Right to National Self-Determination? In: Caney, S., George D., Jones P., (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 53-68)

²⁸⁴Paine (p. 45)

²⁸⁵Paine (p. 70)

²⁸⁶Carr (p.10)

and tacit consent cannot be assumed by failure to depart. Periodic affirmation through elections is likewise an inadequate measure of consent; it excludes any polity not based on suffrage, those unwilling or unable to vote, and equates participation with approval. A hypothetical contract that would be consented to if everyone were consulted offers a more promising approach, but it is improbable that many states would be organised well enough to qualify for this hypothetical consent. This difficulty was anticipated by contract theorists, who incorporated a get out clause:

“The good of subjects is the end of kings;
To guide in war, and to protect in peace...
That Kings, when they descend to tyranny,
Dissolve the bond, and leave the subject free...
The voice of nations, and the course of things,
Allow that laws superior are to Kings”²⁸⁷.

Paine is explicit: “sovereignty itself is restored to its natural and original place, the nation”²⁸⁸. The people retain:

“three fundamental rights:
1. To choose their own governors.
2. To cashier them for misconduct.
3. To frame a government for ourselves”²⁸⁹.

For liberals, this “*civic voluntarist conception*”²⁹⁰ is coherent, but using liberal criteria to measure a state’s legitimacy effectively de-legitimizes any state that is not a liberal democracy. Gilbert’s alternative of: “*civic republicanism*” seeks to

²⁸⁷Defoe, D. *The True-Born Englishman and other writings*. Penguin Classics, London, 1997

²⁸⁸Paine (p. 135)

²⁸⁹Paine (p. 10) Here, Paine is citing Burke who in turn was paraphrasing a sermon given by Dr Price in 1789.

²⁹⁰Gilbert, P. National Obligations: Political, Cultural or Societal? In: Caney, S., George, D., Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 102-118)

avoid this problem by grounding legitimacy on reciprocal obligations between citizens. This does not entail a specifically liberal political order, and could conceivably accommodate a caste-based society. Neither formulation leaves much room for dissent, nor, more pertinently, do they overcome the ahistoric nature of the original contract. A government may have domestic legitimacy amongst favoured portions of the citizenry whilst persecuting or discriminating against certain groups. And, as Mill suggests:

“social tyranny (may be) more formidable than many kinds of political oppression, since...it leaves fewer means of escape”²⁹¹.

MacCormick²⁹² concludes that majority rule is a problem for any version of national self-determination; those who claim it for themselves generally deny it to others.

Contract theory is a powerful analytical tool, but as a justification for a self-determining state it has too many weaknesses: the hypothetical state of nature; the problem of consent; the assumption that the state is just and the consequent failure to consider remedies. The consequentialist approach taken by Beitz²⁹³, for example, rejects the fundamental assumption that legitimacy can be derived from any form of contract. For him, legitimacy only accrues to a state that is ordered in accordance with: “appropriate principles of justice”²⁹⁴, and self-determination is justified only in so far as it promotes this. The state has no intrinsic moral value, only instrumental value. I return to this issue in Chapter Five (5:4).

²⁹¹Mill, J. *On Liberty*. Himmelfarb, G. (Ed.) Penguin Books, London, 1985 [On Liberty]

²⁹²MacCormick, N. What Place for Nationalism in the Modern World? In: Caney, S., George, D., Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp 34-52)

²⁹³Beitz, C. *Political theory and international relations*. Princeton University Press, Princeton, New Jersey, 1979 [Political Theory]

²⁹⁴Beitz (p. 96)

The man/state analogy.

As noted in Chapter One (1:4), by the nineteenth century, the cosmopolitan impulse of the Enlightenment had been overtaken by the view that nations (or states) were: “sublimated individuals”²⁹⁵. Arguing from analogy is very useful in understanding similarities between different systems, where the familiar may bring insights to the function of the unfamiliar. The man/state analogy is just such a tool that has proved very robust, but it is this very strength that weakens its usefulness. Men and states do resemble each other in many respects, but this has perhaps obscured the caveat for all analogies, that superficial convergence of forms remains superficial²⁹⁶. Further, the similarities between men and states rest on a specific conceptualisation of both that as Neumann²⁹⁷ notes, are essentially euro-centric; men are perceived as unindividuated rational maximisers, so states are unitary billiard balls motivated by national interest. Such simplifications may be useful in explaining or predicting certain types of behaviour, such as stock market movements, or arms control treaties, but they are of limited use elsewhere. Economic man is a positivist reduction which is simply implausible as a depiction of individuality. The modern and late-modern liberal *Weltanschauungs* are predicated on certain assumptions; that men, as rights bearers, are of equal moral worth, that men are equal before the law, temporal or spiritual, and so forth. The assumption of individual equality makes it impossible to sustain an argument that men are unindividuated and interchangeable. Any concept of personal rights and responsibilities is meaningless if individuals are simply part of the aggregate whole.

²⁹⁵Carr (p. 9)

²⁹⁶A nest-guarding spider and a nest-guarding minnow have only nest-guarding in common, and it is precarious to infer anything more about the behaviour of one species from the other.

²⁹⁷Neumann, I. Self and Other in International Relations. European Journal of International Relations, 2 (2), 1996, (pp. 139-174)

Rengger²⁹⁸ also suggests that the assumption of state homogeneity is flawed. The king²⁹⁹, or government or city, may stand for the state, but only as a metaphor. Cultures have always been subject to hybridisation and cross-fertilisation, and although the borders of post-colonial states were drawn with little regard to ethnicity, language or custom, even the long established states contain distinct regional variations³⁰⁰. Although sovereignty presupposes that states have a domestic community to represent, and that governments accrue legitimacy by doing so³⁰¹, there are few who would pretend that their domestic constituency did not embrace diverse groups. Beitz also finds the analogy wanting.

All people should be respected as sources of ends, but it does not follow that all states should likewise be respected. His main argument is not so much that man and state have no equivalence, but that states are not situated with regards to each other in a position that is analogous to individuals in a Hobbesian state of nature. None of the necessary correspondences apply: states are not the only actors, they are not equal in power, they are not effectively independent of each other, and they do have some expectation of reciprocal compliance with the rules of conduct, despite the absence of a superior power able to enforce them. Beitz advances various arguments to support these propositions, for example that whilst states are not equal in power, they are equally vulnerable to nuclear destruction, but his strongest refutation, as Brown³⁰² notes, is his argument that globalisation and interdependence seriously constrain the independence of even the most powerful. In short, the man/state analogy is a poor reflection of reality. Individuals are unique and irreplaceable; states are not.

²⁹⁸Baylis, J. & Rengger, N. (Eds.) *Dilemmas of world politics: international issues in a changing world.* Clarendon Press, New York, 1992

²⁹⁹Bartelson, [Genealogy]

³⁰⁰Warner, D. *An Ethic of Responsibility in International Relations.* Lynne Rienner Publications, London, 1993

³⁰¹Weber

³⁰²Brown, C. *International Relations Theory.* Harvester Wheatsheaf, London, 1992 [Theory]

Once the fundamental weakness of the man/state analogy is exposed, the value of others is decreased. Charvet, for example, concludes that the individual right to freedom of association does not equate to a collective right to self-determination, let alone confer such a right. Likewise an individual right of exit is not the same as a communal right of self-determination. Jackson examines the suggestion that liberty is for people and by analogy, sovereignty is for states, but is unhappy with the implications. Negative freedom presupposes self-determination and freedom from interference, so that a community can work out its own route to justice. Where the sovereign individual: "is intrinsically and demonstrably valuable"³⁰³, he concludes that the value of the sovereign state will depend entirely on how well the state functions. Where quasi-states demand aid because they cannot help their citizens, their demand to be left alone is seriously undermined. The strongest counter to the consequentialist evaluation of the state comes from the classic liberal argument that self-determination represents the freedom to construct a just polity, which entails the freedom to fail.

Although the international system enfranchises states through recognition (3:1), state building is a do-it-yourself job³⁰⁴, although failure can be disastrous. Even Mill³⁰⁵, with his impeccably liberal credentials, argued that there were some societies who were unlikely to succeed without help. Walzer is on firmer ground with his: "domestic analogy"³⁰⁶, which essentially reinforces Jackson's point that players of the sovereignty game want to win, not destroy the game (3:1). Walzer argues that the society of states is analogous to a society of individuals with

³⁰³Jackson (p. 28)

³⁰⁴Jackson

³⁰⁵Mill, J.

J.S.Mill. Utilitarianism, On Liberty, and Considerations on Representative Government. Acton, H. (Ed.) Everyman classics, Great Britain, 1988 [Utilitarianism]

³⁰⁶Walzer, M.

Just and Unjust Wars. Harper Collins, United States of America, 1992, (p. 59) [Just and Unjust]

reciprocal rights and obligations. The crime of aggression by a state is, however, more serious than a municipal crime because it is not only the victim who is harmed; in the absence of an institution analogous to a police force, the very survival of the separate political communities is at risk, which threatens the whole structure with collapse.

Analogies are useful analytic tools. They highlight the similarities between familiar behaviour in one sphere, with unfamiliar behaviour in another. However, the assumptions built into the man/state analogy and the Realist ascendancy obscured the fundamental lack of correspondence between man and state, and slipped into syllogism. The man/state analogy does not confer any moral value to the state.

Pragmatism. Not so much Realist as realistic.

Perhaps the most compelling justification for the state is pragmatism. As Margalit & Raz³⁰⁷ suggest, it is sensible to work from what we have now, which is a world of states peopled with a variety of national (or ethnic or cultural) groups. Gilbert restates Anderson's thesis that the idea of nations as analogous to kin extends a familiar sense of obligation, duty, fraternity and such, to a unit that is imaginably sized, in a way that the whole of humanity is not. Self-determination in its strongest form, sovereignty, enables the group to conduct its own affairs in a way conducive to its prosperity. This is manifestly not always the case as the benefits of sovereignty are not equally enjoyed³⁰⁸. Anaya³⁰⁹, for example, proposes that

³⁰⁷ Margalit, A. National Self-determination. In: Kymlicka, W. (Ed.) and Raz, J. *The Rights of Minority Cultures*. Oxford University Press, Oxford, 1995, (pp. 79-92)

³⁰⁸ Jackson

³⁰⁹ Anaya, S. The Capacity of International Law to Advance Ethnic or Nationality rights Claims. In: Kymlicka, W. (Ed.) *The Rights of Minority Cultures*. Oxford University Press, Oxford, 1995, (pp. 321-330)

non-discrimination and equal treatment should be considered before secession, which, in view of the Western liberal bias in favour of individual rights is likely to attract support. Further, treating self-determination as a principle, or even a rule of thumb guide to practice is problematic, because it: “looks to be a principle of endless applicability”³¹⁰. There are simply too many nations for each to have their own state, so to avoid endless proliferation and instability it would be prudent to consider some weaker form of self-determination short of sovereignty. The issues here are thus procedural and instrumental.

The sovereignty game functions analogously to the Highway Code; it is intended to prevent collisions and pile-ups. The code does not determine destination, nor who should be allowed to participate. In instrumental terms, self-determination pivots on performance³¹¹. This raises some difficult³¹² issues of judgement; how is self-determination deemed successful, and who should decide? What actions are justified by failure, and to what extent are outsiders obliged to act? Walzer³¹³ argues that each case should be considered on its merits. Circumstances vary so widely that solutions must be tailored to each. For a territorially concentrated group it would be feasible to simply redraw the border, although this would be dependent on some ground rules akin to international alimony and child support. Walzer’s marriage metaphor is apt; a mutually agreed separation such as that negotiated between the Czech and Slovak Republics in 1992 did resemble an

³¹⁰Walzer, M. A Political Perspective. In: Kymlicka, W. (Ed.) *The Rights of Minority Cultures*. Oxford University Press, Oxford, 1995, (pp. 139-154) [Political Perspective]

³¹¹Treating self-determination as a *de facto* question of what works, can only be said to apply until the 1950s, when it became an injunction against blue water colonisation and the opposite of pragmatism. The argument is sustainable if the decolonisation process is deemed an aberration. This view is probably correct, but it should be remembered that the achievement of sovereignty has always been subject to luck and politics.

³¹²Metaphors, like analogies, can illuminate, but they only stretch so far. Nations did not consent to the marriage in the first place, and with the possible exception of Israel and Palestine, were not forced into it. They simply found themselves sharing. A more relevant metaphor may be that of siblings.

³¹³Walzer, [Thick and Thin]

amicable divorce. However, there are more examples of violent and abusive relationships, where the separation more closely resembles a battered wife seeking refuge, or an acrimonious custody battle over the children:

“The adjustment of claims to circumstances is often a long and brutal business, but it does happen”³¹⁴.

Although this does not happen very often. As Welch³¹⁵ suggests, Walzer’s legalist paradigm defends the: “morality of states” stance and endorses the *status quo*, but even if the sovereignty game is justifiable, it does not account well for particular states.

The: “legalist paradigm”³¹⁶ reflects six basic tenets enshrined in modern international law that can be specifically traced to the UN Charter, all of which endorse the *status quo*. Although directed at the states’ system, it rests on the assumption that the intrinsic value of individuals establishes their right to live as they wish in communities of their choice. This commitment to the virtue of community plurality is the central weakness of Walzer’s account. It privileges autonomy of communities, whilst failing to examine the nature of these communities, which also means that the clash between the principles of sovereignty and self-determination remain unexamined. By conflating state and community, Walzer seems to assume that, on the whole, states legitimately reflect the wishes of their citizens and act as their protectors, but as Brown suggests, for most people, in most societies, the most serious threats to life and liberty come either from those allegedly providing protection or with the collaboration of those who should be guarding security. It has been widely noted that the fit between

³¹⁴Walzer, [Thick and Thin] (p. 74)

³¹⁵Welch, D. *Justice and the Genesis of War*. Cambridge University Press, Cambridge, New York, 1993

³¹⁶Walzer, [Just and Unjust] (p. 58)

state and nation is rarely good³¹⁷. Nevertheless, although there are manifest shortcomings to the: "society of states" view that the legalist paradigm reflects, for the present, the:

"framework of international order is quite inhospitable to projects for realisation of cosmopolitan. . . justice"³¹⁸.

Walzer concludes that the sovereign state serves as the arena in which: "freedom can be fought for and (sometimes) won"³¹⁹, which has the merit of being grounded in international law and practice. The state is justified by virtue of its actuality. However, by endorsing the *status quo*, he fails to pay adequate attention to the assumptions on which it rests, and overlooks some of its conspicuous defects. A less Panglossian appeal to the value of the *status quo* is provided by Frost's more nuanced approach to the settled norms of international relations.

Constituting the individual and the state: practice makes perfect.

Unlike those who, on the whole, treat the state as the given departure point, Frost considers the prior question; what is the value of states? Now, whilst blood and soil romantics have given nationalism a bad name, their key insight is that people cherish their nations and identify themselves with it. Frost takes this insight further, by making it explicit that the self is both shaped by, and shapes, the: "hierarchy of institutions"³²⁰ in which they are embedded; the family, civil society, the state and the community of states³²¹:

³¹⁷Warner

³¹⁸Bull (p. 87)

³¹⁹Walzer, [Just and Unjust] (p. 89)

³²⁰Frost (p. 206)

³²¹The hierarchy of social institutions does not indicate ranks of importance, but rather of reach. The family is not the least important, but simply the closest unit of association, which is encompassed by civil society, which is in turn encompassed by the state and so on. Cardinal

“in which the people recognise each other as citizens in terms of the law which they in turn recognise as being both constituted by them and as constitutive of them as citizens”³²².

It is thus only of an embedded citizen that it is meaningful to speak of rights. A right to freedom of speech: “is not just liberty to talk to the bathroom mirror”³²³. Waldron suggests that the main criticism made by communitarian thinkers is that theories of rights extol only individualistic interests to the neglect of other valid goods that cannot be rendered in individualistic terms. He refutes this, firstly by noting that a theory of rights is not a comprehensive moral theory, and secondly by arguing that the enjoyment of certain rights is a precondition for communal engagement:

“It is awful to be locked up or silenced, terrifying to be beaten and tortured, and appalling to be left to starve. . . and one may think these ills so bad that their avoidance should be an overriding aim of any decent society. To hold such a view and base it on the moral significance of what it is like, as an individual, to suffer these evils, is to embrace a theory of rights”³²⁴.

Frost acknowledges that self-determination entails the freedom to fail, but argues that the state does not merely serve as an arena; participation in the practice of statehood itself may teach freedom: “active citizens improve institutions as they improve the conditions for trusting”³²⁵. Although he does not claim that all states are governed justly, or with consent, he argues that its citizens must recognise that they are part of one and that there are certain rules of engagement. The difficulty here is that there are too many examples where the rules are stacked against too

loyalty is determined by context. So, whilst Frost does not specifically incorporate nation in the hierarchy, it may stand for state, or represent an element of civil society. In conditions of extreme stress the nation may trump all other loyalties.

³²²Frost (p. 152)

³²³Waldron, J. (Ed.) *Nonsense Upon Stilts*. Methuen, London, New York, 1987 (p 184) [Nonsense]

³²⁴Waldron (p. 187)

³²⁵O'Neill, O. Radio 4. Reith Lecture 2002. [Reith]

many citizens. Plamenatz notes that a bad workman blames his tools; the fact that he does not know how to use them is irrelevant. However, even the best workman can do little without tools at all, and fashioning his own may be a long and precarious business, as demonstrated by the longevity of a number of vile regimes³²⁶. Intervention is morally permissible to prevent drastic abuse, but coercion cannot create a just state. Frost's approach is parsimonious; it overcomes the supposed conflict between the individual and the state, by recognising that there is: "a mutually constitutive relationship between self and society"³²⁷. This confers ethical validity to the state and the reciprocal recognition that self-government is a good endorses self-determination, which: "as a principle is inextricably linked to ideas of self-government and representative rule, in short, popular sovereignty"³²⁸. From the moral validity of the state, Frost moves up the hierarchy to consider the sovereignty game as a whole.

Justifying the sovereignty game.

Having argued that states have ethical validity, Frost applies the same logic of reciprocal recognition to the states system and the norms of international relations that sustain them. He takes a down-to-earth approach in identifying the settled norms³²⁹; a norm is deemed settled where its denial or breach requires

³²⁶The Soviet Union and Apartheid era South Africa both lasted for over half a century. In both, the majority of the population was effectively disfranchised. In both cases, change was initiated by the ruling elites. Only now could their respective citizens be described as beginning to learn, through practice, how to fashion a just state. The list of places where the learning process has not even commenced is depressingly long.

³²⁷Jabri, V. Textualising the Self: Moral Agency in Inter-Cultural Discourse. Global Society, 10 (1), January 1996, (pp. 57-69) [Textualising]

³²⁸Brown, C. Back to Normal? Some Reflections on Sovereignty and Self Determination after the Cold War. Global Society, 10 (1), January 1996, (pp. 11-23) [Back to Normal]

³²⁹In setting out the sovereignty norms, Frost does not examine the nature of the nation, nor is it clear whether S8 requires that each nation should be a sovereign state, or if some other form of autonomy within a shared sovereign state is required. His inexactitude is praiseworthy; as long as the state is ethical, the nation will be treated justly, so the question of sharing a state, or not, is beside the point.

special justification or exceptional circumstances³³⁰. Of Frost's settled norms, the first two sovereignty norms have primacy and the rest are derivative. This is appropriate, given the importance of the ethical state, but it poses difficulties in the event that sovereignty clashes with rights. Now for classic liberals, this is not a problem; when push comes to shove, rights trump sovereignty, but Frost's whole argument about the state rests on the refutation that individuals are morally prior. Further, unlike Berlin³³¹, Frost³³² is not happy with incommensurate moral values. Whilst the primary norms are justified by an appeal to order, Bull's thesis, this is not much of an advance on the modern's conservative impulse to preserve the *status quo*, or the functional variation that merely assumes that this is the best arrangement for promoting aggregate utility, a dubious project in the first place. In pragmatic terms, as Bartelson³³³ suggests, sovereignty is both internally constitutive and an external organising principle. Further, these arguments do little to support the: "settled norms relating to democratic institutions, international law, human rights and non-combatant immunity"³³⁴. Although these hang together, they do not vindicate the first two sovereignty norms. There are various propositions that account for rights observance within the state, but they do not apply to the states system. Having concluded that individual rights cannot occur prior to, or somehow outside, the social and political institutions of the state, and that these institutions in turn cannot exist without participant citizens, he attempts to see if such mutual entailment can apply to the system of sovereign states, by posing the question:

"Given that the state is necessary for the flourishing of individuality, in what

³³⁰Frost, M. *Towards a Normative Theory of International Relations*. Cambridge University Press, Cambridge, 1986 [Normative Theory]

³³¹Berlin, [Crooked Timber]

³³²Frost, [Ethics]

³³³Bartelson, [Genealogy]

³³⁴Frost, [Ethics] (p. 126)

way is the system of sovereign states and its associated norms a prerequisite for the flourishing of individuality?”³³⁵

Frost answers that the mutual entailment between citizen and state also applies between state and state, because: “it is crucial for the individual that his state be autonomous and be recognized and treated by other autonomous states as such”³³⁶. It should be noted that Frost speaks of recognition not in the legal sense discussed above (3:1), as a condition that is either present or absent, but rather as akin to the relationship between a master and a novice. The novice may have only a shaky grasp of the rules, but practice, with encouragement and advice, should ensure that his game improves. To qualify as autonomous, the state must be ethical, and above all must necessarily be rights observing; novice players must accept these ground rules too, but allowances may be made for clumsy moves whilst he is learning the ropes.

The difficulty here is that, in common with the other justifications for state sovereignty, the justly ordered state is ultimately the only candidate who qualifies for sovereignty. Frost accepts the liberal argument that freedom is essentially a DIY endeavour, and makes a good case for allowing novice states to learn the rules, but is perhaps too charitable in allowing novice status. Like Walzer, his:

“solution expects too much virtue from populations who are up against not only the local despot but also an international society which accords him far more respect and support than his historical counterpart would have enjoyed”³³⁷.

Frost only peripherally considers the possibility that many states are run as princely fiefdoms. Where the sovereignty game does not represent a: “complex reciprocity

³³⁵Frost, [Ethics] (p. 151)

³³⁶Frost, [Ethics] (p. 152)

³³⁷Jackson (p. 187)

of recognitions”³³⁸, but an irksome constraint on their freedom of manoeuvre, tempered by opportunities to extract privileges. Far from viewing their citizens as rights-bearing individuals participating in the progression and construction of society, they are simply another resource to be exploited. How long should such states be deemed novice players? Until they collapse, or threaten the continuation of the game itself? How much suffering should be endured before a right of intervention is triggered, and does this carry an obligation to act? I return to these issues, and the question of neo-imperialism in Chapter Five.

Frost’s constitutive approach is a plausible advance in the contention that some states have moral value, and that those most nearly ethical should cut some slack to allow novices to learn the ropes. It is perhaps too forgiving of those states that many would consider patently bad, both for their own citizens and their neighbours. The difficulty here is that Frost’s hierarchy of constitutive institutions does not encompass the nation as a unique social form. His arguments about states apply to nations, in the event that they achieve statehood, and likewise, families in so far as nations resemble these. However, unlike the three preceding justifications, the state cannot be taken as a simile for the nation. This is because the ethical state is itself unique; it is both the guarantor of civilian rights and the source of citizenship rights. So, whilst the argument endorses the *status quo* of the sovereignty game, and the right of self-determination, it is not an argument that nations can use to advance their own claims to self-determination. However, the nation’s claim will be evaluated, in part, on how far the realisation of self-determination would advance justice. The ethical state will therefore serve as a template against which this will be judged, and I return to this in Chapter Six.

The next justification for self-determination to be considered is territory. Unlike Frost’s theory, this offers a rationale for both the state and the nation, but for

³³⁸Frost, [Ethics] (p. 206)

different reasons.

The justification of self-determination from territory.

Territory is a fundamental issue to all justifications of sovereignty and could have been considered in any of the four preceding explorations. As an element of the social contract it is represented by nature, and its ready availability is a refuge for dissenters. In the man/state analogy it becomes a fundamental right; through labour, the property of the person imbues the land and legitimates its appropriation. In pragmatic terms, it is reduced to location, although its allocation raises questions of distributive and procedural justice. For Frost's constitutive theory, it is an additional element, below the system of states, in which the hierarchy of constitutive institutions is situated. For the romantics, it is the chief constitutive element of the person and community, although Gellner dismisses this as the: "fetishisation of landscape, of national culture as expressed in land-use"³³⁹. The Herderian view is of man as an organic component of the landscape, whose climate and geography inextricably shapes his language, culture and nature; the psyche is totally entwined with the land. The construction of the person and the country are the same:

"The countries with which [a person] identifies, therefore, constitute a kind of record of who he is, with whom he is identified or related, and where he has been"³⁴⁰,

although this reciprocal consubstantiality of person and place appears to be essentially spiritual, Ingold concludes that the separation of the spiritual and economic is an entirely Western jurisprudential concept, as is the separation of territory and tenure. The distinction is based on use, rather than ownership.

³³⁹Gellner, [Nationalism] (p. 108)

³⁴⁰Ingold, T. *The Appropriation of Nature. Essays on human ecology and social relations*. Manchester University Press, Manchester, 1986 (p.138)

Territory is a matter of communication and efficient resource allocation; it is a bounded geographical area within which the group is entitled to extract and allocate resources. Outsiders must seek permission to enter, in part as recognition of the holders' rights, and to avoid inadvertent disruption to hunting, foraging, ritual performances and such. Similar behaviour is evident in most bird and mammal species, for example, and although Ingold draws most of his evidence from aboriginal studies, he finds like behaviour in foraging societies in Africa and Asia. Although he does not specifically apply the distinction to advanced urban cultures, the state is clearly the functional equivalent of territory; non-citizens need permission to enter, and are expected to observe domestic laws, procedures for acquiring residency rights, access to welfare and such.

Tenure relates to social interaction within the territory; allocation of responsibility for ritual performances and the relevant site, residency locations, rights of usufruct over specific areas and disposal and distribution of its resources, and so on. In short, tenure relates to any local social arrangements with a spatial element³⁴¹. Even where the Western concept of ownership prevails, it is evident that there is an emotional attachment to place³⁴². However, as Sahlins points out, there is no contradiction between an attachment to place and hard-headed rationality. The

³⁴¹ So, in a more familiar setting, this would include a Post Office, for example. Geographical location is salient; to serve the needs of potential customers, it would typically be located in a residential district with good road access. Local rules and procedures must be observed. Construction would require planning permission, and the funds necessary for purchase and construction. Entry, once built, is free, although usually only during certain hours. The Post Master is obliged to provide certain services, selling stamps, issuing licences, and the customer is obliged to be able to pay for whatever goods and services he takes. The institution must cohere with the wider world-view. So, a Post Office, although local, is also connected to the national, and international, network of sorting offices, mail transport and so on. Subjective experience is also relevant. For the individual user, the route from home to the Post Office, the people he encounters along the way are part of his mental landscape and inextricably part of his conceptualisation of the Post Office.

³⁴² Leszek Miller (*Economist*. "A most emotional issue" 23/3/2002) expressed bafflement at his fellow Pole's: "mystical attachment to the soil", but concluded that they would see sense when they realised that they were facing a stark choice between EU membership and economic ruin.

rapid urbanisation experienced in most of the post-colonial states has resulted in massive population transfers from country to city, but the lack of welfare and social provision means that urban migrants face great insecurity if they cannot work. So, they adopt a strategy that allows them to live with one foot in each camp, through visits and gifts:

“(he) becomes a remittance-man, carefully cultivating his rural expectancies with an eye to the future. Nostalgia for the ‘old country’ and sentimental attachment to its quaint customs thus conceal an element of shrewd, if not crudely calculating, self-interest”³⁴³.

Attachment to place is a visceral element of nationalist claims to self-determination, whereas the liberals focus on property rights. Steiner³⁴⁴ tries to reconcile what he sees as the particularist appeal of nationalism with the universalism of liberalism, but misses the point when he equates territoriality with individual property rights, and strains credulity when he uses this as the basis of equitable global resource distribution. There are analogies between Western systems of domestic jurisprudence and international law; legal title to private property is similar to sovereignty, but the analogy does not stretch very far. Treaty law may be analogous to planning regulations, and there are individual criminals as well as criminal states, but there is no international equivalent of bailiffs, police, or the judiciary. Further, whilst the private property owner can dispose of his chattels at will, citizens are not similarly at the disposal of the state. A boundary dispute with a neighbour over the site of a garden fence is simply not the same as an argument over contested borders either in scope or consequences. Buchanan³⁴⁵

³⁴³Lewis, I. *Social Anthropology in Perspective*. Cambridge University Press, Cambridge, New York, 1988 (p. 196) [Social Anthropology]

³⁴⁴Steiner, H. Territorial Justice. In: Caney, S., George, D. & Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 139-148)

³⁴⁵Buchanan, A. *Secession. The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec*. Westview Press Inc, Boulder, San Francisco, Oxford, 1991

also rejects the suggestion that territorial sovereignty is akin to state property rights, on the grounds that most historical land acquisitions include the use of force, theft and other questionable tactics that severely undermine a moral claim to ownership.

As Carens³⁴⁶ notes, property rights are derivative of individual rights, and as such, cannot confer extra rights, such as the right to a specific parcel of land, or self-determination in it. There are of course pragmatic arguments to support a claim to place. Walzer³⁴⁷ refers to a: “territorial or locational right”, but this is simply a right to be somewhere, and Bartelson that:

“a bounded territory can either be interpreted as a necessary condition of sovereignty, or conversely, sovereignty can be interpreted as a necessary condition of bounded territory”³⁴⁸.

This is somewhat circular. From the modern perspective, sovereignty and a bounded territory cannot do without each other, but a cosmopolitan order, and even the permeable structures of the late-moderns, could do without both.

The claim from primogenitor is intuitively plausible, but however good a basis as a moral claim to a specific place, it is not one that has proved successful³⁴⁹. The impracticability of restoring the *status quo ante* is acknowledged by Walzer, who notes:

³⁴⁶Carens, J. The Case for Open borders. In: Kymlicka, W. (Ed.) *The Rights of Minority Cultures*. Oxford University Press, Oxford, 1995, (pp. 331-349) [Open Borders]

³⁴⁷Walzer, [Spheres] (p. 45)

³⁴⁸Bartelson, [Genealogy] (p. 30)

³⁴⁹Indigenous land rights claims have been pursued in Canada, America and Australia with varying success. However, whilst noting that their claim rests on a non-Western argument, that the land owns the people, settlements have been made on the Western economic basis of individuated property rights.

“Their rights too are eroded with time, not because the wrong done to them is wiped out...but because the possibility no longer exists for the restoration of anything remotely resembling their former independence”³⁵⁰.

The final justification to be considered is victimisation. This differs from the preceding five because it applies only to nations. For the oppressed nation, a change of status through the attainment of sovereign statehood can be seen as the only solution to their predicament.

Victimisation as justification for state sovereignty.

Implicit to every claim to self-determination is the notion that the community should be allowed to make its own arrangements, to decide how their society should be best ordered. However, nationalist claims to self-determination also have at their heart a sense of grievance. The injustice suffered is so profound that only separation or special protection can save them. In this strand of the argument, self-determination for nationalists is essentially instrumental; it offers the only salvation and the only hope for future justice. Although Charvet, for example, suggests that if a territorially located group is being persecuted then it should secede, this is rarely a straightforward matter. The moderns who have succeeded in acquiring their own states, are generally unwilling to recognise that others may have a valid claim, perhaps because to acknowledge this would also be to acknowledge their role as persecutors³⁵¹. Although tentative steps toward self-determination and special protections have been taken, as the effective

³⁵⁰Walzer, [Thick and Thin] (p. 72)

³⁵¹The founding of Israel after the Holocaust was exceptional. Outsiders, in the shape of the UN shared the insiders' view that atonement for past persecution could only be satisfied by self-determination in the strongest form; a sovereign state. However, of the 44 states who voted in favour or abstained, all are distant from the Middle East. The 13 who voted against were all neighbours, with the exception of Cuba and Greece. www.al-bushra.org. The cost of atonement was not born by those in favour of partition, nor by those responsible for the persecution.

mandate status of Kosovo and the reforms demanded of would be EU entrants indicate, even the late-moderns still display an atavistic impulse to keep what they hold, as the spat between Britain and Spain over Gibraltar illustrates. The issue of injustice seems to be a central motivation in claims to national self-determination, and I return to this in Chapter Six.

Conclusion.

Various justifications in support of the state and the states system have been considered here. The contractarian approach and the man/state analogy are particularly suited to theoretical analysis, but men never really lived in a state of nature, or really agreed to a contract, and whilst a man functions like a state in some respects, there are others where there is simply no ground for comparison. The pragmatic and constitutive approaches, epitomised here by Walzer and Frost respectively, are grounded in the reality of contemporary state practice. Although this realism is commendable, as a guide to action within the parameters of the *status quo*, they risk endorsing, or at least tolerating, the intolerable. Frost is rather more successful in avoiding this pitfall and at least offers a lucid account as to why such tolerance should be borne. More importantly, Frost offers a plausible account for the moral validity of the state that is grounded in rights. A territorial justification of sovereignty and the states system, and the justification from injustice, are linked in two respects. In purely practical terms, it is evident that people have to be situated somewhere, and it is likewise evident that injustice occurs. More interestingly, they both share an essentially subjective and emotional dimension. Outsiders may observe gross injustice and wholesale rights abuse, should they care to look, but it would seem that insiders are attuned to the finest nuance in their plight. Their sense of victimisation may be colossal whereas outsiders may see only mild unfairness. Equally intangible, attachment to place may be acute, yet entirely overlooked by

outsiders. The romantics, recognising the emotional element of tenure as the most profound link between person and place, offer an irrefutable justification for national self-determination; that men thrive best in their native soil.

The main difficulty here is that the liberal conception of the just polity is the state. In so far as the nation resembles the state, then the same justification for self-determination applies. However, nations differ from states in a number of ways, so what is it that makes them, alone amongst non-state communities, the appropriate candidate for self-determination? I turn to these next.

(3:3) Nation: The Empirical Debate.

Aunt Sally and the man of straw.

Is nation an empirical fact, or a constructed idea? Binary oppositions can be useful when analysing complex issues. By comparing two distinct models, the theories and evidence can be marshalled and assessed, and conclusions drawn. It is also a neat rhetorical device for winning an argument; one extreme is postulated as the prevailing orthodoxy against which the counter argument is shown to be the epitome of clarity and reason. Both tactics can be found in the debate about the empirical nature of nation, but the supposed polarity of views is something of a sham. However, the debate cannot be ignored, because a claim to nation is often presented and refuted in these terms.

States, generally, present some core qualities, and some of them are shared with nations. It would therefore be feasible to proceed on the basis of negative empiricism; having decided what counts as a state, nations could be compared with this template in order to establish what these shared aspects are. The legal aspects are of no help. Nationalists of all persuasions from the Basques and Welsh, to oddities such as the Pictish Free State or the Republic of Morac-Songhrati-Meads³⁵², already know whether they have their own state or not. The point is that nations are not states.

Decolonisation apart, the new states created in the twentieth century were nations first, and the big idea³⁵³, that they are entitled to self-determination, still holds. It is perhaps inevitable that those aspiring to statehood will first seek to establish their

³⁵²The Pictish Free State in the Pictland of Alba, is an acre of land on the Isle of Skye. Robbie the Pict declared independence in 1977. www.highlanderweb.co.uk The Republic of Morac-S-M is in the Spratly Islands. Declared independent in 1870, it could muster a fairly strong claim to *de jure*, but not *de facto*, independence.

³⁵³Heater

national credentials; it is the first half of the one nation=one state logic of nationalism. Evidence of the nation's antiquity and continuity is a precondition for its advancement, and is rooted in the historic emergence of the nation in Europe. The idea of nation has acquired a certain air of solidity simply because this occurred in the past, and is reinforced by the observation that humans live in groups. This says nothing about the nature of the group or how well individuals are socialised into it, but simply acknowledges that people are situated. As Margalit and Raz suggest, membership of one or more groups has moral value for the members, but circumstances will indicate which should take priority; the professional or ethnic group, the religious or linguistic, and so on. Sometimes it will be the nation, sometimes it will be the state. The conflation of the two is ubiquitous. In many contexts, the conflation simply does not matter; here it does. Nationalists have their own agenda. It strengthens their position if state and nation are fused, because by proving one, they lend credence to their claim to the other. Nations as a natural social organising device, grounded in ancient history and secured to the present through ties of blood and language and history is a coherent proposition for nationalists, but it has no objective validity, and to pretend that it does is disingenuous, if not dishonest. Authors such as Patterson³⁵⁴, who contrasts complex contemporary urban life with natural pre-modern tribal societies, or Hayes³⁵⁵, who treats the nation as an extended family that has grown large over time, cannot be forgiven on grounds that they were writing forty years ago³⁵⁶. The insight that nations are social constructs and subject to reinvention is not a new revelation. Writing in the seventeenth century, Daniel Defoe noticed that the English were descended from an: "amphibious ill-born mob" of foreign invaders:

³⁵⁴Patterson, O. *Ethnic Chauvinism*. Stein and Day, New York, 1977

³⁵⁵Hayes, C. *Nationalism: A Religion*. The Macmillan Company, New York, 1960

³⁵⁶Neither author was exactly cutting edge at the time, but they do represent the sort of sloppy conceptualisation that allows keener minds, such as Gellner, to set up the primordialist position as the orthodox Aunt Sally.

“A true-born Englishman of Norman race?
A Turkish horse can show more history,
To prove his well-descended family”³⁵⁷.

So, the empirical debate is something of a misnomer, as the argument has already been won. For nationalists, the logic of primordialism treats the empirical reality of the nation as given, whereas for outsiders, the nation is self-evidently a social construct. This distinction between insiders and outsiders is as contrived as any binary opposition; amongst the insiders, some may be quite conscious of the constructed character of the nation, and there is sure to be a fair share of empiricists amongst the outsiders. Following Gellner, and positing it as a fight between binary oppositions leads to stalemate; if one position is true, the other must be false. However, perspective determines whether the object is a duck or a rabbit. Nations are palpably real, and the assertion that they are social constructs does not undermine this.

Change the perspective.

People, place and legitimacy.

As Bartelson³⁵⁸ notes, states, international law, the very concept of sovereignty, are all social constructs, and it would be perverse to argue that this somehow rendered them unreal or illusionary. Anderson also suggests that the paradoxes of nation are more apparent than real, which he suggests arises from the attempt to analyse them in terms of political theory. Instead, nations are better linked to religion and kinship. Religion and kinship are both major areas of study in their own right, and this is not the place to attempt even a brief introduction, but some points should be noted. For the pre-moderns, religion is central to their *Weltanschauung*, whereas for the moderns it represents a separable component.

³⁵⁷Defoe (pp. 31-32)

³⁵⁸Bartelson, [Genealogy]

Faith and reason are not antitheses, but self-sustained elements of polymorphic reality. They are not entirely self-contained as there are issues that fall within the ambit of both the spiritual and temporal. At the extremes, there are secularists who deny the validity of any religious belief system, and religious fundamentalists who would curb any deviation from their particular interpretation of the world. Generally, participation in the global capital economy or particle physics, say, does not preclude religious belief, because the secular logic of evidence based truth is not a component of the logic of faith. Kinship is a similarly separable social organising device in that its logic is also self-sustained.

Kinship is based on ties of blood and marriage³⁵⁹. Kinship reveals personal and communal obligations, and determines the proper beneficiary of inherited wealth, status or knowledge, and distinguishes between preferred marriage partners and incest. At its most basic, kinship divides the world into kinsmen and enemies, with affines and potential affines sometimes ambiguously intermediate between the two, although like any cultural artefact, there is huge variation in how such relationships are defined³⁶⁰. By considering nation as akin to religion or kinship, Anderson concludes that the objective modernity of nations can be squared with their subjective antiquity, and their ubiquity with local particularities of style, and I return to this in Chapter Four. However, as

³⁵⁹Kinship reckoning may include both consanguineal (blood) and affinal (marriage) ties. For example, unilineal descent systems privilege links through one sex only, whereas non-unilineal or bilateral kinship systems may employ other criteria such as residence, marriage alliance or property inheritance in order to create corporate kindred based groups

³⁶⁰For example, kinship is reckoned through matrilineal descent amongst the Trobriand Islanders. A woman's husband is not considered in anyway physiologically connected with her children; he has no authority over them, as they belong absolutely to the family of the mother, and all inheritance of land, privileges and material goods derive from the mother's line. Nevertheless, as *tama* to his wife's children, he provides for their wellbeing. He is thus the father to his children in all respects, except for inheritance whether relating to social status, material goods or DNA. From:

Malinowski, B. *The Sexual Life of Savages In North Western Melanesia*. Routledge & Kegan Paul, London, Boston, Melbourne, Henley, 1982

social constructs, nations may be constructed differently, which may weaken nationalist claims to self-determination.

Five variations on the nation.

Chapters One and Two tracked the evolution of self-determination and the changes in *Weltanschauung* that shaped it. In each, the formulation of the appropriate self varied, from king to nation to post-colonial state. The precise nature of the self was left unexamined and the successfully self-determining self was generally taken as what ever counted as a legitimate actor in the international arena at the time. Continuing the taxonomy of the first two chapters, there seemed to be five diverse stories being told.

Firstly, the pre-modern era was both pre-state and pre-nation. Self-determination vested in the person at the apex of the social hierarchy, and was legitimated variously; divine authority, effectiveness, but was definitively not derived from the people. For the pre-moderns, people had the status of assets or chattels, and the territorial dimension was largely a matter of tenure and location. For example, Gaul is sometimes described as a nation, although this designation may simply indicate that an entity other than empire existed. Later, both England and Spain are described as nations. Again, there is a family resemblance to state and nation; both were geographically located political units whose people shared some common cultural and linguistic traits. However, it may be more useful to describe the location as a realm or domain, and the people as liegemen or clans. In the modern era, the idea of nation manifests as three broad types.

In each, self-determination is legitimated by the people, and nation was the means by which people were linked to place. In the liberal version, nation is overtly political, serving as short-hand for popular sovereignty and democracy,

whereas in the romantic variation, nation was deemed an ancient community united by blood and soil. The post-colonial version saw nation as explicitly instrumental, a new unifying ideology that would deflect tribal loyalties to the state.

The fifth, late-modern idea of nation seems to be a fusion of the political elements of the liberal strand, cultural elements of the romantic, and a pragmatic willingness to adapt the idea to fit present conditions, although it should be noted that the three strands of ideas about the modern nation should be viewed as exemplars. In practice, nations favour the elements of each profile that best suit the times. For example, post-revolutionary France represented the turning point in European nationalism, with political loyalty shifted to the state and legitimacy deriving from the popular will of the people. Yet the French still hold to the romantic doctrine of *l'exception française*, and have long viewed the teaching of history in schools as a basic tool of nation building. Nation had to be made to fit state. Jules Ferry, who introduced compulsory education in 1882, saw this as a way of shaping good French speaking citizens, and combating the pull of regional loyalties; Chevènement noted that:

“If we do not preserve our traditions and cultural values and hand them down to the younger generation, we will soon be dominated by other powers”³⁶¹.

Part of the difficulty here is that cultural values and traditions are treated as static and homogeneous³⁶², when they are patently no more fixed or pristine than ideas of nation or self-determination. There is evidence that even the most seemingly isolated communities have been engaged with the wider world, for example, the Punan of Borneo have been trading with China since at least the third century BC,

³⁶¹

³⁶²Tully, J.

Economist “A not so certain idea of France”, November 1st 1997
Strange multiplicity: Constitutionalism in an age of diversity.
Cambridge University Press, Cambridge, 1995

as indicate by Schrire. Chevènement's sentiments combine a belief in enduring values with acceptance of the reality of change, and a quixotic belief that the former can somehow be preserved against the latter. The notion of British nationality is similarly recent and fragile, having lasted from the Battle of Culloden (1746) to the Irish Treaty (1921)³⁶³.

Nations or something else?

The modern and late-modern views of self-determination rest on the assumption that: "peoples" have collective rights, or individual rights that can have collective expression, a concept that would have been incomprehensible to the pre-moderns. Like individual rights, these have to be taken seriously, or seriously refuted; they cannot simply be ignored. However, there is less agreement as to who counts as peoples or what their rights may be. Given the differing historical formulations of nation outlined, how can all the varieties of nation claim ethical validity as a special type of collectivity that can legitimately make rights claims? Or are only certain types of nation valid? Of the three versions of modern nation, there are decent liberal democracies who cherish individual liberties, uphold the rule of law and tolerate difference. Less benign nations are the opposite, persecuting minorities within their midst and picking fights with the neighbours, and the rest of the world simply does not have nations. Now this is oversimplification to the point of caricature, but it is intended to illustrate the point that claiming ethical validity on behalf of a collectivity that is an alien concept to the bulk of humanity is a rather suspect endeavour. It is even more suspect when the entity making the claim is exposed as murderous and intolerant. Why then should nation be deemed a special collectivity, when it is evident that few are virtuous enough to warrant toleration,

³⁶³Samuel, R.

Theatres of memory, Vol 2, Island Stories: unravelling Britain.

Light, A., Alexander, S. and Stedman, G. (Eds.) Verso, London 1998

let alone ethical status? Also, as noted in Chapter Two (2:1), if nation is the only valid representation of peoples, where does ethnicity, culture and history fit in?

There is a surface tension between the subjective and objective reality of the nation, but although often framed as an issue of truth or falsity, the argument is really about whether a nation, and the claims made for it, is legitimate. Anderson observes that the idea of nation is: “the most universally legitimate value in the political life of our time”³⁶⁴. The assertion of nationhood is a demand for attention, and a signal of grievance. Once acknowledged, a nation is able to advance certain claims. In political terms, it is instrumental, the first step on the way to a claim for self-determination, and ultimately, outright state sovereignty. The stakes are high. This is why the dissatisfied or ambitious seek to present themselves as nations, francophone Canada, for example, and those who wish to avoid or ignore the difficulties that recognition might entail, deny their national authenticity altogether, as in the case of Kurds in Turkey. Britain’s Gypsy and Muslim minorities have not been entirely successful in securing special civil and legal protections to curb discrimination against them on the basis of their respective culture and religion, but a change of tactic that stressed nationality may be more effective. Whilst Anderson’s observation would seem to be true, the source of the nation’s legitimacy and its concomitant claim to self-determination remain obscure, and I consider this next.

³⁶⁴ Anderson (p. 12)

(3:4) What is a Nation?

The empirical debate about nations posed the wrong question, or rather by framing it as a truth question, fell into the Platonic error of confusing questions of fact with questions of belief. The claim to authenticity is an assertion of national legitimacy and entitlement. Nations, like all social artefacts, are constructed and reconstructed. Their objective or subjective reality is beside the point. The conclusion here is that nations resemble states in certain respects, and in so far as these resemblances hold, the same justifications for autonomy apply to both. However, it is not plausible to infer from this that nations are simply states that lack some stately qualities, nor that states are accessorised nations. So, what is special about nations? The following is not intended to be an exhaustive review of the literature on nations, but a consideration of some of the more promising accounts, largely derived from the Modernist School.

Nations are unique.

Miller argues that a nation is a unique type of community in five respects; national identity is constituted by mutual belief; it is an: "ethical community"³⁶⁵ with an element of historic continuity that connects the past to the present and the future; it is an active identity; it connects a group to a territory, and it promotes shared characteristics which facilitates a: "common public culture"³⁶⁶. The problem with Miller's approach is the modesty of his argument. The qualities that he attributes to nations are reasonable but unexceptional. Autonomous individuals are constituted by their social context, which they also constitute through their participation. It is not evident that this context should be a nation, rather than, say, a democratic state, nor why, if the nation is one of many social spheres in which the individual is

³⁶⁵Miller (p. 23)

³⁶⁶Miller (p. 25)

embedded, it should be singled out for special attention. Nor does he explain why the nation is ethical. Miller seems to be resting his argument on the observation that states are not internally homogeneous, and nation therefore serves as shorthand for those distinctive elements of social identity that would be lost through assimilation, or become the focus of persecution, so depending on context could be culture, religion, ethnicity and so on.

Miller's argument for collective autonomy rests on the simple proposition that if a nation is to be preserved, then the best people to do it are its nationals. He rejects Kymlicka's³⁶⁷ argument that favours a positive approach to minority protections on the grounds that national identity is largely inherited. Compensation should be made for any acquired disadvantages, but flexibility and toleration should otherwise be adequate. The difficulty here is that Miller and Kymlicka are considering the position of national minorities in liberal states. Special privileges and identity politics can be divisive, as the debate over affirmative action, women only short lists or reserved parliamentary seats for Dalits show, but it is not always safe to rely on tolerance. Most liberal states have had to enact anti-discrimination legislation, and most have immigration policies that only thinly disguise racism. In less settled or illiberal polities, the discrimination minorities face may be so extreme that it amounts to genocide. Nevertheless, the first of Miller's unique identifiers is particularly important because it emphasises the role of mutual belief in sustaining the idea of nation.

Nation as process.

Other elements of social identity also rest on belief to some extent, but the family, for example, is sustained by direct personal experience, and citizenship is

³⁶⁷Kymlicka, W. (Ed.) *The Rights of Minority Cultures*. Oxford University Press, Oxford, 1995
[Minority Cultures] 174

usually accompanied by registration, passports and other formalities. The nation is unique in relational terms. Here, the nation acts as a sort of family tree, through which fellow nationals are imagined as kin; an extended family linked by ties of birth and belief. Belief is crucial to the idea of nation because it filters some apparent inconsistencies. The conclusion that nations are modern phenomena rather undermines its pedigree as an enduring and timeless entity as posited by the romantics. Likewise, the assumption that nation precedes and justifies the state is seriously weakened by the evident lack of antiquity, but it may be argued that the process works in reverse; the idea of nation creates its own past. With the benefit of hindsight and selective memory, the story of the nation's history is reshaped in evidence of its historical continuity. Gellner identifies the theme of awakening: “national dormission”³⁶⁸ as a central element in the process of national reinvention; it simultaneously proves the antiquity and continuity of the nation, whilst acknowledging its recent mobilisation. The process can be observed at work in Iraq where President Hussein has been commissioning monumental testaments to a nation of millennia's duration, rather than a colonial admix of Sunni and Shia Arabs.

That history is malleable is not a novel insight, but Cobban suggests this was obscured in the post-war era by three basic assumptions that were simply incorrect, namely; that national loyalties are exclusive, that nations are homogeneous, that they are static and constant over time. This is self evidently true; no social institution remains pristine over all time³⁶⁹. As Rengger suggests, cultures have always been cross-pollinated with ideas from outside, and even where a concerted attempt is made to preserve a community from outside contamination, the very knowledge that the outside exists must of itself exert an influence. Anderson

³⁶⁸Gellner, [Encounters] (p. 9)

³⁶⁹Warfare, for example, appears to be an enduring element of the human condition, but there has not been a war of succession, or a holy war, for some centuries. Captives are no longer enslaved or ransomed, and technology has rendered cavalry charges and the *ballistae* redundant. 175

approached nations as a primarily relational social construct, being:

"an imagined political community- and imagined as both inherently limited and sovereign"³⁷⁰.

This valuable insight reconciles some of the tensions and ambiguities that adhere to the concept of nation. He takes as given the reality that nations are invented but denies the equation of invention with falsity, arguing that it is the fraternal style in which the community is imagined that creates a nation, and in this sense, nationness is a process. Although this denies the romantic primordialist claim to changeless endurance, it does not deny the nation's claim to validity:

"The intensity and depth of the feeling is not denied...it constitutes one of the key premises of the entire position"³⁷¹.

National sentiments are not deeply rooted in the human psyche, nor are they universal, but they are not to be dismissed as shallow or despicable. By this account, nation is a social artefact with a function similar to that of myth; the story of the nation explains why things are as they are. This also validates the nation as something more significant than merely a grouping that falls somewhere between the family and the state.

Nation as myth.

Analysing the nation through its myths brings insights that are overlooked by some of the other approaches considered here. In particular, it explains how the process of national reinvention and reformulation is sustained, and how national culture is preserved, despite this process. There seems to be a universal impulse to view one's own culture as a fact of nature, and according to Levi-Strauss and the

³⁷⁰Anderson (p. 15)

³⁷¹Gellner, [Nationalism] (p.10)

structuralist approach, myth functions to prove that of all possible social arrangements the one adopted is the only feasible one.

Tamir³⁷² focuses on the social function of national myths, which allows a subjective belief in the objective reality of a nation. A national myth tells a story about the past which describes the present, using historical truths to prove the continuity of the nation. In many cases a national myth is rooted in a war which connects the present to the past. The sacralisation of the nation is affirmed through public displays and ritual, and although culturally specific, usually includes flags, anthems, remembrance ceremonies and so on³⁷³. Galer³⁷⁴, for example, identifies two prime variants on the myth of the First World War, which could plausibly be linked to the liberal and romantic evaluations of the nation. “Renewal through struggle” is associated with heroism and defeat, and possibly reflects a continuation of the nineteenth century romantic nationalism that Coker associates with Germany. It can also be identified in some of the more jingoistic rationales offered to justify the Serbian claim to Kosovo. In contrast: “loss anger and futility”, with its: “never again” sentiment has clearly been incorporated in the post-war *Weltanschauung*, as evidenced by the preamble to the UN Charter, the post-war constitutions imposed on Japan and Germany, Marshall Aid and such. Grievance seems to fuel national claims to self-determination, with the implication

³⁷²Tamir, Y. Reconstructing the Landscape of Imagination. In: Caney, S., George, D. & Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 85-101)

³⁷³The funerary arrangements for the Queen Mother in 2002 were exemplary; they combined religious and military ceremony (ritual performance, flags, uniforms and other prescribed sumptuary garb; special music and songs, processions; symbolic survivals in the form of horses, gun carriages and pipers, and reminders of past glory in the over-flight of vintage RAF aircraft). Subjects were invited pay their respects, acknowledging both grief and the authority of the monarchy, and government officials and foreign heads of state did likewise, whilst also affirming the importance of the nation. It may also mark the start of the status transition of her eldest grandson and great grandson who are expected to succeed the throne.

³⁷⁴Galer, G. Myth and the memory of the Western Front. Mars in Ascendant Conference, 2001

that victimisation is justification for acceding to such claims. National myths both represent reality and create it, and most crucially, sustain the victims' sense of injustice, which can be seen from the following illustrations.

Illustration: Scottish and English national myths.

The Skye Boat Song is a folk song that preserves the memory³⁷⁵ of English duplicity and the Jacobite defeat at the battle of Culloden (1746). By today's standards, the treatment of the defeated was pretty brutal, but the imprisonment of the wounded and stray civilians was probably a prudent tactic in hostile territory, and withholding medical assistance probably saved more lives than may have been the case had it been administered. William³⁷⁶, Duke of Cumberland's army totalled nine thousand battle hardened troops, whereas Bonnie Prince Charlie had only five thousand: "heart-loyal"³⁷⁷ but ill-fed, ill-equipped and ill-trained highlanders at his disposal; duplicity was hardly called for. In contrast, the English relish the Norman Conquest of 1066 as their defining national battle, and it is of course beside the point that nations had not yet been invented. As Jervis³⁷⁸ notes, the myth tells the English that this was the last successful foreign invasion and that they can take pride in their independence that has endured for nearly a thousand years, Spanish queens, Dutch princes and Scottish kings notwithstanding. A nation's myth is its history as it ought to have happened:

"Deliberate forgetfulness and misrepresentation of historical facts thus seem to constitute an important, and perhaps indispensable, feature of nation building"³⁷⁹.

³⁷⁵The music was written by Lady Annie Macleod with words by Harold Boulton in 1884, over a century after Culloden. Many Scots deride the song for its mawkishness, and reject it as inauthentic, but it is precisely this revision and adaptation that allows myths to retain their potency.

³⁷⁶Sweet Williams are still known as Stinky Willie or Sour Billy in Scotland.

³⁷⁷Radio 4. 8/3/2002

³⁷⁸Jervis, J. Lecture. University of Kent, Canterbury, 1989

³⁷⁹Tamir

This comparison of national myths clearly reflects some element of the insiders' divergent construction of reality. The Scots' uniqueness is rooted in resentment at their victimisation by the English, whereas the English complacently hold themselves to be invincible, at least at home. For insiders, the past leads to the present, but for outsiders, as Tamir implies, the present causes the past. Perhaps when the Scots feel more secure in their circumstances, different elements of their history will function as myth, although unsympathetic outsiders may note that a sense of victimisation forestalls reflection and the need to take responsibility for the future³⁸⁰. It is plausible that grievance will not be dispelled until the national myth is revised, whatever political success the nation achieves, and I return to this later (6:3). Whilst outsiders are prone to notice inconsistencies in the national story and to count them fairy tales, for insiders they represent reality and are extremely robust.

The importance of belief.

As with Flat Earthers, belief renders myths impervious to counterclaims and proofs. For example, Newton provided an integrated theory for the Copernican universe with commensurable and effective rules and principles; empirical observations do not require special explanations or exemptions from the laws of physics, they are verifiable, testable and repeatable. In contrast, Flat Earth facts are simply a series of assertions. From the Newtonian position they are simply not facts and not science. Nations, however, differ crucially from Flat Earthers in having their own facts and science. Miller is most persuasive when he suggests that in matters of social identity, it is precisely the issue of belief that constitutes the collective self. This is an argument with a long pedigree that can be traced

³⁸⁰Deriding the: "Celtic whinge", many point to higher *per capita* spending in Scotland than in comparable areas in southern England, Scottish over representation in Parliament and greater post-devolution autonomy. (Independent 26/2/2002)

back at least as far as Plato, whose: "magnificent myth" was constructed to facilitate the social order of his Republic:

“the best we can say is that any territorial community, the members of which are conscious of themselves *as* members of a community, and wish to maintain the identity of their community, is a nation”³⁸¹.

The argument here means that pretty much any community can be a nation. This is Looking Glass logic, akin to according moral status to a group of human lemmings who are united in a belief that if they walk off a cliff, the law of gravity will be repealed. It is, perhaps, the doubtful nature of this logic that makes many so wary of privileging the nation. An idiosyncratic social identity may be tolerated as long as it remains harmless, but if the shared belief is absurd or wicked, it is hard to accord respect to such a collectivity, let alone moral value. The problem here is that judging something harmless or dangerous is fraught with difficulty. At the extremes, ethnic cleansing or genocide may be judged by the outcome, but even in such gross circumstances there are dilemmas; is the number of victims relevant? Are only egregious abuses to be judged and condemned, or only those institutionalised and sanctioned by states? Where does this leave the beleaguered nation who has not suffered abuse, yet fears it, or the nation who suffers only insidious discrimination? What of the nation repulsed by the cultural practices of others? Loyalty is normal human behaviour, but when it is harnessed by the nation:

“its influence on conduct has been – and has by those who use it been intended to be – as great as that of the language of natural law or of human rights or of the class war or of any other idea which has shaped our world”³⁸².

³⁸¹Cobban (p. 48)

³⁸²Berlin, I.

Against the Current. Essays in the History of Ideas. Hardy, H. (Ed.), Random House, Pimlico, 1997, (p. 343) [Against]

Cultural nation.

Myth and belief are subjective elements of national identity that unite:

"a particular people sharing a heritage of custom, ritual, and way of life that is in some real or imagined sense immemorial, being referred back to a shared history and shared provenance or homeland"³⁸³.

Although Waldron is referring specifically to ethnic communities, rather than nations, this cultural definition is attractive. It acknowledges the significance of belief in shaping collective identity, but limits this to collectivities that share certain types of feature, thereby reconciling a purely subjective conceptualisation of nation with the attempt to establish nation objectively. Culture is man's defining feature:

"These two general characteristics, culture and organisation, are the raw materials, so to speak, of all social life"³⁸⁴,

but this does not endorse any particular formulation, which diminishes the argument that the preservation of a culture justifies a claim to self-determination. The hybridised nature of cultures indicates that cultural immunity is an impossible goal, although some cultural trends are remarkably tenacious³⁸⁵. Further, as culture is such a fluid concept almost anything can fall under its rubric, so what cultural elements would qualify for preservation? Would it have to be demonstrably unique to the nation?

French, for example is spoken in parts of Africa and Canada, as well as France; is

³⁸³Waldron, J. Minority Cultures and the cosmopolitan alternative. In: Kymlicka, W. (Ed.) *The Rights of Minority Cultures*. Oxford University Press, 1995, (pp. 93-122) [Minority Cultures]

³⁸⁴Gellner, [Nationalism] (p. 3)

³⁸⁵Gellner, [Nationalism]

each variety unique? Attempts to keep French unsullied by borrowed English words is viewed as risible by many Britons, who fail to see the contradiction in their own denouncements of American usage. In Canada, the *raison d'être* of the secessionist movement is the preservation of French for those citizens who speak it. Louise Beaudoin³⁸⁶ complained that too many immigrants wanted to learn English, and claimed: “that the only thing that can change this dynamic is sovereignty”³⁸⁷, although steps short of sovereignty have been taken; for example, law 101 ensures that immigrant children are now taught in French. Self-determination may in future be met through more protectionist measures rather than separation, as it seems now to have dawned on the *Parti Québécois* that if Canada is divisible, then so is Quebec³⁸⁸. The main argument in favour of culture is the liberal defence of difference; subject to the injunction to do no harm, nations should be free to nurture whatever elements of their culture they choose. In the light of global cultural homogeneity, this may be analogous to the claim for biological diversity, but Berlin is less charitable. He views nationalism as a form of: “collective self worship”³⁸⁹, based on the conviction:

“that men belong to a particular human group, and that the way of life of the group differs from that of others”³⁹⁰.

He does not reject this conviction as wrong, but is unwilling to allow difference to justify any way of life that suits the group. Difference can be a source of pride, but also of resentment, fear and cruelty.

Waldron’s definition also illustrates the point that what has been considered in the context of a nation is also shared by ethnic communities, which may undermine the

³⁸⁶Minister for language issues.

³⁸⁷Economist “French Lessons” 4/11/ 2000

³⁸⁸Economist “Power of the Cree” 23/2/ 2002

³⁸⁹Berlin, [Against] (p. 345)

³⁹⁰Berlin, [Against] (p. 341)

nation's claim to be a special collectivity deserving of self-determination. As noted previously (2:1), this may be a matter of semantics; ethnicity and nationality are identical concepts, but the former is perceived to be a more neutral term. Turkey is host to a variety of minority ethnic groups for whom Turkey is their only home³⁹¹. The Lazi are generally prosperous and quite content to describe themselves as Turkish, although Haan³⁹² points out that most outsiders would consider them culturally or ethnically distinct. Their reluctance is prudent, given the official Turkish doctrine that denies any distinctions among its citizens, yet this has not prevented Turkey's Kurds from demanding self-determination, ranging from cultural and linguistic recognition to full sovereignty. So, whilst ethnicity and nationality are similar, what distinguishes the two?

It is interesting to note that ethnicity may be ascribed on the basis of observed difference, even when this is not acknowledged by the subject, whereas nationality is claimed by the subject, even though it may not be recognised by observers, and I return to this issue in the following chapter (4:4). Kellas suggests that ethnicity is a subordinate element of nationality, as it provides the: "biological and psychological aspects of the subject"³⁹³, which he seems to treat as given. This smacks of biological determinism and the rooted blood and soil nationalism of the romantics. Ethnicity is as loaded with meaning and contestable as nation or culture, and is generally considered to be equally constructed and malleable. This is not to pretend colour blindness; there are observable distinctions in hair or skin colour, but they are intrinsically meaningless. All that can be said of such distinctions is

³⁹¹ Although probably not indigenous, most of the groups arrived in what is now Turkey so long ago that they are not considered immigrants. They are primarily distinguishable through language, for example: Laz is part of the Kartvelian family, whereas Kurdish is Western Iranian and linked to Farsi and Pashto (Turkish is of the Altaic family).

³⁹² Haan, C. Ethnicity, Language and Politics in North-East Turkey. In: Govers, C. & Vermeulen, H. (Eds.) *The Politics of Ethnic Consciousness*. Macmillan, New York, 1997, (pp. 121-156)

³⁹³ Kellas, J. *The Politics of Nationalism and Ethnicity*. (Second Edition). Macmillan Press Ltd, Basingstoke, 1998 (p. 211)

that at some point in the evolutionary past an ancestral population stayed put long enough to adapt to the local climate. They only assume meaning within a social context.

Grievance may also distinguish between ethnicity and nation. French speaking Canadians are hardly persecuted by the standards in force in many parts of the world, and they form a sufficiently large majority that they are able to ensure special privileges for their language, yet periodically they vote on secession. In contrast, Gypsies seem to face discrimination everywhere, yet do not make claims to nationhood. This may be a consequence of their dispersal, and may also change in the future, see Chapter Four (4:4). The Kurds more closely fit the profile of a territorially rooted minority facing persecution, but their national aspirations are relatively recent. So, a claim to national self-determination may be a matter of cultural respect, a question of community security, or an opportunist ploy to gain advancement. In circumstances of extreme persecution, national self-determination is a luxury, and survival or exit is negotiated individually. Given this variation, is it possible to establish what uniquely distinguishes a nation from other similar collectivities? It would seem that ethnicity and nationality are very similar concepts. Both indicate membership of a culturally linked group based on ties of imputed or imagined kinship and place, and both represent a claim for recognition and respect. They may also make claims to tolerance and special protections, but additionally, nationality implies a claim to self-determination.

Political nation.

For a nation content to share their state with other nations, nationality may simply be an expression of pride. For others it may represent a determination to exit. Both are dependent on how well groups succeed in assimilating the prevailing social norms:

“that homogeneity of culture is the political bond, that mastery of (and, one should add, acceptability in) a given high culture (the one used by the surrounding bureaucracies) is the pre-condition of political, economic and social citizenship”³⁹⁴.

In this sense, self-determination is what nations claim, and ethnic groups that would like to make such a claim do so by first declaring themselves to be nations. MacCormick sees nations as both cultural and political constructs, with the cultural elements providing legitimacy for the political. In this formulation the nation is essentially benign, being a: "historically evolved social reality"³⁹⁵ which provides the context in which people live:

"The issue is not only about the sense of identity or belonging that individuals have, nor only about the moral rights we may found upon that. The issue is also about individuals acting collectively to attain and defend identity through distinctively national political institutions"³⁹⁶.

Although he acknowledges that nation is only one of many communities to which an individual may feel loyal, MacCormick is not entirely convincing when he argues that a nation is the most appropriate political collectivity for constituting autonomous contextual individuals, as his reasoning would seem to apply equally well to a democratic state. In this, MacCormick appears to be guilty of the same malady that he sees in others, namely making an implicit assumption that nation and state are coterminous. This is not very satisfactory; if there is one claim about nations that can be made with certainty, it is that they do not coincide neatly with a state. It does however introduce the crucial political dimension. Gilbert concludes that a claim to nationhood is essentially a political claim about legitimate

³⁹⁴Gellner, [Nationalism] (p. 29)

³⁹⁵MacCormick

³⁹⁶MacCormick

governance, and that it is this aspect of the nation that makes it a distinctive community:

“sovereignty enables the group to conduct its own affairs in a way conducive to its prosperity”³⁹⁷.

Cobban comes to the same conclusion, but in his formulation, the outcome is malign. The nation is a community that wants be a state, but it rests on the romantic idea of natural unity. This produces the simple formula that where state and nation do not fit, then it is natural for the nation to want its own state. The state then coerces its citizens to act as nationals, with dire consequences for minorities and individual rights. The totalitarian impulse of triumphant nationalism is thus a: "principle of aggression"³⁹⁸ and a recipe for massacre and oppression. There are many examples that support this dismal conclusion. George³⁹⁹ also emphasises the political aspects, arguing that self-determination is a right, because nationalists choose to look at it that way. In this formulation, the nation is not merely a community that wants to be a state, but a community with moral value that generates a right to statehood. The nature of this morality is unexamined. It is simply derived from the nation, which acts as the psychological aspect of the state; it represents a: “conceptual community”⁴⁰⁰ that allows individuals to identify with the community of the state, although as already noted, the dominant nation will generally face a good deal of competition from subordinate nations. This further undermines the view of the nation as entirely political, which overlooks:

³⁹⁷Margalit & Raz

³⁹⁸Cobban (p. 52)

³⁹⁹George, D.

National Identity and National Self-Determination. In: Caney, S., George, D., Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp.13-33)

⁴⁰⁰Smith (p. 73)

“the ubiquity of this sense of a community of like-minded people with whom we feel intimate, even though we cannot know most of them”⁴⁰¹.

Focusing on the political aspect is helpful in distinguishing between nations and other forms of community, but there are a number of difficulties here. The sovereignty assumption is not safe; few, if any, nations actually have their own states. Nations share their states with others, and when they are unhappy with the arrangements the outcome may be as Cobban describes. The assumption that nation precedes state is also unsafe, as the decolonisation process illustrated. However, the sense of fraternity that, for Anderson, characterises the nation, does confer legitimacy, and need not be present prior to state creation. Whilst this may generate the moral value of the nation, it must be subject to qualification; an imagined community united by the wish to persecute non-members would have no moral value, no claim on its members’ loyalty, and no right to statehood, although this evaluation is itself be subject to debate, and I return to the issue of judgement later.

The difficulty in assessing the political dimension of nationality is compounded by a number of elements. The most obvious is that the idea has undergone some radical reinventions in the past, with three distinct variants in the last century alone, and this process of reformulation shows no sign of abating. Additionally, there is the ideological aspect. Miller for example, attempts to rehabilitate the idea, so focuses on what Alter terms *Risorgimento* nationalism, which is linked to the Anglo/liberal formulation that stresses political change and liberation, whereas Cobban mistrusts it entirely because he concentrates on the fascist outcomes of the romantic tradition. This attitude was widespread in the immediate aftermath of the Second World War, and in part explains the sustained attack on the primordialist position. As suggested previously (3:2), the

⁴⁰¹Smith (p. 75)

most effective refutation of a nation's moral legitimacy is to deny that it is a nation in the first place. Carr at least was sensitive to the complexities of the wider world, and did not share the view that reason applied only:

“to the parts of the world that mattered, and that the rest was a kind of ontological slum unworthy of attention”⁴⁰².

Smith concludes that no single account of the nation will be adequate to accommodate the diversity of the idea. Nevertheless, as a political concept, there is a general sense that nation is linked to sovereignty; the nation legitimates the state, however bad the fit is in practice, or mobilises a claim to it. Although in view of the different circumstances in which people find themselves, self-determination may be satisfied by toleration, regional autonomy and other degrees short of formal state sovereignty. It is of course entirely possible that the association with sovereignty will not be sustained. As a: “historically specific and problematic phenomenon...rooted in the revolutions of modernity”⁴⁰³, it may not survive the influence of the late-moderns and the arrival of whatever world-view comes next. Smith is not happy with the instrumental approach that grounds nation as an essentially political concept, but acknowledges that this view was prevalent during the decolonisation process, which defined nations: “as a mass participant political culture and as a popular civic-territorial community”⁴⁰⁴. It was also assumed that the elites who consciously fostered nation building did so by appeal to the primordial, organic, rooted concept of the nation that simply needed awakening, but this too is problematic.

Nations are not always linked to nostalgia for an imagined and simpler folk culture; as Smith notes, the nationalisms of the French and American Revolutions

⁴⁰²Gellner, [Encounters] (p. 21)

⁴⁰³Smith (p. 4)

⁴⁰⁴Smith (p. 21)

were pretty sober and practical, appealing to economic and social arguments rather than a romantic fantasy. Likewise, the nation building fostered by Sukarno, Nehru and Nasser was aimed at an idea of nation that was essentially alien and sophisticated⁴⁰⁵, which further undermines the dubious attempt to depict nations as a developmental landmark and a consequence of backwardness. Although nation building generally credits the fabricators with rather too much potency, it is plausible to link its success with the strength of underlying cultural continuities. As Smith⁴⁰⁶ suggests, nations are invented, but not from scratch. There is an objective dimension; both insiders who make a claim to nationhood, and outsiders who judge its merit, hold an idea of what facts should count. The most promising approach in identifying these facts is to treat nation as a cluster concept.

Nation as a cluster concept.

A single determining criterion of nation would be inadequate. Language, for example, is often used as an identifier, and as Anderson suggests, the: “lexicographic revolution”⁴⁰⁷ was a central issue in nineteenth century European nationalism, which was: “imagined through language”⁴⁰⁸. The fixity that print brought to language effectively reduced the numbers of languages spoken⁴⁰⁹, and fuelled the nationalist vision of one language, one nation, one state. Linguistic uniformity is still conspicuously harnessed to nation building, for example in Ataturk’s adoption of roman script⁴¹⁰, Belgian regulations concerning bilingual

⁴⁰⁵Smith, A. *Nationalism in the twentieth century*. Martin Robertson, Oxford, 1979 [Twentieth Century]

⁴⁰⁶Smith, [Nationalism and]

⁴⁰⁷Anderson (p. 70)

⁴⁰⁸Anderson (p. 133)

⁴⁰⁹The Indo-European family has 9 branches, of which 7 are current in Europe. In contrast, amongst Native American speakers, there are about 150 families. Until the twentieth century, linguists paid little attention to languages without a written tradition.

⁴¹⁰Anderson

road signs and the teaching of Catalan, Galician and Basque in Spanish schools⁴¹¹. Although the local language is a matter of pride and identity, there are other considerations in multilingual states, particularly where there is a high level of internal migration. *Basque Euskara* is an isolate⁴¹² with no living linguistic relatives; its uniqueness may be a further source of pride, but not a quality that renders it attractive to incomers. Even if it were possible to overcome the practical difficulties of allocating a state to all seven thousand⁴¹³ language groups, numerous issues would remain. Would there have to be a minimum number of speakers? Would a written form be necessary? Would English or Spanish speakers only have one state between them? To mitigate difficulties of this kind, or multiply them, a wider selection of criteria is considered.

Not all nations will share the same features, but characteristics may include; shared territory with defined borders, a common history and culture, shared ethnicity, language, religion, and so on. There are obvious difficulties. The list of attributes is disputable, and there is no self-evident means to establish how many must be present for a community to qualify as a nation. Are there certain core attributes that must always be present, and if so, which ones? It is entirely likely that, whatever the attributes selected, there will remain some groups who will hold every attribute listed, but will not consider themselves nations, and conversely, others who do consider themselves nations but display few of the required attributes. It should also be noted that shared elements are often shared antagonisms; shared ancient hatreds are as likely as shared: “immemorial traditions of culture”⁴¹⁴, and rather than fostering a sense of national unity, serve to divide⁴¹⁵. As an attempt to pin down the idea of nation definitively, this approach is hopeless,

⁴¹¹ *Economist* “Catalonia’s Jordi Pujol” 13/4/2002

⁴¹² Encyclopædia Britannica: 2002

⁴¹³ This is Gellner’s [Nationalism] estimate. The total depends on the type of classification used.

⁴¹⁴ Waldron, [Minority Cultures] (p.113)

⁴¹⁵ Tamir

because the listed attributes are as contestable and fluid as the concept of nation itself. However, it is the inexactitude that makes it so helpful; culture, ethnicity and such are the sort of qualities nationals share, but context, and the nationals themselves, will determine what each means: “nation is a *mediating* phenomena” that does not bear close examination, because it relies on:

“an intricate web of custom, contrivance and fiction that allowed the polity to be experienced *as if* it were a community of kin”⁴¹⁶.

Although George points out that it is logically incoherent to require objective criteria to support belief, as one or the other should suffice. The conclusion here is that for nations both are required. Nations are ducks and rabbits.

As Smith notes, none of these approaches are competing models or general theories, because each is paying attention to different aspect of the nation. Further, by explaining one variety of nation, they inadequately account for others. The process by which nations have awakened varies by context and contingency, and may not be repeated in the future.

Three routes to nation.

“*bureaucratic incorporation*”⁴¹⁷ commences with a diffuse, laterally extensive group with hierarchical social structures. It is elite driven, but seeps down over time. This is essentially the European model of nation building, with state and nation emerging at approximately the same time. Smith’s second category,

⁴¹⁶Canovan, M. The skeleton in the cupboard: nationhood, patriotism and limited loyalties. In: Caney, S., George, D., Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 69-84)

⁴¹⁷Smith, [Nationalism and] (p. 193)

“*vernacular mobilization*”⁴¹⁸ is a vertical and intensive process, which Smith identifies with decolonisation. Here, local elites consciously lead the nation building process, by reviving older popular ethnic symbols to provide authenticity in support of ethnic coalitions⁴¹⁹. Smith also identifies a third category: “providentialist frontier nationalism”⁴²⁰ which he associates with the United States and Australia, where the idea of the nation provided an overarching framework for the ethnic and cultural diversity of the immigrants who make up the population. As the earlier chapters illustrate, these three styles of nation building are historically contingent. The slow early European pattern and the New World model of colonisation are unlikely to be repeated in a world already divided into states, but the nationalist leitmotif of awakening, and the potency of the vernacular mobilisation seem likely to remain in force.

Conclusion.

Smith’s key insight is that no single account will accommodate all nations; their geneses and their character are too diverse. Although nations are notoriously difficult to define, this is not an injunction to abandon the attempt, but to reformulate it.

Many of the most coherent theories attempt to generalise from too narrow a focus. For example, the nationalism of the nineteenth century and the terrible wars of the twentieth century lead many to conclude that nationalism is totally egregious and beyond redemption. They point to the evident fabrication of the

⁴¹⁸Smith, [Nationalism and] (p. 194)

⁴¹⁹Vernacular mobilisation also applied to nineteenth century European nation building in Germany, Greece and Italy for example, although it differed in some respects. It was largely a middle class movement, rather than a tool of the state, and claims to authenticity in these cases were founded on linguistic and literary continuity, which also provided the rationale for the unification of all native speakers. The Slavophile and German variants were notably less liberal and what had started as a celebration of difference became intolerance of difference in others.

⁴²⁰Smith, [Nationalism and] (p. 194)

national story held by insiders, which effectively undermines their claim to authenticity and antiquity. As modern artefacts, they are transient, and in due course, globalisation and progress will render them obsolete. The primordialist account is of course weakened by its claim to objective reality, but it does point to the relevance of ethnicity, territory, kin and culture. Further, although there is a gap between the subjectivity of insiders and the assumed objectivity of outsiders, the gap is not necessarily as vast as some rejectionist accounts would imply. Nationalists are not gullible fools and outsiders do not have special access to truth; nations are fictive, but they do not spring out of the blue.

They are built on well-known customs and histories, and shared elements of culture such as language and ethnicity. The perennial account of nation thus posits nation as the current form of a recurrent social construct. For the pre-moderns, religion was the basis of legitimation and the glue that bound a cohesive polity, so the ethno-symbolist approach stresses the legacy from the past that shapes present identity. For the modernists, notably Gellner and Anderson, nation bridges the gap between ethnicity and the state, and is essentially a fairly recent and political phenomenon; a claim to nationhood entails a claim to self-determination. However, this fails to account for the passions it arouses. The modernist account does however hold promise; it accommodates ethnicity and the state, and the element of progress that sees the idea of nation continually reinvented and reformulated. It is a political concept; a claim to nation functions as a claim to self-determination, and vice versa. Now this is not a very convincing justification for privileging the nation if it means that pretty much any group can become a nation by claiming self-determination. A procedural strategy hardly confers moral value, and this would seem to be the basis of Smith's objection. However, if national self-determination is instrumental: "what is it for?" becomes an interesting question, and I return to this in Chapter Six.

Despite the length of this chapter, the nation is not yet pinned down. As suggested in Chapter One (1:1), starting with a definition would have made this inquiry a straightforward butterfly hunt; a trawl through ideas and examples to discover what it is to be a nation. However, as Weber suggests, this would merely lend a spurious fixity to what is a highly complex and volatile concept, and would be about as useful as the blind men's definition of an elephant. However, an outline is emerging. Nations are unique, not because they are radically different from other forms of community, but because they are similar to many; state, family, ethnicity. The state is crucial to the idea of nation.

Nations aspire to statehood, and identifying the points of similarity and difference therefore reveal what may be required of the nation in order to qualify as a state. Recognition is clearly necessary, but unless the nation has the power to establish *de facto* sovereignty, *de jure* sovereignty will ensue only with the consent of existing states. Now this may be influenced by political expediency as it has in the past, but there is also the possibility that self-determination will be granted only to nations who also aspire to a decent polity for all their future citizens, as there is little merit in swapping one form of injustice for another. As indicated above (3:2), self-determination is justified in order to enhance the security and autonomy of the nation. As Frost⁴²¹ concludes, the ethical state is the source of citizenship rights and the protector of human rights. There is no justification for an abusive state. That many existing states abuse their citizens is no argument for increasing their number. The moral validity and loyalty that the nation commands is derived in the same way, and extent, that nation resembles the state, and other forms of community. This perhaps explains why the idea of nation is so pliable, but it fails to account for the ubiquity of the idea. Why is the

⁴²¹Frost, [Ethics]

nation so important to people who can already claim state, family and ethnicity?
I turn to this question next.

Chapter Four

The romantic self in self-determination.

Nations are unique. Not because they are a singular form of social organisation, but because they are similar to others, notably the state. However, whilst assessing nations from a liberal standpoint brings valuable insights, it also risks endorsing the mistaken assumption of congruence between nation and state. It also risks overlooking some elemental aspects of the nation that differ radically from the state. This may explain the frequency of misunderstanding between states and nations, and the blind spot International Relations tends to display concerning them. Nations, in so far as they resemble states, are not the problem; they challenge the state, but in terms that states understand. However, political evaluations fail to account for those aspects of the nation that are a source of value and pride to their members, but which are essentially romantic. Accordingly, in this chapter I consider the other source of the nation's legitimacy, the family. It should be noted that by family, here I mean social communities that are kin based in the widest sense, which includes tribe, clan, ethnic group and so on:

“I *can't* believe that!” said Alice. “Can’t you?” the Queen said in a pitying tone. “Try again...I daresay you haven’t had much practice...Why, sometimes I’ve believed as many as six impossible things before breakfast”⁴²².

The Red Queen’s dexterity in accommodating the impossible would appear to be a useful skill when it comes to nations, and one that states and International Relations might do well to emulate. The range of claims, counter claims, theories, and assertions is too diverse to be fitted into a simple theory that fits all. Insiders understand the rules of the game they are playing, and within the context of their own nation, these have coherence. Outsiders may not, either because they play by different rules, misconstrue the rules, or simply miss the point. This last is also open to wilful misunderstanding; nationhood may be denied because it legitimates a claim to self-

⁴²²Carroll, L.

Alice’s Adventures in Wonderland and Through the Looking-Glass.
J.M. Dent & Sons Ltd, London, 1973, (pp. 172-173)

determination, or it may be recognised, but the link to self-determination denied.

This first section (4:1) considers the construction of social identity, and draws on insights brought by the Radical Modernists⁴²³. It is sentiment that links people, place and culture, and as Smith⁴²⁴ notes, it is these elements that give nationalist mobilisation such potency. It is interesting to note that, whilst Smith favours the modernists because they decisively refuted the primordialists, he criticises them for paying inadequate attention to romantic elements, which he calls culture. The radical modernists *do* focus on the romantic, paradoxically sharing the primordialists' preoccupation with kin and place. Although identity is shaped through participation in multiple communities, given the modern penchant for a single political loyalty, the nation may predominate under conditions of stress. Belief is a crucial element in sustaining social identity, although the significance of identifiers such as language can change. They may serve as a source of shame, or pride, or may be lost altogether.

In (4:2) the dichotomy between the Anglo/liberal and romantic evaluation of community is considered from the cosmopolitan and communitarian positions. The social function of generalised reciprocity, which assumes unbounded obligation, and balanced reciprocity, which assumes bounded obligation, are also examined. However, social goods are culturally specific, and are distributed in accordance with rules that the community deems appropriate. The single most important social good is membership of the community, as this is the gateway for all others. In instrumental terms, the goal of sovereignty for the ambitious nation is evident. States enjoy a whole raft of privileges that are denied to nations, and membership of the community of sovereign states is the gateway to another set of goods. The

⁴²³Again, this is Smith's appellation. The authors considered here may not welcome this description.

⁴²⁴Smith, [Nationalism and]

next section (4:3), therefore looks to self-determination as a rational strategy for advancement. States issue birth certificates and licences, families know each other personally, but nations can rely on neither. The final section (4:4) follows Barth's⁴²⁵ approach to boundary maintenance and recruitment, and examines how nations maintain their sense of self and other.

(4:1) Why the idea of nation is so persistent.

Familiarity and sentiment.

Social identity is shaped through participation in communities. Complex explanations for human behaviour are to be found in most disciplines, but the assertion here is only that lived experience contributes to personal identity. Depending on circumstances, the primary identifier may be family, school or some other face-to-face community, but sometimes the relevant community will be more nebulous and extensive, such as co-religionists or fellow NATO member states. Waldron⁴²⁶ considers Rushdie, who rejects the deification of nation on grounds that ancestry, citizenship or location do not define what are essentially hybridised and mongrelised identities, which as Lapid⁴²⁷ also notes, are constructed from a multiplicity of memberships. However, nations are, sometimes, one of the communities to which people like to feel they belong. The nation is familiar, and its: "moral facts"⁴²⁸ are its diverse cultural value to the individual through which he is partly constituted. As contextual individuals, respect for the individual also entails that the culture, language,

⁴²⁵Barth, F. (Ed.) *Ethnic groups and boundaries: The social organisation of culture difference.* (Results of a symposium held at the University of Bergen, 23rd to 26th February 1967). Allen & Unwin, London, 1969 [Boundaries]

⁴²⁶Waldron, [Minority Cultures]

⁴²⁷Lapid, Y. Culture's Ship: Returns and Departures in International Relations Theory. In: Lapid, Y. and Kratochwil, F. (Eds.) *The Return of Culture and Identity in IR Theory.* Lynne Rienner Publishers, London, 1996, (pp. 3-20)

⁴²⁸Miller, D. The nation state: a modest defence. In: Brown, C. (Ed.) *Political Restructuring in Europe.* Routledge, London, New York, 1994, (pp. 136-162) [Nation]

nationality or other elements that build identity must also be respected.

People cherish their own nations.

Belief is central to the idea of nation. It rests, as Miller argues, on a mutual faith in a shared past that connects groups within a geographical location, and also extends to future generations. “One *can’t* believe impossible things”⁴²⁹ said Alice, but as far as nations are concerned, it seems that one can. For example, Whittam-Smith argues that the: “speck of grit”⁴³⁰ that is Gibraltar should be returned to Spain, despite the community’s objections, for reasons that range from pragmatism to Realpolitik. Most Gibraltarians accept that the practical consequences will be negligible, as Gibraltar will remain part of the EU whether Spain or Britain is sovereign, and generously concede that being Spanish is probably wonderful. Their most compelling counter argument is simply that they are not Spanish. Rushdie⁴³¹ follows a similar line of reasoning when he asserts that, assurances to the contrary, the War on Terrorism is about Islam because that is what Muslims believe. In both examples, the belief is advanced to justify the *status quo*. As noted previously (1:4) Coker dismisses such sentiments as nostalgia, and Rushdie, a self-proclaimed exile, does likewise, arguing that communities and their customs and habits, cannot be insulated from change. Although spurning the idea of cultural preservation as nostalgia or fear of modernity, neither Coker nor Rushdie seem willing to acknowledge the power of such emotions; for the latter in particular, this is rather disingenuous given that he is examining the possible motivations behind the attack of September 11th. Fear of modernity is quite rational. As Gellner notes, modernity is usually brutal and destructive of pre-modern communities, and the nation provides a refuge:

⁴²⁹Carroll (p. 172-173)

⁴³⁰Independent 15/11/2001

⁴³¹Guardian 2/11/2001

"Here they can protect their development from lethal competition by the more advanced, and here their own dialect is spoken with pride, as the state language, rather than muttered with shame as the badge of backwardness and rusticity"⁴³².

People sometimes do not like their own nations.

Community identifiers, such as language, are crucial to a community's sense of social identity, but languages can change and their significance shift. As Crystal notes, by the third generation:

"The old language, formerly a source of shame, comes to be seen as source of identity and pride"⁴³³,

but languages may be lost⁴³⁴. Crystal advanced the now conventional view that language encapsulates and meditates distinctive world-views, and is not simply a matter of communication. He thus fears the steady loss of linguistic diversity⁴³⁵. Applying an evolutionary approach to specialisation and diversity, he argues that the cultural and intellectual diversity that language represents must be maintained, if humanity is to remain able to adapt to future changes in its cognitive habitat. However, the preservation of a community's language and other signifiers of difference are not always beneficial. As noted before (3:4), in Europe there is a relative paucity of linguistic diversity, probably resulting from the print fixity⁴³⁶ that brought pre-eminence to one vernacular whilst marginalising the rest. Adoption of the privileged tongue would have been a rational strategy for advancement, and as Marion-Young⁴³⁷

⁴³²Gellner, [Nationalism] (p. 35)

⁴³³Crystal, D. Millennium Briefing: the death of language. Prospect. Issue 46, November 1999

⁴³⁴In France, for example, over 1 million spoke Breton as recently as 1945, but the number is now below 300,000, and only 3% of school children receive tuition in a regional language, despite a 1951 law intended to encourage their use.

⁴³⁵He reports that the best estimate is that there are presently some 6,000 languages, of which 3,000 will be extinct by the end of the century.

⁴³⁶Anderson

⁴³⁷Marion-Young, I. Seminar. Nationalism, Identity and Minority Rights Conference. University of Bristol, September 1999

notes, a similar pattern can be observed amongst migrant groups, particularly children born in the new country.

Alibhai-Brown⁴³⁸ also suggests that assimilation into the host culture may likewise offer more freedoms to marginalised sectors within a minority nation than would arise through special protections, although her argument rests on some questionable assumptions. The minority nation is assumed to be rigidly structured, patriarchal and oppressive of women, and taken to be of Indian derivation. The host is assumed to be enlightened and liberal. It may be the case that the British daughters of Asian immigrants, schooled under the national curriculum and free to pursue the educational and career opportunities available to any citizen, do come to view their parents' culture as restrictive and repressive. However, they may still face discrimination from the host community because of their gender and perceived foreignness. The assumption that the European host is tolerant and liberal is further undermined by the electoral successes of rabidly anti-immigrant parties in Austria, Italy and Denmark, although this has been tempered by the reaction to the initial electoral results that favoured Pim Fortuyn in the Netherlands and Jean-Marie Le Pen in France⁴³⁹.

A counter argument in favour of integration, rather than assimilation, posited by Squires⁴⁴⁰ grants protection to the minority community, not because it is intrinsically valuable, but because it offers a familiar arena in which new norms from the wider society can be examined and incorporated. It would also render minority communities more publicly accountable, and would lead to the justification or rejection of practices that others found repugnant. However, integration is a two way process; as newcomers adopt the ways of

⁴³⁸Alibhai-Brown, J. Radio 4, March 2001

⁴³⁹Economist. "How sick is Europe?" 11/5/2002

⁴⁴⁰Squires, J. Deliberation and Group Representation. Seminar. Nationalism, Identity and Minority rights Conference, University of Bristol, September 1999

the host, so the host imbues the ways of the newcomers⁴⁴¹, thus maintaining cultural dynamism and diversity. The difficulty here is that there is no compelling reason to assume that new norms would be adopted, or repugnant practices abandoned by a community that considered them entirely normal.

As noted in Chapter One (1:3), Plamenatz draws a distinction between nationalism and patriotism; the former is characterised as hostile to outsiders, the latter as loving one's fellows. Linguistically, the distinction is not convincing⁴⁴², but it is emotionally persuasive that attachment to place and people is not always malignant. Anderson makes a similar distinction when he suggests that nations are both open and closed, being: a "historic fatality...imagined through language"⁴⁴³, which is as often engendered by love of kin and place⁴⁴⁴ as it is by racism and the fear of immutable contamination. On balance, it would seem that communities are cherished, even where outsiders use communal identifiers as a basis for discrimination, or worse. For example, in referring to the pogrom that has left possibly 2,000 Muslims dead in Gujarat during Spring 2002, India's Prime Minister Mr Vajpayee said:

"Wherever Muslims are living...they don't want to live in harmony. They don't mix with the society. They are not interested in living in peace"⁴⁴⁵.

⁴⁴¹ Economist "The melting pot survives" 3/7/1999

⁴⁴² Although etymologically distinct, both relate to love of a territorially located community linked through ties of birth, or parentage.

⁴⁴³ Anderson (p.133)

⁴⁴⁴ Anderson suggests that these aspirations are reflected in national anthems; a random sample indicated that love of the ancestral fatherland or motherland, and the beauty of the place, is a predominant theme. The willingness of the country's children to fight and die for national freedom, peace and all good things seems to be more pronounced amongst the peaceful states of Europe. This probably reflects the sentiments prevalent at the time of composition.

⁴⁴⁵ Independent 25/5/2002

Divided loyalties.

Although the nation is one amongst the many communities that people cherish, under circumstances of stress, it may become dominant. Where the state apparatus ceases to function adequately or loses legitimacy, as in the former Soviet Union, nation serves as the default setting for sub-state loyalty. It would also seem that, although social identity is multifaceted, nationality is singular, as suggested previously (1:4). Past wars often furnish the core symbols of the nation, and national identity and belligerence, is often bolstered in the face of a shared threat. As Jabri⁴⁴⁶ suggests, the dominance of an exclusionary national identity in times of conflict can have the pernicious effect of legitimating war. Indeed, war is presented as constitutive of national identity in opposition to the enemy other, and in protracted conflicts, can become an end and justification in itself. So much pain and destruction has been inflicted and incurred, that victory or defeat becomes the only possible outcome. The assumed duality of self and other privileges the nation as an: "idealised form of community"⁴⁴⁷ but McSweeney⁴⁴⁸ and others view identity as a process, which allows for the: "re-description"⁴⁴⁹ of self through an:

“intersubjective conception of the just and the good which recognises difference and dissent as the formative elements of a shared individuality”⁴⁵⁰.

As indicated before (2:1), Jabri's formulation highlights the fluidity and potential for metamorphosis in the construction of social identity, but it is not entirely convincing.

⁴⁴⁶Jabri, [Discourses]

⁴⁴⁷Devetak, R. The project of modernity and international relations theory. *Millennium*, 24 (1), Spring, 1995, (pp. 27-52)

⁴⁴⁸McSweeney, B. Identity and Security: Buzan and the Copenhagen School *Review of International Studies*, 22 (1), Jan, 1996, (pp. 81-94)

⁴⁴⁹Higgins, N. A. Question of Style; the Politics and Ethic of Cultural Conversation in Rorty and Connolly. *Global Society*, 10 (1), January 1996, (pp. 25-42)

⁴⁵⁰Jabri, [Textualising]

In circumstances of duress, difference and dissent are likely to prove high risk, as is ambiguity. The: "romance of the nation-state"⁴⁵¹ becomes the source of primary loyalty, and the national homeland assumes huge significance. The demand that outsiders take sides, the punishment of collaborators and the stereotyping of the enemy other, are all instances of the polarised response that can be observed in conflicts. So, for example, there was a furore when British and American citizens were found among the captured Taliban in Afghanistan⁴⁵². Ideologues have often taken part in foreign wars, but in this case, being *with* the Taliban entailed being *against* Britain and America, and there were some overheated demands that the men concerned should be charged with treason⁴⁵³.

The suspicion of divided loyalty has often been directed at immigrants. Kymlicka⁴⁵⁴ plausibly suggests that the causes are twofold. Indigenous minorities are particularly resentful of newcomers who generally aspire to incorporation and advancement within the majority nation, and only rarely extend loyalty to the minority. Further, the newcomers' assimilation in the majority culture undermines the existing minority's claims for special protections and exemptions. The majority may be equally illiberal in its attitude to newcomers, as illustrated by Mr Tebbit's fatuous: "cricket test"⁴⁵⁵, but Muslims, like Jews in the UK, face an additional hurdle; Jews are assumed to support Israeli government policy, and Muslims to favour the actions of all Islamic states. "My Islamic identity bypasses concepts of

⁴⁵¹O' Neill, O. Justice and Boundaries. In: Brown, C. (Ed.) *Political Restructuring in Europe*. Routledge, London, New York, 1994, (pp. 69-88) [Justice and]

⁴⁵²Independent on Sunday. "We help Britons join Taliban, say militants" 4/11/2001

⁴⁵³Time Europe. November 12. 2001/158(20)

⁴⁵⁴Kymlicka, W. Immigrants, Integration and Multi-nationalism. Nationalism, Identity and Minority Rights Conference. University of Bristol, September 1999 [Immigrants]

⁴⁵⁵A Conservative peer, Norman Tebbit, suggested that proof of Britishness could be deduced from observing whether supporters favoured the British or Pakistani cricket team.

nationalism”, laments one Briton⁴⁵⁶, although Al-Muhajiroun, an extremist group, claimed:

“Our allegiance is solely to Allah and his Messenger, not to the Queen and country. Nationality...means nothing”⁴⁵⁷.

As indicated earlier (1:1), the ideology of the nation competes with the ideology of religion at the transition between the pre-modern and modern, but the modern *Weltanschauung* demands a single loyalty. British mistrust of non-Anglican religions may be a hangover from the Reformation. The breach with Papal authority was, in England, as much a matter of politics as it was of belief. Although intended to curtail the spiritual jurisdiction of Rome, it was also to escape subordination by Spain and France, the principal powers of the time. The conversion to Protestantism was not left to conscience. The full weight of the state was brought to bear, and English Catholics faced legal persecution well into the twentieth century⁴⁵⁸, and Guy Fawkes is still burned in effigy on November 5th. As noted before (3:2), Anderson’s formulation of nation as imagined kin offers a valuable insight; at its most basic, kinship divides the world into kinsmen and enemies.

Miller⁴⁵⁹ suggests that there are three types of nationalist claims which can be subsumed under the headings; self-determination, culture and bounded obligations. Although these issues are interlinked, claims based on cultural factors or bounded obligations are subordinate to a claim to self-determination. That is, claims can be made for or about culture, or bounded obligation, without advancing a claim to self-determination, but a claim to self-determination cannot be made independently of these other issues. A nation may make a

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Independent on Sunday. 4/11/2001

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Time Europe. November 12. 2001/158(20)

⁴⁵⁸The primary articles of legislation easing discrimination were: the Roman Catholic Relief Act, 1791, the Catholic Emancipation Act, 1829, the Roman Catholic Charities Act, 1832 and the Roman Catholic Relief act of 1926. However, the Act of Settlement, 1701, which prohibits the monarch to marry a Catholic, remains in force.

⁴⁵⁹Miller, [On Nationality]

claim to self-determination because of a shared cultural identity and feelings of mutual obligation to fellow members, but it is less clear that claims for identity or obligation can be made because of self-determination, which perhaps indicates why attempts at nation building in the post-colonial states has largely been fruitless. I turn next to bounded obligation.

(4:2) Nation as birthright.

The joys of inclusion.

Communities share something in common. The shared aspect may be anything; a fondness for opera, a mistrust of Keynesian economics, left-handedness. In this chapter, the communities under consideration share kinship, however reckoned or imagined⁴⁶⁰. In any event, inclusion predicates exclusion; any community smaller than the whole of humanity necessarily entails outsiders, with their own communities. This raises some of the dilemmas already considered in the previous chapter (3:2) regarding the justifications for self-determination. Again, the Anglo/liberal and romantic traditions are dichotomised, respectively taking a cosmopolitan and communitarian approach to the value of the nation. Both attempt to reconcile personal autonomy with the nation, and each prescribes different solutions. For the Anglo/liberals, nation is essentially functional; a social organising factor to be judged by the outcome, and having value only in so far as it is derived from the prior moral value of the individual. Rights and obligations are thus universal. For the romantics, the value of men lies not in what they all have in common, but in what distinguishes one nation from another. The nation in which individuals are embedded and which constitutes them thus has moral value, because it is only within the nation that rights and obligations can be realised⁴⁶¹.

Membership of the nation is unconditional and does not need to be earned. There are no entry tests or hurdles to pass in order to qualify; one is simply born into it. Such easy inclusion is, at first glance, attractive given the negative and

⁴⁶⁰As indicated in the previous chapter (3:3) there is huge variation in kinship reckoning.

⁴⁶¹Hoffman, M. Normative international theory: approaches and issues. In: Groom, J. and Light, M. (Eds.) *Contemporary International Relations: A Guide to Theory*. Pinter Publishers, London, New York, 1994, (pp. 27-44)

elitist connotations of exclusivity. However, as no one chooses the nation they are born to, nor whether theirs is a happy majority or a reviled minority, accident of birth is a dubious distinction on which to base future life chances. As Miller⁴⁶² notes, an imposed identity is not the best basis for evaluating moral worth, and this seriously weakens the nation's claim to special status. Nevertheless, it is clear that kin do make claims on each other, and for communitarians this is reflected in social structures that assume bounded obligations. However, the foundational division between kin and enemy noted above (4:1) does not necessarily place nations at odds with each other, nor always entail greater obligations to fellow nationals than strangers. For cosmopolitans, near kin are not accorded moral priority; the only kin group recognised is humanity, and this is reflected in the social role of sharing and mutual aid, which in small scale communities works on the basis of generalised reciprocity.

Sharing and social identity: Generalised, balanced and negative reciprocity.

A community structured to reflect a cosmopolitan approach to kin⁴⁶³ is essentially an unbounded association of individuals, based on practical cooperation and: "successive integrations of inclusive incorporation"⁴⁶⁴. Their self-perception embraces humanity, which is why so often their name for themselves translates as mankind⁴⁶⁵. Communities of this kind share *in*. That is, social relationships are based on generalised reciprocity, where resources are

⁴⁶²Miller, [On Nationality]

⁴⁶³Ingold refers to bands and tribes which correspond to the foragers and agriculturalists introduced in Chapter One (1:2). Both are historically pre-modern social constructs, but subsistence strategies apart, represent contemporary world-views. They also reflect the normative dichotomy of the cosmopolitans and communitarians under consideration here.

⁴⁶⁴Ingold (p. 237)

⁴⁶⁵It is of course equally possible that band societies experienced such limited contact with alien cultures that they were unable to select any significant features that distinguished themselves from others. See (4:4).

shared without strict measurement or obligation to repay, on the understanding that sharing entails a moral obligation to share again in the future. Generalised reciprocity is a common distributive mechanism within the immediate family; social and material goods are pooled, and distribution is determined by need. The failure of the Soviet attempt at communism may indicate that generalised reciprocity cannot work on a large scale. In contrast, a community reflecting communitarian kin ties, where kin are differentiated from enemy others:

“see themselves as belonging to a distinct social and ethnic group, in a world that includes other such groups to which they stand opposed. From the start, then, personal identity is founded upon a principle of exclusion”⁴⁶⁶.

Internally, the community is socially stratified, through a series of successive differentiations, which is a function of its external boundedness; they share *out* between social strata. In Sahlin’s elaboration of the concept, this represents balanced reciprocity, which is essentially an economic exchange of goods and services. Negative reciprocity is a feature of social distance or relations between enemy groups, where the goal is to maximise utility at the expense of the other party, and may range from haggling and theft to warfare. Balanced reciprocity would seem to be the dominant organising principle in the modern world of states, and probably has been since the Neolithic⁴⁶⁷. It is predicated on bounded and discrete communities, and private ownership. Social and material goods are distributed only in exchange for others. Need generates an entitlement only to charity or compassion. Nations are communities of this kind.

⁴⁶⁶Ingold (p. 236)

⁴⁶⁷For example, settled agriculture requires a high labour investment, whether clearing land or tending crops and livestock, which make these valuable assets. Once property is individuated, generalised reciprocity penalises the industrious and favours the free rider.

Familiarity and manageability: Obligations within and between communities.

Within the nation, shared culture, particularly language, facilitate communication and mutual understanding between fellows, and Miller suggests that this familiarity makes them better equipped to recognise and act on each other's needs. A disadvantaged member of the nation may appeal to his fellows for help, or apply to whatever social institutions the nation has established to make welfare distribution. Self-interest sustains the justification of bounded obligation on the grounds of reciprocation and mutual benefit. Goods and services are willingly given to the needy on the understanding that, should circumstances change and the willing givers become needy, they too will be cared for. The difficulty here is that, in the modern world, tax and welfare distribution is the business of the state. National or other variants of identity are not central to public administration, although reciprocal obligations on the basis of nationality may act as a safety net where formal civic institutions are inadequate, in which case informal or privatised social provision may become a challenge to the state. There may also be specific provision by the state for communities with special needs. In Britain, for example, Sikhs are exempt from the requirement to wear motorcycle crash helmets, campsites are provided for Gypsies, and faith based schools receive state funding⁴⁶⁸.

Free riders pose a difficulty for the economic model of social obligation, but the most profound objection is that nations and states are unequal in their ability to provide for their members. On the international scene, the arguments in favour of reciprocal obligation appears somewhat self serving. It justifies the *status quo* and the disparity between rich and poor. Many would agree that the well off bear a

⁴⁶⁸The Road Traffic Act 1988 (c. 52) Part 1, 16 (2) exempts turban wearing Sikhs from the requirement to wear protective headgear whilst riding motorcycles. The Criminal Justice and Public Order Act (1994) freed local authorities from the obligation to provide sites; there is a bill underway to consolidate the wide range of laws that affect Gypsies. There is also a bill, strongly supported by the National Association of Schoolmasters Union of Women Teachers, that would halt the creation of further faith schools of any denomination.

duty of charity to the needy, but as Buchanan notes, there is little agreement as to how much, or even what should be shared. Should this extend to equality of impoverishment? If a nation or state is well off by virtue of its members' hard work and diligence, what is its obligation to a needy neighbour who has become so through its own acts of profligacy or fecklessness? Does need generate a right to assistance?

Does a duty to give entail a right to receive?

Jackson suggests that need generates a claim, a stance endorsed by Beitz and O'Neill⁴⁶⁹ for example, whereas others such as Miller and Tamir take a more particularist stance that endorses greater obligation to family, friends and fellow nationals. Barry⁴⁷⁰ sensibly concludes that both positions are valid; there is an obligation to fellows, but this does not negate a humanitarian impulse to help strangers, but this is essentially limited to charity and the ability to pay. Jackson likewise notes that special protections can be effective and justified in redressing wrongs within domestic society, but is clearly not persuaded that the same holds for: "international affirmative action"⁴⁷¹. Within a state, a disadvantaged minority can receive special benefits without destabilising the whole community, and it may be assumed that the majority feels an obligation to assist the minority, either in recompense for past injustice, or simply because they are present and are needy. The sense of familiarity and responsibility within a nation or state rarely extends to foreign ones in need. Further, needs are, as Walzer⁴⁷² suggests, not always self-evident.

⁴⁶⁹O'Neill, O. *Toward Justice and Virtue. A constructive account of practical reasoning.* Cambridge University Press, Cambridge, New York, 1996
[Toward Justice]

⁴⁷⁰Barry, B. *Democracy, Power and Justice. Essays in Political Theory.* Clarendon Press, Oxford, 1989 [Democracy]

⁴⁷¹Jackson (p. 134)

⁴⁷²Walzer, [Spheres]

What should be shared with a community?

Subsistence and security requirements may be met by a myriad of strategies, and will be determined in accordance with what is locally deemed the public good. Walzer's⁴⁷³ favourite illustration of how conceptualisations of public goods can differ radically is the contrast between the medieval cure of souls and the modern Western cure of bodies. The latter consumes on average nearly 9% national wealth⁴⁷⁴ and is a matter of intense political and public concern, but souls are not. As Berlin suggests, each represents a realisation of what is good, but only on its own terms⁴⁷⁵. Although generally presented in terms of welfare distribution and the provision of publicly financed services, reciprocation is not limited to the economic sphere, although this may be obscured by the fungibility of money in Western societies.

A financial benefit, for example, would be inappropriate to someone in acute need of medical treatment. "*People conceive and create goods, which they then distribute among themselves*"⁴⁷⁶ and each has its own culturally appropriate distributive agency, which is inherent to its social value. How each is conceived, created, possessed and employed is formative of social identity; me and mine are blurred. Gift exchange, for example, is entirely distinct from a financial exchange, and bribery is regarded as corrupt, which reflects the belief that certain transactions should not be financially mediated. Mauss⁴⁷⁷ postulates an elementary morality of reciprocation, which creates and cements relationships between both individuals and communities. Social identity and prestige are

⁴⁷³Walzer, [Thick and Thin]

⁴⁷⁴Institute for Fiscal Studies. Briefing note 21, January 2002

⁴⁷⁵Berlin, [Crooked Timber]

⁴⁷⁶Walzer, [Spheres] (p. 6)

⁴⁷⁷Mauss, M. *The gift: forms and functions of exchange in archaic societies*.
Cunnison, I. (transl.) Evans-Pritchard, E. (introduction) Cohen & West,
London, 1954

conferred by the nature of the gift, which obliges their acceptance and their repayment⁴⁷⁸.

Each social good has its own autonomous sphere, and seepage between them is generally frowned upon. Success in one should not confer an unfair advantage in another. Seepage between the spheres does occur, and Walzer acknowledges that most societies work on the social equivalent of the gold standard:

“And then all good things come to those who have the one best thing. Possess that one, and the others come in train”⁴⁷⁹.

Walzer argues that no single good is entirely dominant or entirely successful in monopolising all social goods, in part because those successful in one sphere will strive to maintain their dominance and autonomy. However, amongst the social goods that are to be distributed is membership of the community itself:

“It is the crucial agency of distributive justice; it guards the boundaries within which every social good is distributed and deployed”⁴⁸⁰.

Membership is the one best thing. This is a very strong endorsement of the easy inclusion conferred on a national by accident of birth, but it also highlights Gellner’s point about rootlessness; lack of nation is the one worst thing.

⁴⁷⁸Where Walzer argues that personal identity is shaped by life’s transactions and interactions, Mauss speaks of *hau*, the spirit of the gift, which is that part of the person of the giver that remains imbued in the gift. For both, it is past transactions that obligate reciprocation.

⁴⁷⁹Walzer, [Spheres] (p. 11)

⁴⁸⁰Walzer, [Spheres] (p. 281)

(4:3) Nations: The One Best Thing.

National self-determination is the only game in town.

Nations are cherished for many reasons. They connect people to place, and nurture a sense of identity and belonging that is effortlessly inclusive in a way that membership of a professional association or a neighbourhood or yacht club do not. The nation is wholly owned, not as an item of property that can be disposed of or exchanged, but in the same way that children own their parents or siblings; it is ours⁴⁸¹. It is the one best thing because membership confers entitlement to all the other valued social goods that are within the nation's gift. However, a claim to nationhood is not simply an assertion of communal identity and a demand for cultural respect. As Miller⁴⁸² notes, culture and ethnicity would do as well. Claiming nationhood adds a further dimension to social identity because it stakes a claim to sovereignty.

Statehood, as illustrated previously (3:1), is a highly valuable prize in the modern world of sovereign states, but the price of gaining it can be high, as the ruinous wars accompanying secession attempts illustrate⁴⁸³. The stakes are high, and not just for the aspirant nation. The object of the sovereignty game is to win it, not to change it⁴⁸⁴. For existing states it is a zero sum game, and they benefit from the *status quo*. Further, nationality is self-ascribed, but as there is no agreed set of national credentials, almost any community could join the queue of nations in waiting, so the authenticity or antiquity of the nation is, as indicated (3:3), not likely to bolster a claim to self-determination. The past offers little

⁴⁸¹Berlin, [Against]

⁴⁸²Miller, [On Nationality]

⁴⁸³Contemporary secessionist attempts in Chechnya, Palestine and Aceh, for example, highlight the difficulty of prevailing through use of force against a more powerful host state. It also raises the issue of their own conduct, and I return to this in Chapter Six.

⁴⁸⁴Jackson

guide; as illustrated in the first two chapters, nations have achieved statehood through a mix of political expediency and luck. Nations often display a sense of grievance, and it is intuitively plausible that a nation with convincing evidence of victimisation may have its claim to self-determination treated sympathetically, and I return to this in Chapter Six. As Smith⁴⁸⁵ suggests, self-determination is the nationalists' supreme value, and it was the big idea of the twentieth century⁴⁸⁶. A claim to nationhood is both an end in itself and a political strategy.

Nationhood as an end in itself.

Although, for the most part, I have treated statehood as the nation's goal and the measure of its success, this is not always the case. Self-determination for some may be satisfied more modestly, through funding for language teaching, cultural celebrations, or limited political autonomy, as in the case of Manx, *Eisteddfods* and Scottish devolution. Cobban, for example, writing of Upper Silesia after the First World War, notes with some puzzlement that:

“many of the inhabitants seem to have remained for years uncertain whether they were Poles or Germans, and in no hurry to make up their minds”⁴⁸⁷.

He may have simply overlooked the possibility that they considered themselves Silesians. It may also have been the case that in 1918 they had not yet noticed the big idea, or that they were happy in the enjoyment of their rights and civil liberties. By the end of the century, the sleeping beauty had stirred, and there is now a growing Movement for Silesian Autonomy⁴⁸⁸. Similarly, the Lazi referred to in Chapter Three (3:4), seem content to consider themselves Turks, and have

⁴⁸⁵Smith, [Twentieth Century]

⁴⁸⁶Heater

⁴⁸⁷Cobban (p. 62)

⁴⁸⁸Economist “Not so pure?” 29/11/1997

made no nationality claims, although this may change, as Haan reports with some irritation that a German scholar, Feurenstein, is assiduously promoting Lazi nationalism, through recording and codifying their language, collating folktales, and trying to construct a sense of Lazi national identity. The nineteenth century logic being pursued here would indicate that, once imbued with a sense of denied nationality, the Lazi will demand more autonomy or outright secession from Turkey and unification with their fellow Lazi across the border in Georgia. It may be that the Lazi and Silesians are free from persecution, and are satisfied that their rights and liberties are protected in the democratic states that are their homes. Their identities are both Lazi and Turkish, Silesian and Polish. Previously less satisfied, Macedonia's Albanian speaking minority remain, for the moment, content to be Macedonians. After a brief insurgency in 2001, their grievances have been accommodated through recently introduced legal protections and the elevation of Albanian to an official language⁴⁸⁹. There are of course many deeply unhappy people who define their grievances explicitly in terms of nationality. For Palestinians, Kashmiris, Basques and many others, a claim to nation is a claim to self-determination that can only be satisfied through full state sovereignty.

Nationhood as a strategy.

The present is modern, both chronologically and in terms of the dominant *Weltanschauung*, but the moderns cohabit with late-modern and pre-modern⁴⁹⁰. Now, whilst the pre-moderns and late-moderns do not share the aspirations and beliefs of the moderns, they are well aware that the moderns hold all the trumps. As outlined in Chapter Three, the laws, norms and practice of modernity render

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Independent 20/6/2002

⁴⁹⁰ It is improbable that the world harbours people who have been entirely without contact with modernity. I take pre-moderns to be those peoples who seem not to have embraced modernity or late-modernity, but who have adopted or retained a world-view that approximates to the historical pre-modern.

the state supreme, and MacCormick is convincing when he suggests that sovereignty is the moderns' fetish. Nations, as the historical precursor of the state and the idea that gives it legitimacy are therefore seen as a necessary condition of autonomy. Although autonomy short of sovereignty may be satisfactory for pragmatic reasons, a claim to sovereignty is, as Marion-Young suggests, a forceful counter-claim and bargaining strategy. For the ambitious, statehood is a goal with many prizes⁴⁹¹, and nation is again the main qualification for advancement.

The modern world works by modern rules.

Nations are embedded in states. Some are happy with their lot, others less so, and others have yet to awaken, but as indicated previously, this is not an issue that remains settled for long. Regional assemblies for the Scots and Welsh, or Basques and Catalans, may lead to demands for greater autonomy, or encourage the Cornish and Almerians to demand autonomy too. However, rather than fragmenting into ever tinier states, increased autonomy for local national identities may further indicate the transition to late-modern. The speakers of Basque and Catalan seem to be hedging their bets; each claim to be distinct nations, with the usual well documented historical support, roots in antiquity and so on, but they also want regional representation at the EU. This may be less a move to late-modern than a tactical recognition that their distinctive languages make integration and inward migration unattractive. As Catalonia's Jordi Pujol notes, this is the: "worm in the golden apple of power and money for which all are reaching"⁴⁹². Nevertheless, it would appear that regional pride is being fostered within the security of the EU. England's north-east, for example, is delving back to the sixth century to recover symbols that might act as a rallying

⁴⁹¹Österud

⁴⁹²

Economist "Catalonia's Jordi Pujol" 13/4/2002

point for the Geordie nation⁴⁹³. Although the nation and modernity emerged in tandem in its European homeland, the link is less conspicuous elsewhere.

Oman and Kuwait, for example, are sovereign states. In their status, and economic exchanges with the rest of the world they are modern, but internally they are patriarchal dynastic realms, and thus pre-modern. Reforms⁴⁹⁴ leading to some modernisation of their domestic political institutions have been introduced, and in due course, loyalty to house may be extended to encompass fellow citizens as the source of legitimacy; they may become internally modern. Whether this also engenders a sense of nationality remains to be seen. As Archard⁴⁹⁵ notes, nations have both a centrifugal tendency to assert identity in ways that fragment a state, and a centripetal tendency to assert it through the suppression of differences within it. Nation building has been used to create a sense of unity amongst the diverse peoples who found themselves sharing a state after decolonisation, but nationalist rhetoric has also been divisive, and has been used as a strategy to enhance local sub-state power, as in the former Yugoslavia and Czechoslovakia. Religion has been harnessed to bolster nation, as in Ireland, but the idea of nation has also been used as a secular counter to religious power, as in Algeria. It would be misleading to characterise this as opposition between modern and pre-modern. Although religious fundamentalism is essentially pre-modern in outlook, religious belief is not necessarily incompatible with modernity. Further, religious fundamentalists are embedded in the modern state, and use the tools of modernity to enhance their position.

In Israel for example, although some ultra orthodox groups have attempted to isolate themselves from mainstream secular society, they are reliant on it for goods, services and security, and are represented by a variety of religiously

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Economist "Put out more flags" 4/3/2000

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Economist "Like Father like Son" 2/6/2001

⁴⁹⁵ Archard, D

Independent, 2/7/2000

affiliated political parties in the Knesset. Sandler⁴⁹⁶ notes the irony of Shas' television broadcasts decrying modernity and secularisation through the very medium that epitomises both. This may represent an accommodation with reality; modern social and political structures, like advancements in technology, are elements of the social environment that cannot be wished away. For example, Morin and Saladin⁴⁹⁷ identify Siberian Yukagir, Arctic Inuit and Amazonian Iquitos as new nations, which, following Gellner (1:2) they conclude is incompatible with their pre-modern world-view, but they also note that the leaders of the most successful indigenous political groups have been educated in the host state's culture, so are able to play by its rules. Although the pre-modern and modern *Weltanschauungs* are mutually incompatible at the personal level⁴⁹⁸, they seem to have overlooked the possibility that the educated elite may hold a modern world-view whilst their traditionally educated fellows may not. It may also be the case that indigenes are adapting; wishing to protect their culture and traditions, they are taking what they can from the modern world to preserve the pre-modern. The !Kung San, for example, consider landscape to be an integral aspect of their identity; they are owned by the land. The idea that it could be treated as a commodity, or become individuated property is preposterous. This has not prevented them from playing by Western rules and they are now making territorial claims⁴⁹⁹. The forager's world-view is very robust, and able to exploit a wide range of subsistence strategies and environments⁵⁰⁰. They are essentially

⁴⁹⁶Sandler, S. Rabin and the Religious parties: The Limits of Power Sharing. In: Freedman, R. (Ed.) *Israel Under Rabin*. Westview press, Boulder, Oxford, 1995, (pp. 169-188)

⁴⁹⁷Morin, F. & Ethnicity as a Political Tool for Indigenous Peoples. In: Govers, C. and Saladin, B Vermeulen, H. (Eds.) *The Politics of Ethnic Consciousness*. Macmillan Press Ltd, New York, 1997, (pp. 157-193)

⁴⁹⁸This may not be true. Religious faith and the authority of the Church were inseparable from the social and political institutions of the pre-modern, and provided a unifying rationale for their world-view. An individual with such a holistic approach might find the modern, with its separation of faith, politics, culture into largely autonomous spheres, difficult to accommodate.

⁴⁹⁹Radio 4 Series.12/3/ 2001

⁵⁰⁰Schrire

opportunists, and may be well equipped to take advantage of the modern whilst retaining their forager outlook, as indicated by the Leco Aguachile of Bolivia:

“The first thing was to recuperate our identity, to show how we are a nation which existed before the Europeans, before the invasion of the Incas, before the empire of the Tihuanacu”⁵⁰¹.

In an additional appeal to modern sensibilities, they have also asserted their green credentials: “The Amazon is the last lung of the world, and we protect it for everyone”⁵⁰². Other examples can be found among Australian aborigines who are foragers of welfare cheques, Inuit hunters using Snow Cats and rifles⁵⁰³, and Silicon Valley’s Generation X, foragers in the knowledge economy.

Previously (3:4), it was suggested that Gypsies do not claim to be a nation. They lack the shared features that would allow their nation to be easily awakened, they are widely dispersed with no traditional territorial home-land, and are linguistically and culturally diverse, but they are united in their sense of victimisation. They have suffered from: “being regarded as sub-human by most majorities in Europe”⁵⁰⁴, and they may find that a claim to nation is the best strategy for their protection. Hardt and Negri argue that the meaning of nation has been transformed in the past few decades and it is now impossible to imagine such communities as anything other than a nation; they may be correct, but this is hardly a new insight. The Jews of Europe were equally heterogeneous and nationless, until the nineteenth century political activism of Zionism⁵⁰⁵. The

⁵⁰¹ Guardian, 3/7/2001

⁵⁰² Guardian, 3/7/2001

⁵⁰³ After decades of negotiations, on 1/4/1999, Nunavut became a new self-governing territory in Canada. Although its population is 85% Inuit, the constitution is suitably liberal and gives equal rights to non-Inuit residents. This is in contrast to less successful aboriginal groups, who have based their claims to self-determination on ethnic exclusivity, and have occasionally resorted to violence. Economist Survey of Canada 24/7/1999

⁵⁰⁴ Economist “Are they a nation?” 25/11/2000

⁵⁰⁵ Vital, D. *A People Apart: The Jews in Europe 1789-1939*. Oxford University

president of the International Romany Union, a Slovak born lawyer, Emil Scuka seems to be pursuing this tactic in trying to promote a standard and written form of language, the adoption of a flag and so on⁵⁰⁶. The long history of forced assimilation of national minorities and their frequent persecution make a claim to nation a stronger claim to protection than a claim to language or culture⁵⁰⁷. It may also be that the aspirations of their host countries to join the EU will lead to domestic reform and better protections at home. Gypsies may then be happy to remain citizens of their home states; with their rights and liberties secured, they may no longer feel the need to present their community as a nation.

National claims to self-determination is a high risk strategy.

Whilst a claim to nation is a good strategy for advancement to the goal of statehood, and all the special privileges that go with it, it is evident that this is effective in only some cases⁵⁰⁸. As illustrated in Chapter Two, although the number of recognised states increased dramatically during the twentieth century, it was a rather haphazard affair. Statehood was achieved through a mix of expediency and luck, and despite the prevalence of armed liberation movements in the former colonies and still on-going nationalist conflicts, few nations have achieved statehood through force of arms and the fervent wishes of the community alone. Eritrea, Bangladesh and East Timor⁵⁰⁹ are possible exceptions, but their elevation to statehood crucially rested on the recognition of their former host states and the wider international community. As Smith suggests, secession is rarely successful. The whole sovereignty game is stacked against success, and the risks are huge. As an instrumental strategy, this is not a

Press, New York, 1999

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Economist "Are they a nation?" 25/11/2000

⁵⁰⁷ Miller, [On Nationality]

⁵⁰⁸ Smith, [Nationalism and]

⁵⁰⁹ East Timor also received outside help in the form of UN authorised intervention to supervise the withdrawal of Indonesia.

rational choice, but people are not always rational. Further, whilst self-determination may have been the big idea of the twentieth century⁵¹⁰, it was evidently not the only one.

Denied self-determination is not the only source of misery.

Nor was it the central issue in all conflicts, although it may have been presented as such. Self-determination is neither the solution to all difficulties, nor its absence the cause of all, although much is attributed to it; the collapse of empires, the cause of both World Wars, the motivation behind the decolonisation process, even the Cold War may be presented as attempts by rival ideologies to seek a space in which to determine themselves. This depiction is tenable but partial. Many of the former blue water colonies have been self-determining for decades, yet barely resemble the longer established states, although change is afoot. Fundamental reform is being attempted, notably in South Africa, Ethiopia and Uganda, but the experience of much of Africa has reinforced Gellner's⁵¹¹ argument, noted in Chapter One (1:4), that modernisation is a precondition of successful national self-determination. However, the transition to modernity and the process of industrialisation in the West was also protracted and painful. Perhaps this is inevitable. The long list of collapsed states that run from Angola to Zaire would indicate that in circumstances of endemic conflict, self-determination is not really at issue. There is no self to claim it, although national, cultural, ethnic or religious differences may be dragooned in explanation. For example, the Berber speaking Kabyles of eastern Algeria fought alongside Arab speaking Algerians in the decolonisation wars, and expected to be rewarded with self-determination too, but President Ben Bella refused on grounds that: "We are all

⁵¹⁰Heater

⁵¹¹Gellner, [Nationalism]

Arabs”⁵¹². Independence from France and statehood in 1962, did not bring a solution to their social and economic problems, although this was ignored by the authorities who portrayed their anger in nationalist terms as part of the long-standing demand for Berber language rights, and a virtual secessionist plot. However, Arab demonstrators have:

“shouted... ‘*Nous sommes tous des Kabyles*’ to make the point that they too want jobs, housing and respect from the authorities”⁵¹³.

Likewise Congo, independent since 1960, and facing the aftermath of years of misrule by Mobutu Sese Seko, suffered incursions in 2001 from some 100,000 foreign troops. Half were rebels using Congo as a base from which to attack their home state, some were there to pursue their own rebels, some to support the Congolese rebels, others the government. They all took advantage of the mines, plantations, forests and other resources to hand, and it is unlikely that any of them were: “poorer when they leave Congo than when they came in”⁵¹⁴. This is banditry and exploitation on a huge scale, not action in pursuit of the principle of self-determination. As noted in Chapter Two (2:4), the post-Cold War years have seen a surge in UN membership.

For some, this may indeed symbolise their newly self-determining status, but for others it would appear to be an attempt to gain respectability; Nauru, the Marshall Islands and Liechtenstein are listed as persistent offenders on the G7’s Action Task Force on Money Laundering⁵¹⁵. Elsewhere, the picture is less bleak. Some of the recently independent states of Eastern Europe do match Gellner’s profile of the modern; they are nationally self-aware, industrialisation is proceeding and they seek membership of modern institutions such as NATO

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and the EU. Estonia, for example, aspires to be an honorary Nordic, Lithuania models itself on Poland, and Slovenia has de-Balkanised and is modelling its self on modern Austria.

Membership of the community is the one best thing, because it is the gateway to all the social goods that the community has to offer. It is the social gold standard⁵¹⁶ that applies to membership of the community of states, as well as membership of the nation. However, whilst nations share similarities to both states and kin based communities, they do differ. The entry criteria for both is generally birth, but each has its own mechanisms for proving evidence of membership. The state usually has formal administrative procedures for registration and the allocation of documents that prove entitlements to vote, to residency, welfare and the like. With extended kin, evidence of membership comes from parents and siblings, and a network of more distant relations. Nations have neither the formal procedures of the state or the informal confirmation possible within a family. Given the variety in which nations are imagined, the absence of agreed definitions and the evident temporal and spatial fluidity of the concept, how can a nation decide who is a member?

⁵¹⁶Walzer, [Spheres]

(4:4) Nations: The Gold Standard?

Where to draw the line?

Boundaries are essential because they distinguish between what something is, and what it is not. As Williams⁵¹⁷ notes, they are foundational in the sovereignty game as they serve to determine the state:

“In sum, a bounded territory can either be interpreted as a necessary condition of sovereignty, or conversely, sovereignty can be interpreted as a necessary condition of a bounded territory”⁵¹⁸.

Physical boundaries determine the limits of the state’s jurisdiction, the extent of its control over land, sea and air. As so much rests on the precise demarcation of borders, there is little agreement as to how they should be determined. No state is willing to relinquish a claim to something that might give it an advantage in the sovereignty game. There are various agreements and instruments governing rights over territorial air space⁵¹⁹, for example, but there is no common agreement as to where it starts or finishes. Land borders, the extent of territorial waters, even in purely geographical terms the tangible dimensions of a state are hard to place. Add in historical claims, strategic and security considerations, opportunism and long running counterclaims, and indeterminate physical boundaries appear inevitable. Now if such a solid fact as a state is hard to delineate, the matter becomes even more problematic for a

⁵¹⁷Williams, J. The Ethics of Borders and the Borders of Ethics: International Society and Rights and Duties of special Beneficence. Global Society 13 (4), October 1999, (pp. 467-488)

⁵¹⁸Bartelson, [Genealogy] (p. 30)

⁵¹⁹Most of the rules governing civil aviation were introduced in the 1940s and 1950s, with amendments to accommodate changes, such as the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, which followed a spate of aircraft high-jackings. The regulations governing space were introduced in the late 1950s and early 1960s, with later instruments such as the 1979 Agreement Governing the Activities of States on the Moon and Other Celestial Bodies introduced following unanticipated incidences, such as the crash of the Soviet Cosmos 954 in Canada. Other relevant legislation governs the use of military air and spacecraft, and orbiting satellites.

nation. At least with states, there is an extensive body of law and practice devoted to what they may or may not do, what their responsibilities are, how they should act and so on. Even if their precise boundaries are not always clear, there is a good deal of agreement as to what a state is. There is no similar consensus regarding nations.

Nation spotting: the empirical approach.

The idea of nation is hard to pin down because it is constantly shifting. An exact definition could be crafted for one specific nation, but it is unlikely to remain accurate for long, let alone serve well for many others. It would be possible to draw a box, and fill in the national characteristics for the selected nation; culture, language, religion, important elements of social etiquette and so on. A similar exercise could be conducted for all nations, so that for a time at least, there was a profile of all of them. The selection of what should go in the box would be disputable, but this could be left to the nations themselves. They know who they are, and what it means to be a nation, so they could select the important things about themselves that makes them unique. However, this view of separate: “culture islands” has been discredited since Barth published his seminal work on boundary maintenance.

An empirical approach to identifying nations rests on two unsafe assumptions; that a nation is a discrete body which can be distinguished from its neighbours, and that it remains identifiably coherent over time. Both assumptions imply that there are more or less clear boundaries that demarcate the edge of a nation, and that the enclosed national culture remains constant. Nationalist stories usually present this as the case, and a billiard ball model holds reasonably well for states. International law and state practice are, as Jackson suggests, aimed at maintaining the *status quo*, but there is no analogous containing mechanism for nations, and it is evident that none can remain in pristine isolation and impervious to change; new ideas, practices and people are always being

incorporated. How then does a nation remain a nation in the face of such porosity?

How nations identify themselves.

Not all elements of nation are equally fluid. Landscape and attachment to place remain constant elements in the various formulations of nation⁵²⁰. Place necessarily has a spatial dimension, so nations are anchored, but as noted previously (3:3), the link to national identity is essentially a matter of tenure and social relations, rather than property rights. Nation is a vehicle for distinguishing between self and other. It defines who may properly belong to a place, and who is merely visiting. Belonging and not belonging are nuanced, although not unambiguously. For example, a Scot who asserts Gaelic identity is declaring affinity with the Highlands and Islands in a way that simply being Scottish does not, and whilst a Scot could plausibly be designated British, European or a UK national, to be Scottish is to be definitively not English:

“Ethnocentricity is the natural condition of mankind. Most peoples of the world do not, in their conservative heart of hearts, like foreigners and display feelings of hostility (often tinged with fear) towards them. This indeed is one of the most widespread ways in which people declare and affirm their identity- by saying who they are not”⁵²¹.

It is at the boundaries that reflexive self-identity is formed through awareness of the other, and it is only after the difference has been discerned that cultural aspects become symbolic markers of identity. As Smith concludes, symbols and myths act as border guards. Reflexivity and reformulation of identity are most acute at the margins because it is the contrast with others that illuminates the differences that render the self unique. By discerning identity in opposition

⁵²⁰Diaspora nations usually hold an idea of the ancestral homeland, even if they have been settled elsewhere for generations. Gypsies are possibly unique in not having a memory of home, and this may prove to be the main stumbling block in their attempt to gain national recognition.

⁵²¹Lewis, [Social Anthropology] (p. 15)

to the other, a claim to nation is also a negative assertion of what one is not. So, in Northern Ireland, for example, political and religious affiliations mark the boundary between self and other, whilst in Canada language is the symbol of difference. In other contexts, the boundary falls between self and the rest; nation is: “posed against the undifferentiated and homogeneous space of global networks”⁵²². In each context, the role of social boundaries is to fix unity on the inside, and to shift diversity, danger and disruption to the outside⁵²³.

The civilised self and the barbaric other.

The process by which the civilised self is contrasted with the barbaric other is of course varied, but there seems to be a universal cultural trait that makes food an ideal medium. All societies have rules and taboos governing food, and as noted earlier (1:1), the: “yuck factor” is also culturally specific. It is very easy to identify as outsiders, and to demonise, people whose eating habits appear disgusting⁵²⁴; it is a tactic in the: “languages of location”⁵²⁵. As suggested previously (3:4), nationhood is self-ascribed. It is claimed by a group of people who consider themselves to be a nation, and it is therefore not possible for outsiders to predict which cultural similarities will be selected as the ones that signal inclusion in the nation. Nations remain nations because the criteria for determining membership, and the ways of signalling inclusion or exclusion are mutually understood. This can result in national stereotyping; haggis and heavy may symbolise the Scot, but this says little about individual or national identity.

⁵²²Hardt & Negri (p. 44)

⁵²³Doty

⁵²⁴Eskimo is a blanket term for a range of languages, which include Aleut, Inuit, Yupik and Inupiaq. In each, the name for native speakers means people, or real people. Eskimo is not favoured as it means people who eat their food raw.

⁵²⁵Jenkins, B. & Sofos, S. (Eds.) *Nation & Identity in Contemporary Europe*. Routledge, London, New York, 1996, (p. 4)

Barth argues that inclusion rests primarily on understanding the internal rules of the game, whereby social interaction is channelled in particular directions that allow certain elements to remain insulated, whilst others benefit from reciprocal engagement and modification. The protected aspects are self-selected and particular to the nation. In his study of the Pathans of Afghanistan, Barth⁵²⁶ found a highly complex and socially varied people; some were pastoralists, others modern urbanites, some were linked in quasi-feudal tenure arrangements with a hereditary land owning class, others were politically affiliated within a relatively autonomous tribal structure, where recruitment was negotiated on an individual basis, whilst a parallel caste of hereditary holy men also maintained: “corporate political followings”⁵²⁷ based on spiritual authority rather than the disbursement of land. Amongst this multiplicity of social organisation, diacritical features included patrilineal descent, Islam, the seclusion of women and hospitality to strangers. Other common features did not attract the same significance, and differences between the diverse Pathan communities were ignored as of no importance. To the outside observer expecting a nation to resemble a state, Pathan culture appears neither discrete nor sufficiently coherent to be continued through generations, but this does not impair the Pathan’s sense of themselves as a people. As Barth⁵²⁸ suggests, outsiders do not have privileged insights; as far as nations are concerned, they are the creationists whilst the insiders are the rational empiricists.

Assimilation and playing the game.

In the romantic view, to be rootless is a terrible crime⁵²⁹, but roots are not always apparent. For example, amongst the newly devolved Welsh, some are

⁵²⁶Barth, F. *Political Leadership among the Swat Pathans*. The Athlone Press, London and Atlantic Highlands, New Jersey, 1986 [Pathans]

⁵²⁷Barth, [Pathans] (p. 4)

⁵²⁸Barth, [Boundaries]

⁵²⁹Gellner, [Nationalism]

demanding a Property Act⁵³⁰ to prevent wealthy incomers buying local houses and forcing up prices. How locals and incomers are to be distinguished remains uncertain. As Walzer suggests:

“Good fences make good neighbors only when there is some general agreement where the fences should go”⁵³¹.

Facility in Welsh is no guide; many Welsh cannot speak it themselves, and languages can be learned. There are no physical or genetic markers peculiar to the Welsh, so perhaps only those born in Wales should qualify? Yet this would prevent the return of a Welshman whose parents had been forced to seek affordable accommodation elsewhere. Feeling Welsh may be a necessary condition, but may not be sufficient. A Welshman raised away from Wales may feel Welsh, and may be perceived as such by his neighbours, but may find that in Wales he is considered not quite Welsh. It is plausible that being convincingly Welsh requires a thorough immersion in the game of being Welsh. For the returning Welshman, this may be accomplished with relative ease. He may already have a distinctively Welsh name, and will be able to trace his lineage and ancestral roots, and may even have authentically Welsh relations to anchor his Welsh identity. Assimilation and acceptance by his fellow Welsh nationals is unlikely to be problematic. Assimilation is likely to be more difficult for someone of another nationality.

Given the demand for a singular loyalty, learning the game of being Welsh would also entail denial of a prior nationality, but it is not evident that this is possible. It may be that Welshness is only acquired by the second generation who are socialised into the nation from birth. The supposition that acquiring the host's nationality is the immigrant's goal may hold for some cases, particularly where the move is intended to be permanent, but it is doubtful that this is usually the case. Hyphenated British-Asians, Irish-Americans, French-

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⁵³¹Walzer, [Thick and Thin] (p. 66)

Canadians all indicate pride in roots that are not local. Further, this does not imply divided loyalty, but a hybrid national identity. Irish-Americans may have only the haziest notion of what being Irish in Ireland means, but this is beside the point. They are not Irish, nor are they claiming to be anything other than American, but they are making a claim to being a special sort of American. Now it may be that in a state with a population approaching three hundred million⁵³², some less expansive loyalty is required, or it may be that people who take pride in their personal individuality also take pride in belonging to a group that is similarly unique.

The rules of the nationality game, like most aspects of the nation, are prone to reformulation, as illustrated by Williams⁵³³ who traces the evolution of national identity in New Zealand. He identifies three formulations; white settler, indigenous, and bicultural. Initially, the settlers retained their back home identity, but by the First World War, possibly catching wind of the big idea (2:1) of national self-determination, they sought to forge an authentically New Zealand identity. Williams describes this as consciously: “blokey”. By the 1980s this was felt to be too exclusionary, so national identity again shifted to include women and Maoris⁵³⁴. By this time, those Maoris who had avoided assimilation struck out with their own brand of nationalism, rediscovering their ancient roots, making land claims, demanding more autonomy and recognition. Some, tackling modernity head-on, claimed that they already had full state sovereignty. The Waitangi Treaty (1840), recognised Maoris as the state’s rightful inhabitants, so the white settlers were guests who many felt had overstayed their welcome.

⁵³²The US Census Bureau estimate for July 2001 is 284,796,887.

⁵³³Williams, M. Crippled by Geography? New Zealand Nationalisms. In: Murray, S. (Ed.) *Not on any map*. University of Exeter Press, Exeter, 1997, (pp. 19-42)

⁵³⁴The Ratana Movement represented a competing bicultural identity; originally a syncretic Maori Christianity, it became an overtly political movement in the 1960s.

Safety in numbers.

As Jabri notes, identity is:

"constituted through deeply ingrained institutional and discursive continuities which situate the self within bounded communities, the definition of which is based on modalities of inclusion and exclusion"⁵³⁵,

and not all can be included. Indeed, for the nationalist a claim to nation rests on authenticity and it therefore becomes crucial to de-select other, inauthentic ones. Each nation has its own list of diacritical characteristics that are widely shared, and these must be adopted if assimilation is to succeed. If a Scot is identified in opposition to the English, it seems highly unlikely that an Englishman could become a Scot under any circumstances. However, if he successfully assimilates, his English roots may be forgotten. Diacritical features are not fixed, so there is always the possibility of change. Lawson Welsh⁵³⁶ notes that there have been black residents in Britain for some centuries, but it is only in the post-Windrush era that black Britons have identified themselves in opposition to whites. There are a variety of possible causes; pride, recognition that nations have a superior bargaining position, but it may also be a matter of safety in numbers. Perhaps too many Britons had come to define being British as not being black. As Kymlicka⁵³⁷ suggests, despite a tendency to treat states as homogeneous, all face practical issues regarding minority groups.

It is not simply at the boundaries between nations that self and other are distinguished. As Ferguson and Mansbach⁵³⁸ argue, social contracts and

⁵³⁵Jabri, [Discourses] (p.110)

⁵³⁶Lawson Welsh, S. (Un)belonging Citizens, Unmapped Territory: Black Immigrations and British Identity in the Post-1945 Period. In: Murray, S (Ed.) *Not on any Map*. University of Exeter Press, Exeter, 1997, (pp. 43-66)

⁵³⁷Kymlicka, [Minority Cultures]

⁵³⁸Ferguson, Y. & Mansbach, R. The Past as Prelude to the future? Identities and Loyalties in Global Politics. In: Lapid, Y. & Kratochwil, F. (Eds.) *The Return of Culture and Identity in IR Theory*. Lynne Rienner Publishers, London, 1996, (pp. 21-46)

political loyalties are nested along kin, guild, church and other lines: “The universality of ethnic opposition”⁵³⁹ is a mechanism that delineates the borders of nations, and the borders of minority communities within the nation, through the same process of reflexivity that sustains self and other. The markers of difference vary, but appearance is common, as it is readily observable, and gives the appearance of objectivity⁵⁴⁰. Doty concludes that until the early 1960s, in the UK, the imperial others were generally viewed as British, which allowed for a good deal of freedom of movement within the Commonwealth, but attitudes changed by the end of the decade with the expulsion of Ugandan Asians in 1968; they still had British passports but were stripped of their residency rights. The Commonwealth values of inclusion and diversity were trumped by the fortress mentality of Little England. France likewise had an open and inclusive approach to her former colonies until large numbers of Algerians sought residence in France, and similar disquiet can be seen amongst the high-welfare northern EU countries at the prospect of welfare claimants migrating from the southern member states as a result of the Schengen Agreement⁵⁴¹. More generally, the electoral successes of anti-immigration parties in the past few years, from Austria to Australia, and policy proposals for preventing new arrivals⁵⁴² indicate that many fear the admission of strangers.

⁵³⁹Smith, [Nationalism and] (p. 181)

⁵⁴⁰In the context of nationality, Kymlicka is referring to innate characteristics such as skin or hair colour, but a similar process of identification operates in other contexts. Many groups signal membership through clothing that attests rank and occupation, although the range is wide: military personnel and nurses, for example, wear precisely prescribed uniforms, whilst other professions observe a broader dress code. Teenagers probably have the most minutely detailed sumptuary regulations, but the rules are arcane and can only be understood by insiders.

⁵⁴¹The agreement, June 1985, relaxes border controls for EU citizens, and is intended to increase their mobility within member states. It came into force in June 1990.

⁵⁴²The British and French governments have been discussing the closure of the Sangatte Refugee Centre. The centre was opened in the first place because Calais residents were unhappy with the numbers of would be immigrants sleeping rough on their streets. To avoid a return to this situation, Britain is to take measures to make it a less attractive destination. Identity cards, using the Navy to intercept craft in the Mediterranean and the Air force to return them home, have all been considered.

Walzer concludes that communities are entitled to restrict entry in order that they may shape their own community as they wish, because gate-keeping rules facilitate:

“the deepest meaning of self-determination. Without them, there could be no *communities of character*, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life”⁵⁴³.

Although he stipulates that such communities must also have some form of democratic political structure, so that the wishes of all the community are heard. In this, he would include outsiders who have been admitted, with the added stipulation that, once admitted, outsiders become full members of the polity. Refusing admission to unwelcome new comers is justified, because it prevents the: “*communities of character*” from being debased, and those refused entry presumably have their own communities of character. However, a gold standard relies on equilibrium, and it would seem that the demand for entry is not matched by the supply of places willing to accept new entrants.

There is a measure of hypocrisy in the readiness of the secure and affluent to repel boarders. The vast numbers of Europeans who exported themselves across the globe in past centuries usually did so for the same reasons that propel would-be entrants to Europe now; fleeing persecution, experimenting with new life-styles, and generally improving the lot of themselves and their families. Like the settlers of the New World, it is not self-evident to them that those who are already in residence have an absolute right to hold what they have. Indeed, it is more likely that the perceived excess wealth of the residents is seen as a compelling reason to share with the needy, and this is the argument Walzer uses to challenge Australia’s policy on immigration control. O’Neill rejects: “structures that entail that the rights people actually have depend on where they

⁵⁴³Walzer, [Spheres] (p. 62)

are"⁵⁴⁴, but fails to note that it is precisely where one lives that determines what rights are enjoyed. The rootless and the desperate do not enjoy safety or prosperity at home, and so seek them elsewhere.

Border Patrols.

The liminal is inherently dangerous. Boundary crossings denote a change in status, whether related to the transgression of social or moral values, the adoption of new norms and practices, or accession to a new social group. In each case, there are gatekeepers who must be appeased or vanquished, although the nature of the border will determine the form, and rigour, of its policing. In view of the primacy of borders to the state, these are guarded jealously, even where the actual line of demarcation is disputed. They devise formal rules and entry criteria for new arrivals or transients, which are backed-up with force. For the moderns, domestic jurisdiction is a central feature of the sovereignty game; a fact of international life. Walzer however, explores the justification for gatekeeping through analogy with various spatially tethered groups.

A neighbourhood does not fit the bill. There is no admissions policy corresponding with that of the state, as the only constraints to entry are economic or practical, although in common with states, there is a right of exit. "Immigration and emigration are morally asymmetrical"⁵⁴⁵, which raises the difficulty faced by many who flee; where can they go?⁵⁴⁶ I return to the issues of exit later (6:4). Next, he considers clubs. Entry is regulated, and existing members decide whom to admit, the purpose of the club and the rules it should have. However, if its members fall out, the state will intervene, with regulations to dispose of property, settle accounts and such. There is no analogous arbitrator for states. Families are more promising, as most feel a

⁵⁴⁴O'Neill, [Justice and] (p.70)

⁵⁴⁵Walzer, [Spheres] (p. 40)

⁵⁴⁶Mills, K. Permeable Borders: Human Migration and Sovereignty. Global Society, 10 (2), 1996, (pp. 77-106)

greater obligation to kin, even if they are personally unknown, than to strangers, and from this, Walzer concludes that admitting new entrants on the basis of shared nationality is justified, although the converse does not justify their expulsion.

The difficulty here is twofold; Walzer is taking a sovereign approach to borders, and his: “*communities of character*” unhelpfully conflate state and nation. In each of his analogies, he is focusing on state entry criteria, whereas a nation’s are entirely more complex, varied and subtle. Sometimes, the nation does resemble a neighbourhood, and tenure is the only necessary qualification for membership. Indeed, primary occupation and ancient ties to the land are common features of the nationalists’ authentication of their claim to nation. Property rights are simply not relevant, unless invoked to play by the modern state’s rules. Clubs and states have rules and regulations which are generally functional, and the rules can be changed if required. A would-be member who does not meet the usual admissions policy may still be admitted if he has other attractive qualities, and the other members wish it. A nation likewise may wish to recruit new members, but different tactics are called for.

Continuity from antiquity is usually part of the nation’s claim to authenticity, and although highly malleable, there are usually some non-negotiable qualities⁵⁴⁷. Barth⁵⁴⁸, for example, concluded that recruitment to Pathan society was impossible. Membership is determined by genealogy, and the list of ancestors is a historical immutable fact. Immutable historical facts may, of course, turn out to be fairly mutable after all⁵⁴⁹, as illustrated by Leach⁵⁵⁰. In principle, land distribution amongst the Pul Eliya is determined by heredity, but in practice, Leach discovered that it was often sold to outsiders, and the

⁵⁴⁷What counts as negotiable may also surprise. Ruth Dudley Edwards, in her book *The Faithful Tribe* (1999), points out that 10% of Liverpool’s Orangemen are black.

⁵⁴⁸Barth, [Pathans]

⁵⁴⁹It is highly likely that the Pathans are adept at masking their recruitment practices, even from eminent anthropologists, and perhaps even from themselves.

⁵⁵⁰Leach, E. *Pul Eliya*. Cambridge University Press, Cambridge, 1961

*variga*⁵⁵¹ usually had little difficulty in discovering an heiress to whom the inheritance could be traced. This should not be taken as evidence that the immutable facts of membership amongst the Pul Eliya were not taken seriously. Indeed, the fact that new recruits were incorporated within the prescribed limits of acceptability indicates that they were taken very seriously. The point here is that national identity is supposed to be immutable. It is the timeless and enduring nature of the nation that supplies its authenticity. Walzer's analogy with family is also problematic.

Fellow nationals are family, kin and imagined kin. They are the nation. A Scot remains a Scot wherever he lives. Like the returning Welshman, feeling Welsh and knowing how to play the game of being Welsh is proof of his authenticity. It is not an entry requirement. The state, however, may decide to admit as citizens people who claim shared nationality, and in this states and nations share an interest in blood and soil through the twin principles of *jus sanguinis* and *jus soli* which are widely applied.

States and nations both attach importance to blood and soil.

A child inherits his citizenship from his parents, irrespective of where he is born, and acquires citizenship in his place of birth, irrespective of his parents' legal status⁵⁵². This can result in dual citizenship, and many states require those affected to choose one and renounce the other. The moderns are uneasy with divided loyalty. Citizenship is a legal status; it is a rules based administrative procedure that confirms residency and other rights within the borders of the state. Nationality is also inherited, but the significance of birthplace is dependent on other factors. A child born and schooled in Edinburgh may feel

⁵⁵¹The *variga* is a village court ostensibly concerned with matters of caste purity and morality. It determines the veracity of genealogical ties and effectively controls the disposal of land.

⁵⁵²There are variations in the detail. Place of birth confers citizenship in Britain only where one parent is already a citizen, for example, and naturalised American parents must meet certain residency qualifications to pass citizenship to their children.

completely Scottish, even if his parents and citizenship status are completely foreign; his birth in Scotland reinforces his Scottish identity. In contrast, for the Welshman born in England who feels Welsh, his place of birth is irrelevant. In Lye, a town in the Midlands, local people were incensed by the arrest and deportation of an Afghan couple who had sought sanctuary with them. Although strangers, the community had welcomed them: “There is no segregation here at all. It isn’t somewhere like Bradford”⁵⁵³. The Afghan family were not connected to Lye through blood or soil, yet this had not prevented their acceptance.

Strangers: integration rather than assimilation.

Although boundary maintenance is intended to insulate the nation’s sense of self from overt change, through assimilation and socialisation, this is not the only goal. Communities do not remain pristine and isolated; they accept strangers whom they do not expect to assimilate, but do expect some degree of integration. The mechanisms are the same, and rest on knowing the rules. Like fully incorporated members, the stranger must know which rules are critical, and which ones he is exempted from. Visitor numbers vary seasonally, but immigrant numbers remain quite low in the West⁵⁵⁴. OECD⁵⁵⁵ figures for 1997 show that the immigrant population of Britain is 3.6%, and not much higher in most other European states⁵⁵⁶. Further, the majority of immigrants were invited for the benefit of the host’s economy, and despite the prevalence of anti-immigrant rhetoric with its aquatic metaphor of swamping, torrents, floods and rivers, Britain is still actively recruiting nurses and teachers to meet deficits in the public sector. If the metaphor was apt, Britain

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⁵⁵⁴People seek to emigrate for many reasons, and their choice of destination is dependent on many variables; ease of access, likelihood of acceptance, economic prospects and so on. In times of extreme stress, such as war or famine, escape is the only goal. Destination is entirely fortuitous, for good or ill.

⁵⁵⁵Organisation for Economic Cooperation and Development.

⁵⁵⁶Luxemburg’s is an exception at 34.9%.

would have disappeared like Atlantis, but this seems not to be the case. Perhaps, as Defoe suggested, Britons are such mongrels that newcomers are readily assimilated and become entirely British. Alternatively, it could indicate that newcomers soon discover what it is to be British, and have become integrated to the extent that both those claiming to be British, and those retaining a different national identity, have settled down to mutual toleration. However states, like nations, have a duty to their own, and admitting the destitute has costs.

A utilitarian calculation would assess immediate costs to the host, future costs and benefits, and the cost to those left behind. Admissions policies are rarely so straightforward, and: “a feeling of unfairness hangs around borders almost as often as uniformed guards do”⁵⁵⁷. Compassion justifies the admission of the needy, but Walzer concludes that entry should also be granted for reasons of culpability and similarity:

“Perhaps every victim of authoritarianism and bigotry is the moral comrade of a liberal citizen: that is an argument I would like to make”⁵⁵⁸.

The sentiment is appealing, but not entirely convincing. The legacy of colonial exploitation, the terms of trade and strategic considerations make the West complicit in the poverty of millions, but the millions facing starvation in Africa⁵⁵⁹ are unlikely to arrive on the doorsteps of the rich. Many Asians and West Indians thought they were British until the British changed the rules; in an Orwellian moment, the past changed to: “mobilise a bounded exclusionist present”⁵⁶⁰. Britain was party to the interventions in Afghanistan and Iraq, but when desperate Afghans or Iraqi Kurds arrive in Sangatte on route to Dover,

⁵⁵⁷ Economist “Good fences” 19/12/1998

⁵⁵⁸ Walzer, [Spheres]

⁵⁵⁹ The Disasters Emergency Committee, a coalition of aid agencies, the UN World Food Program and others have predicted famine in six sub-Saharan African countries.

World Service Broadcast, 26/7/ 2002

⁵⁶⁰ Jabri, [Discourses] (p. 134)

they have become welfare scroungers, or criminals or are thieving local jobs⁵⁶¹. The argument for admitting those who share the host's ideology also carries the implication that those who do not should be excluded.

If *communities of character* can only survive through protective isolation, their characters are not very robust, although there is a practical argument for keeping numbers low. It is unlikely that a distinct Scottish character could be maintained for long if the entire population of England moved across the border⁵⁶². Applying the argument to states is less convincing. Given the present powers of states to regulate entry, it is unimaginable that any modern state would voluntarily admit a sizeable alien population. Open liberal democracies do face the dilemma that their political institutions are open to manipulation for highly illiberal ends, but democracies are already home to groups and individuals with illiberal ideologies. If the illiberal are to be denied entry on grounds of ideological purity, the same illiberal logic would entail expulsion of the home grown variety, but:

“the principle of self-determination through which a democratic state shapes its internal life, must be open, and equally open, to all those men and women who live within its territory, work in the local economy, and are subject to local law”⁵⁶³.

Integration and diversity.

Diversity and tolerance are not absolute values, even amongst liberals who esteem them. Between states, the doctrine of sovereignty, upheld by international law and custom and cherished by the moderns, places few constraints on the domestic arrangements of states. Although the late-

⁵⁶¹The local Dover tabloid carries something incendiary and xenophobic about illegal immigrants most weeks. The paper's editor, Nick Hudson, has been warned by Kent Constabulary that he will face charges of incitement to racial hatred.

Amnesty Campaign Journal, March 1999

⁵⁶²The populations of Scotland and England are approximately 5 million and 50 million respectively.

⁵⁶³Walzer, [Spheres] (p. 60)

moderns are willing to interfere on a reciprocal basis, this is generally limited to functional arrangements, although the response to Jörg Haider's electoral victory noted earlier (2:4), indicated a willingness to extend this unilaterally to other fields⁵⁶⁴. At home, however, a balance between diversity and assimilation is required. Miller⁵⁶⁵ echoes Hobbes and suggests that in general, private behaviour is tolerated on grounds of diversity, but public behaviour demands assimilation as a matter of unity.

The distinction is plausible. Each group decides what symbolic markers of identity are crucial in distinguishing insiders from outsiders, and the outsider's ability to assimilate these will determine acceptance, or not. However, the separation of public from private is not necessarily benign. In many cultures women and children are confined exclusively to the domestic sphere, which renders them vulnerable to abuse, because there are few public sanctions and a general unwillingness to intervene in what is deemed a private matter⁵⁶⁶. The separation of public and private may also be misleading. In Britain, for example, the established Church is ostensibly significant; its bishops sit in the House of Lords, many⁵⁶⁷ state funded schools are affiliated to it and most towns and villages have a church dedicated to it⁵⁶⁸. Despite this visible public presence, belief is generally considered to be a private issue; the conspicuously prayerful, and displays of religious symbols, can invite unease, especially where the symbols serve as markers of difference. Miller, considering demands for separate education by religious fundamentalists, is

⁵⁶⁴Humanitarian interventions are probably best understood as part of the Just War tradition. Prevailing ethical standards are always used to justify actions, some sincerely, some not.

⁵⁶⁵Miller, [On Nationality]

⁵⁶⁶Despite far ranging legislation, rigorous policing and enforcement of sanctions, the American Bar Association estimates that annually, some 4 million American women suffer from domestic assaults serious enough to warrant hospitalisation.

⁵⁶⁷There are nearly 7,000 faith schools, of which nearly 5,000 are Church of England, and 2,000 Catholic. The remaining are Jewish (32), Methodist (27), Muslim (4), Sikh (2) and one each for Greek Orthodox and Seventh Day Adventist.

Guardian. 12/12/2001

⁵⁶⁸The situation in Scotland, Wales and Northern Ireland is slightly different, where there is a tradition of Presbyterian and Methodist forms of worship.

not convinced that there is any justification. He concludes that the most they should be accorded is toleration and equal treatment with other minority religions. This seems fair enough; guests should abide by the rules and respect the mores of their hosts. The difficulty here is that not all groups wish to melt unnoticed into the majority culture, nor do they wish to remain guests. Likewise, amongst the majority, many will be happy to embrace groups that retain differences, but may have reservations as to the nature of some of the differences. In Western societies, marriage for example, is a voluntary contract and usually a matter of personal choice. Many Westerners are uncomfortable with cultures where marriages are arranged, and indignant where they are forced⁵⁶⁹, as in the case of two school girls from Bolton who were tricked into travelling to Pakistan on holiday, only to discover that they were about to be married to their illiterate cousins. They escaped to the British High Commission in Lahore who arranged for their safe return home⁵⁷⁰. The girls themselves were clearly outraged, as were: “all right-thinking British Asians”⁵⁷¹. The tensions may abate over subsequent generations as children are schooled and married locally, with both communities becoming familiarised with each other’s ways, but this may not always be the case, as some of Britain’s Asian communities illustrate.

Exclusion and discrimination.

This is due to a number of economic and social factors, but the single most likely cause is the practice of importing spouses from the homeland, which has various consequences. Firstly, each generation is topped up with new arrivals who are unfamiliar with the local culture and language, which may make it difficult for them to integrate with the wider community. Secondly,

⁵⁶⁹In response to fears concerning forced marriages, Denmark’s Aliens Act prohibits Danish citizens under the age of 25 from marrying non-citizens. Second report on Denmark, 2001. European Commission against Racism and Intolerance. www.hri.ca

⁵⁷⁰[Economist](http://www.economist.com) “Connubial wrongs” 8/11/2001

⁵⁷¹Malik, S Commissioner of the CRE (Council for Racial Equality). [Guardian](http://www.guardian.co.uk) 20/3/2002

the replenishment of close ties with the homeland may reinforce the community's difference and amplify its isolation from the mainstream. Thirdly, despite the long term establishment of the community as a whole, each generation is effectively producing first generation children who may not be fluent in English, and who are thus educationally disadvantaged and more likely to suffer unemployment and poverty. These barriers to integration are hard to overcome. The CRE, for example, welcomed the government's proposal in the Nationality, Immigration and Asylum Bill (2002) that English language tuition and citizenship classes should be provided for newly arrived immigrants⁵⁷², but Malik⁵⁷³ rejected what he saw as forced integration, and was outraged at a suggestion that British Asians should marry other British Asians, rather than from the Indian subcontinent. There is also the issue of discrimination.

Many are unsympathetic to the difficulties faced by minority nations, particularly when they are socially disadvantaged and consider themselves to be more authentically British and deserving of support. Following the riots in Bradford in 1995, a number of projects were initiated, with Community Pride not Prejudice⁵⁷⁴ intended to give local people a voice. The majority of comments⁵⁷⁵ focused negatively on Bradford's community of Pakistani origin, who were variously portrayed as; unemployed welfare recipients, having unnecessarily large families, crowding out Hindu, Sikh and white residents, overburdening local health and educational facilities, failing to learn English, and generally being foreign. Much resentment stemmed from the belief that the authorities favoured these foreigners, at the expense of real Britons, by allowing them to break the law with impunity, receive preferential treatment

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www.cre.gov.uk

⁵⁷³ Malik, S Commissioner of the CRE; *Guardian* 20/3/2002

⁵⁷⁴ www.bradford2020.com

⁵⁷⁵ This is the impression gained from scanning the comments randomly. The contributors were self-selected and there is no evidence that their opinions are representative. The contributors may also have felt that couching the discussion in terms of nationality would deflect accusations of racial intolerance.

on social issues such as housing, and allowing them to build mosques. Manzo⁵⁷⁶ concludes that such complaints are plain racism.

This sadly may be true, but the few non-white contributors were also keen to distance themselves from the Pakistani community. This could also be evidence of racism, but most of them acknowledged their own cultural and religious affinity with Bradford's Pakistani community, and were angry or puzzled at their conspicuous failure to integrate, where theirs had succeeded.

Conclusion.

This is not the place to investigate the state of race relations in Britain, but the situation in Bradford is illustrative. The Community Pride not Prejudice debate was couched primarily in terms of nationality. The contributors described themselves as English, or British, only the Pakistanis were foreign nationals. Everyone is a victim. Max and Jo feel that English culture and language is being marginalised, and that Bradford is being turned into a foreign city where they are a minority. Iftikar and Shahid take the official MCB⁵⁷⁷ line that Bradford's Pakistani community is isolated because Britain is inherently hostile to Islam, but Mohammed and Paresh disagreed; other Muslims have integrated well in other British cities. The only other explanations offered for the failure of Bradford's Pakistani community to integrate was white racism, or something peculiar to Pakistani culture, although this last point was complicated by some confusion as to whether they were actually from Kashmir or Bangladesh. Wherever they were from, they had not tried to fit in, or were not allowed to fit in, and they remained foreigners. As Miller notes, a sense of persecution is particularly effective in reinforcing identity. Bradford demonstrates that under

⁵⁷⁶Manzo, K. *Creating Boundaries. The politics of race and nation.* Lynne Rienner Publishers, Boulder, London, 1996

⁵⁷⁷The Muslim Council of Britain is an umbrella organisation that seeks to promote the interests of all British Muslims, irrespective of national origin. It takes the reductionist view that all disadvantages faced by Muslims arise from religious bigotry, and is insensitive to wider cultural, ethnic or linguistic differences that may also be contributory

conditions of stress, difference becomes a self-perpetuating source of anxiety not pride. Fear and resentment sustain mutual antipathy between the communities: “conflicts are constructed along one major axis of difference”⁵⁷⁸. Here, nation serves as shorthand for all the diacritical elements that constitute social identity.

The liberal and romantic elements of the nation have been the focus of Chapters Three and Four. Nations are neither entirely one nor the other, nor can any explanation or theory be exclusively liberal or romantic. The importance of each element varies by context, and from nation to nation. However, there seems to be a tendency for nationalists to emphasize the romantic, and for states to emphasize the liberal, a tendency that International Relations shares. This would seem to account for some of the misunderstanding that occurs between states and nations. Nations have some features in common with states, and some in common with kin based communities. They are not identical to either. States and kin groups likewise differ radically from each other, so nations represent a synthesis of the two. Nations and states are bounded entities, but their border control and recruitment mechanisms are entirely distinct. Nations and states coexist, and most people are both nationals and citizens.

The importance of each varies. The English born Welshman may take pride in his national identity, but his British citizenship entitles him to all the benefits of a decent rights observing state. His nationalism may lead him to vote for self-determination, or to burn down the homes of English incomers. For the majority of Kosovans, their citizenship provided little benefit. Rather, it delivered them to the mercies of a predatory state. Membership of the national community became the single most important good, and served as the gateway for all other social goods, including security, the real possibility of self-determination and membership of the community of states. Given the

⁵⁷⁸Jabri, [Discourses] (p. 138)

benefits and privileges that accrue to states in the modern world, the attractions are obvious. However, attempting statehood is a high-risk strategy for all players, and the success rate is low; the sovereignty game is stacked in favour of the *status quo*.

However, nations do claim self-determination as a right inherent to the nation, so establishing the authenticity of the nation legitimates its claim to statehood. The difficulty here is that there are no objective or agreed criteria for defining nations; they are self ascribed. Any community that believes itself to be a nation, *is* a nation. This may not seem much of an advance on Wilson's "if it quacks" approach, but the situation is not entirely hopeless. A rock solid definition remains elusive, and for the reasons discussed at the outset (1:1), a stipulative definition is unsatisfactory. However, it is evident that nations do share certain qualities. Foremost, nationals share a belief that their community is a nation, that they are: "a nation-for-itself" and not simply "a nation-in-itself"⁵⁷⁹. Nations are spatially tethered; attachment to landscape and place is a foundational component of national identity. This sense of belonging is present even in diasporas, but it refers to an idea of the homeland, rather than a cartographic location. Boundaries are crucial. A process of reflexivity sustains the idea of self and other, and myth and symbol mark those diacritical elements that identify who belongs safely on the inside, and who does not. Shared culture facilitates mutual recognition between fellow nationals, and a sense of communal loyalty that is underpinned through kinship, however reckoned. Nations are also modern social constructs. They demand a single political loyalty, and the fact of nationhood legitimates their claim to self-determination. However, even if the nation is convinced in its belief in the ties of blood and soil, and can convince others of the same, how is it to convince them that this justifies a claim to self-determination?

⁵⁷⁹ Gellner, [Nationalism] (p. 38)

There are many nations whose authenticity is accepted, but whose claim to statehood has not been recognised. Precedent is a poor guide for judgement, yet judgement is required. How can the international community discriminate between nations who ought, and ought not, to be states? Here the answer would seem to lie with the nation's happiness. A nation whose people are happily secure in their rights and liberties may not much mind that they do not have a state of their own. They are as free as the other nations with whom they cohabit to celebrate their difference, their culture and their identity. Where difference, culture and identity render them targets of rights abuse, and where their states are unable to prevent it, or worse, are complicit, then perhaps their claim to self-determination should be taken seriously. Alternatively, the answer may lie with the wickedness of states. If states are the commonest cause of rights abuse, then reforming states, rather than adding states, may be a better solution to the problem of unhappy nations. I turn to this next.

Chapter Five

Self-determination: sovereignty and rights.

The first two chapters traced the long evolution of nation and state, and three variants of self-determination that emerged during the twentieth century. After a closer examination of the concepts in Chapters Three and Four, I concluded that the liberal construction of nation shared similarities with the state, whilst the romantic bore similarities to kin based communities. Although the distinction is useful for analysis, nations are generally a mix of liberal and romantic; they are ducks and rabbits. Given the fluidity of the concept and its frequent reformulation, no positive definition of nation is possible. However, nations do display certain constants; they are spatially anchored, their members believe themselves to be a nation, and they aspire to self-determination. Thus neither the Lazi nor Pathans qualify as nations, because they do not claim to be nations, whereas the Basques and Québécois qualify, because they do. Slumbering nations may of course awake. However, claiming national self-determination is only one half of the equation. Achieving it is altogether more difficult. As suggested previously (4:3), attempting sovereignty is a high-risk, high stake game, and those who have already joined the club of sovereign states are unlikely to simply admit all-comers. How then should they decide which nations to admit? Precedent is unhelpful, as most states have achieved recognition through a mixture of luck and self-help. Authenticity may be more promising. National stories present the nation's history as verification of their claim to national self-determination, and usually in terms of deserved victory or unjust defeat. For the unhappy nation, the consequence of defeat is still tangible in rights denied. It is plausible that the degree of suffering may be a significant factor in adjudicating claims. However, there is a prior issue to be considered.

The suggestion here is that unhappy nations are denied their rights. Now whilst this may add fervour and urgency to a nation's claim to self-determination, it will only factor in the recognition process if the decision makers also take rights seriously. As the decision makers usually represent states, this is a matter of importance, and this question is therefore addressed first (5:1). Amongst the settled norms of international relations, the developing primacy of rights

observance seem to be recasting the hierarchy of previously settled norms. However, each of the three competing *Weltanschauungs* has a differing perspective on rights, and weights their primacy accordingly. Amongst those states with pre-modern domestic institutions, people are resolutely subordinate to state. The moderns are more ambivalent; both sovereignty rights and human rights are embraced. Amongst the late-moderns, the principle of nonintervention is not so sacrosanct, and rights observance may be rising in ascendancy and altering evaluation of claims to self-determination. In the next section (5:2), working from the assumption that none of the world-views are unassailably dominant, the competing hierarchy of values is examined. In particular, the erosion of the sovereignty norms, and the shift from a norm of nonintervention to a positive norm of intervention is considered. Linking recognition to rights observance or democratisation and justifying intervention on humanitarian grounds are problematic. Section (5:3) therefore considers the charge that this is a new variant of the civilisation standard. Working from the conclusion that rights are a moral minimum⁵⁸⁰ for passable places, the final section (5:4) considers self-determination as a means of achieving this minimum.

(5:1) Self-determination: the pre-modern, modern and late-modern.

Rights: which ones?

There is disagreement as to the proper scope of human rights and the priorities claimed for them. They are the product of their times and needs. First generation rights are rooted in the liberal individualism of the seventeenth and eighteenth centuries, and are broadly characterised as negative rights, although civil liberties such as the right to a fair trial require public institutions, administrative procedures and personnel committed to this

⁵⁸⁰Walzer, [Thick and Thin]

end. No list is definitive⁵⁸¹, but these rights would include freedom from torture, cruel or degrading punishment, arbitrary arrest; freedom of speech and conscience, the right to a fair and public trial and the right to own and keep property. The core function of the first generation rights is to preserve the individual's freedom from abuse by those in authority. Second generation rights are rooted in the socialist traditions of the nineteenth century, and are essentially economic and cultural aspirations, and an affirmation of social egalitarianism. Third generation rights are collective, and are linked to post-war decolonisation. Some are global in aspiration, such as the right to a healthy environment, which reflects the inability of individuals or states to adequately respond to certain types of crisis, and the remainder are concerned with the redistribution of power and wealth, and advance claims to political, economic and cultural self-determination. Although the second and third generation aspirations are admirable, I will limit myself here to first generation rights only. As Miller⁵⁸² suggests, to claim second and third generation aspirations as rights undermines the entire: "currency of rights".

First generation rights demand forbearance, and are compatible with a range of belief systems, whereas the later generations are less amenable. They are particularist and cannot be universalised without reference to a governing ideology, they are incommensurate and context dependent, and many would argue that they are not rights, properly so called. More prosaically, it seems sensible to start where there is some agreement, even if only the extremes of cruelty are challenged. Donnelly⁵⁸³, for example, argues that intervention in the event of genocide is a newly accepted norm. Genocide is mercifully rare, but its universal condemnation may symbolise a growing willingness to take other rights seriously, although Donnelly is less sanguine that this will be the

⁵⁸¹First generation rights are listed under articles 2-21 of The Universal Declaration of Human Rights (1948) (UDHR). Second generation rights follow in articles 22-27, and third generation rights are indicated by article 28.

⁵⁸²Miller, [On Nationality] (p. 81)

⁵⁸³Donnelly, J. Lecture. Genocide and humanitarian intervention. University of Kent at Canterbury, 29/11/2001

case. Jackson likewise concludes that universal condemnation of rights abuse has not lead to any noticeable reduction in the frequency of incidents, or a greater willingness to intervene.

Rights: who takes them seriously?

Human rights are taken seriously. This observation may seem overly sanguine; the Realist ascendancy of the post-war years paid little heed to rights at all, and scorned the notion that anything other than power could influence behaviour. Other explanatory theories in International Relations that focus on the state or the global market are equally silent. Rights abuse is endemic, and the disregard for their observance weakens the assertion that a rights principle is usurping the sovereignty principle. Amnesty International still campaigns for the release of prisoners of conscience, the mentally ill may soon be detained indefinitely without trial in Britain⁵⁸⁴, torture and disappearance seem to be the tools of choice in any number of places⁵⁸⁵; the list of abuses seems endless. However things do change. Slavery, territorial acquisition through force and other activities that were once viewed as unpleasant facts of international life are now crimes. The Realist devotion to power as the only guarantor of peace is seriously undermined by some awkward facts; two World Wars, asymmetrical wars in Korea, Vietnam and later Kuwait, and countless regional wars. Although there is no enforcement mechanism for international law, it serves as a guide to good behaviour⁵⁸⁶, and as Seighart⁵⁸⁷ notes, rights abuse might be even worse without it. As indicated previously (3:1), most states are party to the UN Charter, the Universal Declaration and a swathe of other treaties and instruments that affirm the principle of human rights. Their commitment to

⁵⁸⁴This is one of the more controversial features of the Mental Health Bill, 2002.

⁵⁸⁵The Human Rights Watch: World Report, 1999, and Amnesty International Report 1998, on the fiftieth anniversary of the UDHR suggest that a third of all governments routinely practice torture. *Economist* "More than paper" 15/5/1999

⁵⁸⁶Shaw

⁵⁸⁷Seighart, P. International human rights laws: some current problems. In: Blackburn, R. & Taylor, J. (Eds.) *Human Rights for the 1990s*. Mansell, London and New York, 1991, (pp.24-42)

rights may be less than sincere, but even the most egregious abuser of rights will seek to conceal or deny violations, rather than deny the moral validity of rights: "Dishonesty is always a useful guide to the existence of moral standards"⁵⁸⁸.

The language of rights has wide, if not universal, currency. There may be millions who suffer because their rights are not respected, but there can be few who do not feel that they have, or ought to have, rights:

"To frame a government for ourselves. . . is a right resident in the Nation. Mr Burke, on the contrary, denies that such a right exists in the Nation. . . and, what is still more strange and marvellous, he says, 'that the people of England utterly disclaim such a right, and that they will resist the practical assertion of it with their lives and fortunes.' That men should take up arms and spend their lives and fortunes *not* to maintain their rights, but to maintain they have *not* rights, is an entirely new species of discovery"⁵⁸⁹.

This is a trend that seems to be accelerating. Even in Africa, where many have little access to print or broadcast news, the: "Belgrade Effect"⁵⁹⁰ is spreading the idea that ordinary people can oust despots. Many international and domestic practices, whilst not explicitly grounded in rights, function *as if* they were. Frost⁵⁹¹, for example, notes that the global economy is predicated on the concept of individuated property. Governments and the general public also, sometimes, seem to take rights seriously, by interfering with the *laissez faire* working of the market, or boycotting firms with questionable ethical policies; Turkey's Ilisu dam project has been abandoned, at least for the moment. The tendering consortium⁵⁹² pulled out when the provisions for displaced Kurds were found to be inadequate, and the share price of Nike and Gap fell

⁵⁸⁸Walzer, [Spheres] (p. 98)

⁵⁸⁹Paine (p. 10)

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Independent. 26/10/2000

⁵⁹¹Frost, M.

Constituting Human Rights. Global civil rights and the society of democratic states. Routledge, London, New York, 2002
[Constituting Rights]

⁵⁹²In order to obtain UK government underwriting against losses, Balfour Beatty, Impregilo, and Skansa had to produce evidence that adequate environmental and social provision had been made. Independent, 14/11/2001

precipitously when they were accused of exploiting indentured child labourers⁵⁹³.

The pre-moderns.

Rights are modern, a product of the Enlightenment, and simply do not fit the pre-modern *Weltanschauung*. People were placed; their social and spatial environment formed a singularity in which the concept of individuals as the source of moral value would have been meaningless. Cruelty and abuse were judged by different referents, and social norms and codes of conduct reflected this. However, rights are not subject to reciprocation, as non-believers or abusers of rights do not forfeit their rights, although this may not always be obvious⁵⁹⁴. Further, as already indicated (1:2), today's pre-moderns are generally small, marginalised groups. They are more likely to be amongst the nations claiming self-determination, than the adjudicators of the claim. Contemporary pre-moderns are embedded in the modern world of states, and have to play by the moderns' rules, which, as noted in Chapter Four (4:3), are stacked in favour of states⁵⁹⁵. There are states whose domestic social and political institutions could be deemed pre-modern, being based on monarchical or theocratic authority⁵⁹⁶, but they too are likely to note that their legitimacy and influence in the world is based on their status as sovereign states, and therefore uphold modern values, at least on the outside. Many African states are pre-modern in their internal political arrangements. Although arbitrarily drawn borders, Cold War meddling, inhospitable terrains with poor resources and

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BBC. Panorama, 15/10/2000

⁵⁹⁴Sanctions for convicted criminals include imprisonment and the death penalty, depending on jurisdiction. Some crimes attract such widespread disgust that some are moved to argue that the perpetrator's rights have been abrogated by the enormity of their acts. The alleged bombers of the World Trade Centre in 2001, General Pinochet over torture and disappearances, the suspected murderer of two children in Cambridgeshire in 2002, have all faced calls for retribution of biblical proportions, even before their trials commenced.

⁵⁹⁵MacCormick

⁵⁹⁶Kuwait and Oman have already been identified (4:3) as examples of internally pre-modern states. Some of the post-Soviet and post-colonial states seem to be reverting to pre-modern subsistence strategies, but this need not entail a pre-modern *Weltanschauung*. 255

poorly developed infrastructure, and ethnic conflict were present elsewhere in the aftermath of colonisation, Africa seems to have been unusually afflicted in facing them all.

Having your state and eating it.

Chabal and Daloz⁵⁹⁷ take the widely held view that Africa was treated as a treasure house to be looted by foreigners. The colonial occupiers remained in place long enough to disrupt indigenous institutions and social practices, but not long enough that their own could take root. On their departure, local kleptocrats simply took over the business of plundering. The logic of nationalism secured the departure of the colonial powers and the achievement of formal statehood, but no sense of nation, or citizenship, ever developed; social identity never encompassed the sense of political obligation to fellows that nationality and citizenship entail. Political loyalty instead became channeled along personal and patrimonial lines, on the big man model described in Chapter One (1:2). Traditionally, there is no formal position to aspire to, and each competing big man must construct and maintain his faction through personal prestige. His authority rests on his continued ability to dispense gifts. Big man systems are common to small scale acephalous societies, so the post-colonial African version differs both in scale, and in that the formal trappings of the state, its offices, revenues, enforcement and administrative arms, all become part of the source of gifts and patronage. Thornton argues that the network of autochthonous big man loyalties runs in parallel to the state's political authority. Analogous to chess and draughts:

"The two games are not merely incompatible, but are incommensurable; it is not just a difference of rules, but a difference of fundamental properties. Similarly, chiefs can not be integrated into the politics of Parliament because of the different grounds on which their authority

⁵⁹⁷Chabal, P. &
Daloz, J-P.

Africa Works: Disorder as Political Instrument. African
Issues series, Indiana University Press, Oxford, 1999

rests"⁵⁹⁸.

Chabal and Daloz argue that this is a uniquely African development towards modernity, but others see it as stagnation and corruption:

"strengthened by the view that the African state is both predatory and impotent; an obstacle to the resolution of the African crisis"⁵⁹⁹.

Thornton⁶⁰⁰ shares Chabal and Daloz's optimism in concluding that this negative state of affairs is a view held only outside Africa. Taking European historical progress as the template, Westerners mistake Africa's unique style of development for lack of development and backwardness, and thus label it pre-modern. They see venality and tribalism, instead of interest groups vying for public resources, and the failure of liberal democracy to flourish as further evidence of a primitive mentality. The belief that there are no challenges to liberal ideology blinds the West to other possibilities, so when Africans speak of rights and democracy, obligingly using the favoured discourse of their paymasters, they are dismissed as hypocrites, whereas Chabal argues that they are simply being rational in: "learning the language which will deliver the most financial aid from the West"⁶⁰¹. This analysis is convincing, the conclusion less so.

It is rational and inevitable that African states play the modern sovereignty game to their advantage. It is also plausible that the West, given its idealisation of the modern liberal state, and the failure of its only modern competitor, is ill

⁵⁹⁸Thornton, R. The potentials of boundaries in South Africa: steps towards a theory of the social edge. In: Werbner, R. & Ranger, T. *Postcolonial Identities in Africa*. Zed Books Ltd, London and New Jersey, 1996, (pp. 136-161)

⁵⁹⁹Chabal, P. The African Crisis: context and interpretation. In: Werbner, R., & Ranger, T. (Eds.) *Postcolonial Identities in Africa*. Zed Books Ltd, London, New Jersey, 1996, (pp. 29-54)

⁶⁰⁰It should be noted that Thornton's analysis refers specifically to the Republic of South Africa where the institutions of the democratic state are pretty robust. Chabal and the other optimists apply the same analysis to Africa generally, where the state is rather more fragile.

⁶⁰¹Chabal (p. 47)

equipped to consider possible alternatives, or appreciate unique forms of development. Thornton's analysis of incommensurate political authority is likewise plausible. The problem here is that they are also incompatible. Big man loyalties undermine the state, and the state cannot coherently accommodate competing sources of political authority.

France and Ireland, for example, with predominantly Catholic populations, have attempted to accommodate the Church's teachings within domestic law. Nevertheless, the religious and temporal are treated as separate spheres. Where conflicts arise over issues such as divorce and abortion, where both Church and state claim a legitimate interest, the state takes precedence. The spiritual authority of the Church is secondary, a matter of guidance and personal conscience. In big man systems, there is no clear separation of spheres; success in one confers success in another, and the result is tyranny⁶⁰². As indicated in Chapter Three (3:2), the modern state derives its legitimacy from the people, and democracy is usually taken as evidence of this. This, as Walzer⁶⁰³ says is our own local idiom. Other forms of political organisation are not automatically precluded, and it is arguable that big man systems of the classic sort did derive legitimacy from the people, and represented the interests of all. They were inherently limited by the modesty of the surplus available⁶⁰⁴ for disbursement, and being open status competitions, one big man and his allies would soon be replaced by another. Self-interest, and the need to maintain popularity, would ensure that temporary winners were constrained in their treatment of temporary losers. However, where a big man captures the state, he becomes virtually unassailable. The only constituency he has to please is his own, and the permanent losers can be disregarded. This is not a situation hospitable to human rights, and the idea that all are equally valuable. Those states which harbour pre-modern forms of social and political authority are therefore

⁶⁰²Walzer, [Spheres]

⁶⁰³Walzer, [Thick and Thin]

⁶⁰⁴The subsistence strategies associated with this type of political structure are swiddening and foraging. Technologically simple, they can support only low population densities and are materially egalitarian.

handicapped, as they will be judged *as if* they were modern.

The Moderns.

The moderns need make no such pretence. They are well versed in the rules, or as MacCormick depicts it, the fetish of sovereignty. They take human rights seriously, but they take other rights seriously too.

Limits to sovereignty.

Sovereign rights and obligations are codified through a range of conventions, treaties and agreements, but the UN Charter is the foundational instrument. Some of these, such as the conventions on conduct during hostilities and the laws on jurisdiction and recognition have already been introduced (3:1), but there are numerous other substantive domains; the law of the sea, diplomatic law, treaty law and so on. The international and domestic political environment also has a direct bearing on the leeway enjoyed by states. Although:

“Theoretically existent, practical Parliamentary sovereignty is, in the technical sense, an absurdity”⁶⁰⁵.

The state, whilst not on the brink of expiring, is subject to economic, social and cultural influences, which even the most repressive and authoritarian states are forced to take into account. As suggested (3:1), the practice of international relations, and the laws that validate it, are remarkably successful in socialising its constituents, states, into habitual observance⁶⁰⁶. The players want to win the game, not change it⁶⁰⁷, and the desire to be on the winning team seems likely to persist. This of course poses a moral hazard, and is a

⁶⁰⁵Laski, H.

Studies in the Problem of Sovereignty. George Allen and Unwin Ltd, London, 1968, (p. 268)

⁶⁰⁶Doty

⁶⁰⁷Jackson

temptation to bend, if not break the rules.

Moderns need little excuse to bend the rules.

As illustrated earlier (3:1), America's detention without charge or trial of: "enemy combatants" in Camp X is troubling enough, and it now appears that this nonce-status is to be applied to American citizens⁶⁰⁸. Human Rights Watch⁶⁰⁹ also reports that suspects have been seized overseas, then moved to third countries which allow interrogation methods that are illegal in the US. Indonesia's General Wiranto is suspected of ordering army collusion with the anti-independence militias who went on the rampage in East Timor, after the majority voted in favour of independence. Not many dead have been found, because the culprits went to great trouble to cover up the evidence. Jose Ramos Horta pointed out that:

"In this day and age, you cannot kill hundreds of people, destroy a whole country and then just get fired"⁶¹⁰.

Both examples are illustrative of Frost's point, that norms are settled where:

"it is generally recognized that any argument denying the norm...requires special justification...Where acts which infringe a given norm are often (normally) undertaken clandestinely, this is *prima facie* proof that the norm in question is a settled one"⁶¹¹.

Breaking the rules, and trying to get away with it, is not the exclusive preserve of the hardened criminal or the naturally wicked; decent people, and decent states, are sometimes forced by necessity to act shamefully. However,

⁶⁰⁸The Constitution prohibits the suspension of *habeas corpus*, except in the event of rebellion or invasion, attainder (the extinction of civil rights in the event of capital punishment), and *ex post facto* (retrospective) laws; civil liberties are further protected by subsequent amendments. These provisions seem to have been ignored.

⁶⁰⁹www.hrw.org 31/8/ 2002

⁶¹⁰[Economist](#) "In search of truth and justice" 5/2/2000

⁶¹¹Frost, [Ethics] (pp. 105-106)

Arend & Beck⁶¹² argue that in the post-war era the hierarchy of values has shifted, and justice now has priority over order. Are the late-moderns more virtuous?

The late-modern.

The late-modern is characterised by mutual interference and the voluntary transfer of elements of sovereignty to supranational institutions, and by this account, EU member states are late-modern. Following the disasters of two World Wars, they are deliberately constructing a political and economic system that will constrain the sovereign state⁶¹³. The powers of the European Parliament are quite limited, but they are growing incrementally⁶¹⁴. It is beginning to reform itself and other EU institutions, and may in future serve as: "a sincere proxy for democracy"⁶¹⁵. Many members remain ambivalent, if not overtly hostile, to the process, but the aspirants to membership presumably believe that the benefits will outweigh the loss of autonomy, although:

"Candidacy was seen by the Turks as an end in itself, but nobody appears to have really thought about what comes after-what meeting the golf-club rules really means"⁶¹⁶.

Military interventions to avoid the grip of Islamic political parties, the doctrine of *Devlet Baba*, that people serve the state, and the laws that criminalise criticism of the army or the state, would have to be surrendered, amongst other reforms. Still, the people affected by these provisions may feel that their rights will be better protected within the EU. It should also be noted

⁶¹²Arend, A. & Beck, R. *International Law and the Use of Force*. Routledge, London and New York, 1993

⁶¹³In this respect, the late-moderns resemble the pre-modern empires considered in Chapter One (1:3), which accommodated multiple loyalties and, apart from the business of maintaining the empire, local social and cultural diversity was tolerated.

⁶¹⁴Successive treaties (Luxembourg 1986, Maastricht 1992, Amsterdam 1997) have expanded the authority of the Parliament, and the trend looks set to continue.

⁶¹⁵*Economist* "Little respect, less love, but growing power" 12/6/1999

⁶¹⁶*Economist* "Is it adieu to Ataturk?" 18/12/1999

that pooled sovereignty is not necessarily an unmitigated good. The Economist⁶¹⁷ suggests that, rather than protecting rights, states are attempting to accommodate capitalism, and the outcome is rather more like a cartel; individual states may lose some freedom, but in exchange they share in the group's monopoly powers. Nevertheless, citizens of effective democracies are habituated to rules based infringements of their freedom, and their states, likewise, expect to submit to international law and observe the rules of numerous international organisations to which they belong. Perhaps they are increasingly willing to see others subject to similar constraints, and their domestic constituencies may be more aware of international rights and wrongs. The post-Cold War years have seen an escalation in direct engagements by their own states, justified on humanitarian grounds, in Northern Iraq, the Balkans and Afghanistan. The destruction of the World Trade Centre and the arrival of refugees have forcefully demonstrated that events in the wider world have consequences at home, too.

What is to be done?

In the twenty first century, even the most powerful states are likely to find it impossible to remain insulated from other people's misery. Developments in transport, communications and other technologies will see to that. Compassion or self-interest would therefore indicate that engagement may be a better alternative to withdrawal, and the late-modern impulse to mutual interference and constraints on the power of states may offer a suitable model. Václav Havel argued that: "human beings are more important than the state", from which he concludes that NATO's intervention in Kosovo was morally justified, being dictated by: "a law that ranks higher than the law which protects the sovereignty of states"⁶¹⁸. It is of course possible that the motive to intervene was guided by an ill considered feeling that something should be

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Economist "The Future of the state" 20/9/1997

⁶¹⁸Havel, V.

Address to the Canadian Senate and the House of Commons,
Ottawa, 29/4/1999

done, or, as Mr Milosevic has complained, by the West's long standing malevolence and hatred of Serbs, rather than a profound commitment to human rights. However, if the uncommitted and the downright hostile can be persuaded to act *as if* they were wholeheartedly committed to rights, the purity of their motivation may not matter.

Practice as evidence of shifting values?

Gearty⁶¹⁹, for example, notes that the Balkan wars of the early 1990s were characterised and discussed in terms of macro-politics, whereas later media reports covered the region almost exclusively in terms of rights. He concludes that this is not merely political correctness, and cites the tribunals in Arusha and The Hague, the establishment of the ICC and the arrest of General Pinochet as evidence of a real change. The argument is plausible, and it is not only on the international scene that change is afoot. Although General Pinochet avoided extradition to Spain for trial on grounds of ill health, he may eventually face court at home. Others certainly face scrutiny; Chilean judges have found loopholes in the 1978 amnesty law, having ruled that disappearances will be treated as on-going kidnappings. However, as suggested previously (2:5), states are inconsistent, and the late-moderns are no more virtuous than the moderns.

Late-modern ambivalence.

National self-determination sits happily with the principle of state sovereignty, as long as there is a reasonable fit between the two. As already noted (3:1), this is rarely the case, and whilst the example of Switzerland shows that states can accommodate diverse sub-state loyalties, not all are as committed to, or successful, in the attempt. Spain and Britain for example, are well versed in the sovereignty game, having been players since Westphalia. Both are fairly

⁶¹⁹Gearty, C

decent, if imperfectly ethical states, and are late-modern, in so far as they have pooled elements of their sovereignty in the EU and other institutions. Both have experienced long running violent nationalist conflicts. Spain and Britain would therefore appear to be well equipped to deal with the constitutional status of Gibraltar, and both governments seem to have approached the issue on grounds of pragmatism and neighbourly goodwill. However, in anticipation of a constitutional sovereignty sharing deal between the UK and Spain, Gibraltarians demonstrated against any change in status, despite the prospective reward of a multi-million pound EU aid deal⁶²⁰. Peter Caruana, Gibraltar's chief minister, declared that sovereignty is: "not for sale"⁶²¹, and that in accordance with their right of self-determination, the people's wishes should be paramount. The Times⁶²² took the view that Gibraltar's status under British sovereignty had been settled once and for all by the Treaty of Utrecht, whilst the Guardian⁶²³ railed against the tyranny of the minority and the locals' refusal to face the reality of a changing world. Joseph Pique, Spain's foreign minister, clearly disagreed with the Gibraltarians' claim, and stated that:

"The right of self-determination is not something Spain alone does not recognise. No one does. Not the United Nations"⁶²⁴.

Ambivalence also characterises certain domestic arrangements within late-modern states. Successive British governments have resisted reform of the 1963 Official Secrets Act, failed to introduce freedom of information legislation, and enacted the draconian Anti-terrorism, Crime and Security Act, 2001⁶²⁵. Surveillance of public places is widespread, and it has been estimated that the average Briton is captured by closed circuit monitors five

⁶²⁰The bulk of the population participated in the protest, held on March 18th 2002.

Independent. 19/3/2002

⁶²¹This has not always been the case, see for example the Louisiana Purchase, 1803, and the ransom of Berwick-upon-Tweed in 1174.

⁶²²Times 19/3/2002

⁶²³Guardian 25/3/2002

⁶²⁴Guardian. 5/2/2002

⁶²⁵Amnesty International Annual Report, 2002

hundred times a week⁶²⁶. Along with the rest of the EU, anti-immigration laws have been tightened in Austria and Denmark, and Spain's Baltasar Garzon, famous for his attempt to extradite General Pinochet, has suspended Batasuna⁶²⁷, the political wing of ETA; September 11th seems to have given states everywhere an excuse to curtail civil liberties.

Sovereignty has served well as a principle of international relations. By delegitimising interference within the domestic jurisdiction of others, it allows states the freedom to shape their polities as they wish, and removed a source of conflict in the international arena. States have generally played by the rules, which has contributed to international order. However: "To follow rules is to use them, not to be overcome by them"⁶²⁸, and these rules also allow states to be abominable to their own people, but it would seem that the: "the internal untouchability of dictators"⁶²⁹ is now being questioned. In England, the Magna Carta (1215) granted the barons certain immunities from the king⁶³⁰, whilst leaving them a free hand within their fiefdoms. Rights to life, liberty and property extended only to freemen, but subsequent laws extended this status to all citizens, thereby removing the barons' freedoms within their dominions. If this is the typical pattern of development within domestic law, perhaps international law will follow the same pattern. In this case, the state's freedoms at home may go the same way as the barons'.

After moderns?

Francis Fukuyama⁶³¹, writing shortly after the event, concluded that the attack on September 11th added further support to his end of history thesis. In his view, modernity has become global, and the attack represented rearguard

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Guardian 2/2/1999

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Guardian 28/8/2002

⁶²⁸ O'Neill, [Towards Justice] (p. 82)

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Economist "The New Geopolitics" 31/7/1999

⁶³⁰ Trevelyan

⁶³¹

Independent 11/10/2001

action from societies that are threatened by modernity, and who vainly seek to retreat from it. Given the misery, and duration, of the transition to modernity endured in the past, he expects the transition for contemporary pre-moderns to be similarly painful, especially if the already modern do not assist in providing short cuts. The assessment is plausible, but Fukuyama's view is short term and mono-directional. Modernity is not necessarily the next step for existing or hybridised pre-moderns. In accordance with the logic of phylogenetic discontinuity⁶³² radically new forms should not emerge from the previous stage, but from somewhere else. So, the pre-modern monarchical, theocratic and big man systems considered above may contain the potential to evolve into a genuine: "after" modern *Weltanschauung*, and bypass the modern altogether. Where this would leave human rights, state sovereignty and all the other defining features of modernity is a matter of speculation.

⁶³²Introduced in Chapter One (1:3).

(5:2) Sovereign rights *versus* human rights.

The pre-modern, modern and late-modern *Weltanschauungs* coexist. Although none are unassailably dominant. States with pre-modern domestic structures function as moderns in the international sphere, and late-moderns display ambivalence in their commitment to the logic of pooled sovereignty. Sovereignty and human rights also coexist, in practice and theory, but they are not uniformly or consistently valued. The tension between modern and late-modern values is at its starkest over the issue of justified intervention but sovereignty rights and human rights are not incompatible. America is the prime example of a modern state that takes both very seriously.

Founded on expressly liberal values, the US represents Enlightenment thought in action. Rights are evident in both the formal institutions of the state, and in social and cultural practices. The second amendment, for example, guarantees the right to keep and bear arms. In the view of the pro-gun lobby, self-defence is an inalienable right, having a gun is imperative to its enjoyment, so gun ownership is also an inalienable right. It is also a fundamental protection from: “overzealous government”⁶³³. By presenting the issue of gun ownership as a defence of rights, the argument is long running and emotive, and taken seriously by congress, the judiciary and its enforcement agencies, and the wider population, all of whom live with the consequences⁶³⁴. Those opposing gun ownership deny that it is a proper right at all, arguing instead that it is a legal privilege granted by the state, which can be withdrawn by the state. The second amendment is also a sovereign right, having been drafted at a time when an armed militia was deemed essential for

⁶³³These points were made by Senator Larry Craig to the Senate, 16/6/2000, and seems to be representative of the views of the National Rifle Association. <http://www.nra.org>

⁶³⁴In 1999, gun deaths per 100,000 of the population were approximately four times greater in the US than in England & Wales, where gun ownership is vigorously discouraged and tightly regulated.

Harvard Injury Control Research Centre
www.gun.control.networks.org

maintaining the freedom of the state, a still evident commitment.

America is notoriously hostile to any curtailment of its latitude, and has withdrawn from the treaty establishing the ICC⁶³⁵, failed to ratify the Kyoto Protocol⁶³⁶, and withdrew from SALT⁶³⁷ in 1986. To critics, this is taken as evidence of America's lack of commitment to international justice, environmental protection and nuclear nonproliferation. However, America may be as committed to these goals as any, and perhaps withdrew because these agreements did not promise success. A further charge, that America is motivated by self-interest, is harder to counter. However, having argued that a state's legitimacy is derived from its people, and judged by its commitment to promoting their welfare, it is hardly fair to complain about a state that claims to be attempting this. Unilateral withdrawal may have been a terrible error of judgement, but this is a separate issue. The problem here is that some states, unlike America, are not equally committed to both sorts of rights.

In Chapter Three (3:3), some modern justifications for sovereignty were considered, and in each case, the legitimacy of the state was essentially instrumental and derivative. Sovereignty is justified only where it enhances and protects the freedom of the people, or in Frost's⁶³⁸ depiction, at least has the potential to do so. The privileges of states were examined in the same chapter (3:1), but there is no direct link between the two. It would be good if the privileges of sovereignty were enjoyed only by states virtuous enough to merit them, but custom, law and practice do not run in this direction. States are therefore able to claim the benefits of sovereignty whilst being vile to their own people⁶³⁹.

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BBC World Service, 6/5/2002

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www.unfccc.int

⁶³⁷Strategic Arms Limitation Treaty.

⁶³⁸Frost, [Ethics]

⁶³⁹Cambodia under the *Khmer Rouges*, Stalinist Russia and Nazi Germany would probably feature on any list of nasty states, but the list of marginally less murderous places is depressingly long.

The Barons: nonintervention and inviolable state borders.

wa Mutua⁶⁴⁰ is not alone in concluding that many of Africa's ills stem from capriciously drawn colonial borders, but his arguments in favour of redrawing the map to allow self-determination for pre-colonial entities do not seem to have much support on the ground. Prior to colonisation, Africa was home to thousands of polities ranging in size and complexity, and although secession attempts have been made, none seem to have been irredentist⁶⁴¹. Eritrea and Somaliland were successful, but they re-established colonial, not pre-colonial borders. States facing secession attempts are, understandably, in favour of maintaining their existing borders, but unaffected states also favour the *status quo*, perhaps fearing the effect of precedent, or unintended consequence. Jackson certainly feels that sovereignty will continue to trump rights, as does MacCormick. So, for example, whilst there are a number of regional economic and political organisations, such as ASEAN⁶⁴², the cardinal principle remains non-interference⁶⁴³, although how long this can remain the case with members such as Myanmar and Cambodia is open to doubt. As Brownlie⁶⁴⁴ notes, the entire UN Charter presumes against intervention, self-help and the unilateral use of force by states, and seeks to restrict the legitimate use of force to Security Council enforcement actions. The Security Council was less than enthusiastic in authorising enforcement action during the Cold War, and although it has delegated measures more frequently since 1990, it remains cautious in recognising acts of

⁶⁴⁰wa Mutua, M. Why Redraw the Map of Africa: A Moral and Legal Inquiry. *Michigan Journal of International Law* 16, 1994, (pp. 1113-1176)

⁶⁴¹For example, Katanga, a province rich in natural resources, seems to have been motivated by fear of chaos and communism under Patrice Lumumba, whilst the Igbo, who had been migrating to Biafra since the start of the twentieth century, feared persecution elsewhere in Nigeria.

⁶⁴²Association of South-East Asian Nations.

⁶⁴³*Economist* "The tigers lose their grip" 19/7/1997

⁶⁴⁴Brownlie, I. *International Law and the Use of Force by States*. Clarendon Press, Oxford, 1963 [International Law]

aggression⁶⁴⁵. This reluctance may stem from difficulties in deciding whether an act qualifies as aggression⁶⁴⁶, fear that recognition may commit the UN to act without the necessary support and resources of its members⁶⁴⁷, and fear that recognition could lead to unwanted scrutiny of the Council members' own behaviour:

“the right to beat up your own people (especially separatist minorities), is a principle deeply cherished by most members of the UN, including Russia and China”⁶⁴⁸.

Like aggression, intervention is not precisely defined; Brownlie notes that a restrictive interpretation would treat only armed attack as intervention, and rule it illegal in all circumstances. Others would include hostile but non-military activities, such as economic sanctions or financial assistance to domestic dissidents, which are more ambiguous. Shaw favours the wider interpretation, which is reinforced by a number of declarations⁶⁴⁹ and more closely represents state practice. Approving of unilateral intervention could create a moral hazard, but self-help inevitably occurs amongst the powerful, as illustrated by Israeli action in Entebbe (1976), and the United States in Iran (1979) and Panama (1989), and amongst opportunist predators, as in the case of neighbourly interventions, such as Liberia looting Sierra Leone's diamond mines, and the Ugandan, Rwandan, Zimbabwean and Angolan interference in Congo. There is always the possibility that future shifts in geopolitics may see a reversion to a more Clausewitzian form of foreign adventure.

⁶⁴⁵UN Charter Article 39 allows enforcement action (Articles 40-12) in the event of aggression, although this is not defined.

⁶⁴⁶A non-binding definition is given in The General Assembly's 1974 Resolution 3314(XXIX).

⁶⁴⁷Unpaid dues are a perennial difficulty for the UN. Although as the Security Council member states, with Japan, fund nearly half of all UN expenses, it may be that it is their own lack of enthusiasm and resources that are the deciding factors.

⁶⁴⁸Economist “A victory for despots?” 17/10/1998

⁶⁴⁹Such as the Charter of Economic Rights and Duties of States (1974) and the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States (1965). Although resolutions passed by the UN General Assembly are non-binding.

It is not only the powerful who claim the sovereignty norms for themselves, whilst being inconsistent in their application. Jackson described this as: “sovereignty plus”, but a claim to nonintervention is totally at odds with welfare claims, although this is a source of bitterness, as the complaint of Khan Akter illustrates⁶⁵⁰. It has also generated default as another variety of moral hazard for the impecunious. All influence attempts are at some level interventions, even discussion. Frost⁶⁵¹, for example, points out that many developing countries do not view free trade as neutral; where liberals see market globalisation and the impartial working of economic principles, they view it as a cloak for Western imperialism, and I turn to this question in the next section (5:3). However, Cold War anxieties have changed, and with them, the strategic value of many developing states. As Fuffin concludes:

“Many regions have again become what they should always have been... the mountains of Afghanistan are nothing but mountains”⁶⁵².

They can no longer claim special protections as fledgling states, and they may now face assistance on donors’ terms⁶⁵³, and undisguised intervention, as Mwagiru⁶⁵⁴ concludes. However, as already suggested (2:5), containment and abandonment may be other options. “African solutions to African problems”⁶⁵⁵ may represent the continent’s desire for culturally sensitive solutions to her

⁶⁵⁰Writing in the *Economist*: Letters, 12/6/1999, he found the suggestion of linking: “good governance” and aid to Pakistan: “malicious, insulting and offensive...immoral and chauvinistic”. It represented a typical Western demand for slavery, and failed to accord Pakistan the respect that was properly her due, now that she had achieved nuclear capability.

⁶⁵¹Frost, [Constituting Rights]

⁶⁵²Fuffin, J-C. The economics of war: a new theory for armed conflicts. In: *Forum. War, money and survival*. International Committee of the Red Cross, Geneva, February 2000, (pp. 22-27)

⁶⁵³An estimated \$1 trillion has been transferred to poor countries in the past fifty years, (*Economist* “Helping the third world” 26/6/1999) but the estimated defence spending in the late 1980s was \$1 trillion a year. (Agenda for Peace, 1992)

⁶⁵⁴Mwagiru, M. Between a rock and a hard place. Africa and the changing United Nations. *Paradigms*, 8 (2), Winter 1994, (pp. 112-123)

⁶⁵⁵*Economist* “Africa’s moment under the UN’s gaze” 5/2/2000

many troubles, or recognition that responsibility cannot always be burdened on outsiders. Unfortunately, it may also mean that no one else intends to help. The flip side is that this may curtail third party support for unsavoury despots and their regimes.

The Freeman: intervention and permeable state borders.

Reciprocal interference and the pooling of sovereignty are characteristic of the late-moderns. Amongst the moderns, too, limits to sovereignty through treaty obligations have always been part of international life. What appears to be changing now is a growing emphasis on playing by the rules. Loans and aid have always been conditional, although political and strategic interests often remain unspoken. In the past, conditionality was usually explicitly linked to banking criteria and the ability to service debts, or economic criteria and the ability to funnel contracts to the donor's domestic industries. Lately though, conditionality has seen a shift in emphasis and many forms of engagement now come with different strings attached; rights observance.

So for example, when Britain restored full citizenship in the dependent territories, this was made conditional on domestic reforms to laws banning homosexuality and sanctioning corporal punishment⁶⁵⁶. Conditionality often takes the form of promoting democracy by monitoring elections, although the success of this approach is questionable. As Chabal suggests, democracy has only a fragile hold in much of Africa: "donor democracy"⁶⁵⁷ has just enough of the desired appearance to keep the aid-givers sweet. Exclusion and censure of those who fail to follow the rules is commonplace in all spheres of activity, but rights observance is ceasing to be a matter of knowing the rules, and hoping that

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Economist "Cleaning up?" 20/3/1999

⁶⁵⁷

Economist "Polls to Nowhere" 23/11/1996

any infringement goes unnoticed. The sovereignty game's presumption against intervention rests on the principle of national security, that the overriding duty of the state is its own preservation. However, concepts evolve, and as Donnelly⁶⁵⁸ argues, national security now encompasses the personal security of citizens, which extends to their protection from their own state.

It would seem that a rights principle is emerging as a dominant international norm, and in consequence, intervention on humanitarian grounds is gaining acceptance, which as Newman⁶⁵⁹ argues is a moral obligation where states fail. Kaldor takes a more extreme view; she holds all players in the sovereignty game responsible, and therefore concludes that nonintervention is itself an indirect form of interference as it represents tacit approval. The other extreme declares everyone else absolved once a single culpable party can be identified. Neither view is helpful; one spreads moral responsibility indiscriminately, and the other relieves too many of any responsibility at all⁶⁶⁰. Eventually, the evident suffering caused by state collapse may lead to a new norm of intervention to assist with nation building. This process is already underway in Afghanistan, and is likely to be necessary if a major intervention in Iraq proceeds. Dr Kouchner⁶⁶¹, the UN's then administrator in Kosovo, is a supporter of the idea that there should be a universal *droit d'ingérence*⁶⁶², and Kofi Annan, the UN's Secretary General, echoing the sentiments of his predecessor clearly approved when he stated that there was:

⁶⁵⁸Donnelly, J. Lecture. University of Kent at Canterbury, 29/11/2001

⁶⁵⁹Newman, E. The Realpolitik and the CNN factor of humanitarian intervention. *Paradigms* 8 (2), Winter 1994, (pp. 71-91)

⁶⁶⁰Assigning indiscriminate responsibility justifies targeting enemy civilians, but the limited liability argument may be even more pernicious. For example, holding Mr Arafat's Palestinian Authority responsible for attacks on Israel, exempts Israel from considering whether its policy on settlements, its policing methods and such have any bearing on the conflict.

⁶⁶¹*Economist* "How Angola's war protects polio" 24/7/1999

⁶⁶²This translates as a right of interference and intervention.

“a need for timely intervention by the international community when death and suffering are being inflicted on large numbers of people, and when the state nominally in charge is unable or unwilling to stop it”⁶⁶³.

State practice also endorses the legitimacy of humanitarian intervention. America, for example, is committed to a substantially increased aid budget, to be conditional on the: “good government behaviour”⁶⁶⁴ of recipients. Nevertheless, even the unprecedented and robust interventions in Iraq, Kosovo and Afghanistan have not formally changed their sovereign status, and the moderns can rest easy that the rules of the game do not face imminent revision in their entirety, but revision seems inevitable. Weber, argues plausibly, that what counts as justified intervention:

“participates in the constitution of both the state as a sovereign identity and the interpretive community to which the state’s”⁶⁶⁵

justifications are directed. The difficulty here is that if one of the central planks of the sovereignty game, nonintervention, is being eased in favour of rights observance, then the game itself does face a radical shake up; rights and sovereignty cannot both trump.

Sovereignty and rights?

Frost seeks to show that this conclusion does not hold. Amongst the authoritative practices to which people belong, some will be more important, and he terms these: “fundamental authoritative practices”⁶⁶⁶. The crucial element

⁶⁶³ Economist “Two concepts of sovereignty” 18/9/1999

⁶⁶⁴ Economist “Present at the creation” 29/6/2002

⁶⁶⁵ Weber (p. 5)

⁶⁶⁶ Frost, [Constituting Rights] (p. 45)

here is that the fundamental practices cannot be trumped by other authoritative or purposive practices⁶⁶⁷:

“for those of us who claim individual rights for ourselves in both global civil society and in the society of democratic and democratising states, these practices are both authoritative and ethically foundational”⁶⁶⁸.

Frost argues convincingly that the rights-bearing civilian and the rights-bearing citizen are mutually constitutive, but, as suggested previously (3:3), this fails to account for the position of civilians who find themselves to be subjects, with their rights denied. In these circumstances, it would seem that the nation can become the foundational practice that trumps, although the idea is not explored. However, when unhappy nations are added to the pair of foundational practices, the problem of the unethical state is thrown into relief; the sovereign rights of the rights abusing state are not commensurate with the civilian rights of nationals. Whilst Frost does consider the unhappy nation aiming at statehood, he hopes that:

“They seek the establishment of democratic states within which the members of the nation will be free to govern themselves”⁶⁶⁹.

Although conceding that nations generally only want to include fellow nationals, the nation with no interest in democracy or rights, which as noted above (5:1), is likely in big man systems, presents a further difficulty. Frost’s solution for the unethical state or nation relies on the assumption that given time and practice, they will learn to become ethical. Whilst he notes that nonintervention is conditional, he remains largely silent on the nature of the interventions that may be justifiable, but is clearly wary of trying to force freedom. This is essentially

⁶⁶⁷Frost follows Oakeshott and Nardin’s distinction between authoritative and purposive associations.

⁶⁶⁸Frost, [Constituting Rights] (p. 47)

⁶⁶⁹Frost, [Constituting Rights] (p. 64)

an argument for what Laidi calls ethical sovereignty, which is:

“the principle whereby state sovereignty cannot be invoked in situations involving large-scale violations of human rights”⁶⁷⁰.

More interventions.

Predictions in international relations are hazardous, but increased interventions and other influence attempts are sure to have consequences. UN reform, as Jacobson⁶⁷¹ notes, particularly its finances and the composition of the Security Council would seem inevitable, as would the creation of a standing army at the disposal of the UN. However, given the lukewarm response to the relatively modest proposals made by Boutros Boutros-Ghali⁶⁷², and the general reluctance of states to be the target of interference⁶⁷³, reform may be some way off. America has a further disincentive. As the single most powerful state⁶⁷⁴, America has the greatest capability to act, and may therefore be reluctant to allow decisions on interventions to be made by others whilst remaining disproportionately liable for their prosecution and costs. However, America's preponderance may also provide an incentive for greater activism, although not necessarily under the auspices of the UN. Delegating intervention to regional peacemakers would spread responsibility more widely, but in practice, few

⁶⁷⁰Laidi, Z. Globalisation and changing wars. In: *Forum. War, money and survival*. International Committee of the Red Cross, Geneva, March 2000, (pp. 8-11)

⁶⁷¹Jacobson, C. Myths, politics and the not-so-new world order. In: *Journal of Peace Research*, 30 (3), 1993, (pp. 241-250)

⁶⁷²Boutros-Ghali, B. *An Agenda for Peace. Preventive diplomacy, Peacemaking and Peace-Keeping*. United Nations, New York, 1992

⁶⁷³The 14 new members of the UN Human-Rights Commission in 2001 included delegates from Algeria, Congo, Kenya, Libya, Saudi Arabia, Syria and Vietnam, all of which were described as abusive governments by Human Rights Watch.

Economist “Chickens and foxes” 21/4/2001

⁶⁷⁴The US has only 4.7% of the global population, but GDP is 31.2% of the global total. Spending on defence and R&D is 36.3% and 40.6% respectively of the global total, and revenue from American films is 83.1% of the total.

Economist “Present at the creation” 29/6/2002

regions are well equipped to mount and sustain a long campaign:

“Australia led a successful coalition into East Timor. But it is rare for a threatened third-world country to have a first-world godfather of that sort, with the political will to lead a charge and the capability to succeed”⁶⁷⁵.

Nevertheless, as Boulding⁶⁷⁶ suggests, new problems are emerging that individual states are ill equipped to deal with, and more than military interventions are expected of the UN; in Kosovo, for example, the UN is establishing a judiciary, police force and collecting tax, in addition to more traditional peacekeeping, which is being provided by NATO⁶⁷⁷. However, even familiar disasters are hard to resolve⁶⁷⁸. The arrest and prosecution of criminal heads of state may have a salutary effect on the behaviour of others, but some may be encouraged to greater efficiency in hiding the evidence. For example, prior to NATO’s intervention in Kosovo, there were reports from Organisation for Security and Co-operation monitors that the bodies of murdered Albanian civilians had been hidden by the Serbian authorities⁶⁷⁹, and several mass graves were later uncovered near Belgrade⁶⁸⁰. However, the establishment of the ICC does have symbolic relevance, even if it can only deal with a tiny fraction of crimes⁶⁸¹. It is perhaps inevitable that that some states will remain immune to persuasion, where coercion would be too difficult or simply impossible.

This may lead to accusations of double standards, which would seriously undermine the legitimacy of intervention, but being unable to right all wrongs is

⁶⁷⁵ Economist “The UN’s missions impossible” 5/8/2000

⁶⁷⁶ Boulding, K. (Ed.) *New agendas for peace research*. Lynne Rienner Publishers, London, 1992

⁶⁷⁷ Economist “Kouchnerism in Kosovo” 5/8/2000

⁶⁷⁸ Mueller, J. The catastrophe quota: trouble after the cold war. Journal of Conflict Resolution. 38 (3), September 1994, (pp. 355-373)

⁶⁷⁹ Economist “Outrage in Kosovo” 23/1/1999

⁶⁸⁰ Economist “The noose tightens” 9/6/2001

⁶⁸¹ Economist “A criminal court for the world” 6/12/1997

not a reason for abandoning the attempt. However, if the threat of intervention is to act as a deterrent, it needs to be credible. Some of the last century's major wars may have been prevented if their instigators had realised that they faced opponents willing to respond vigorously, and it is arguable that the: "most successful unfought war"⁶⁸² was unfought precisely because the doctrine of mutually assured destruction removed any ambiguity as to the protagonists' response.

Sierra Leone, which has endured ten years of misery and war, now hosts the UN's largest peacekeeping operation with 17,400⁶⁸³ troops in the field; the RUF⁶⁸⁴ is in disarray, and their leader, Foday Sankoh is in gaol, and may face trial for war crimes. This may smack of neo-imperialism, but the locals have welcomed the troops as heroic saviours. Perhaps the Sierra Leoneans are late-moderns, or simply desperate, but they have discovered that sovereignty is not quite the supreme good. The WHO⁶⁸⁵, for example, attempting to repeat its success with smallpox, is orchestrating a polio eradication program. In Somalia, where the state has collapsed, the usual pattern of central organisation and vaccines distributed through regional health clinics could not work. Alternative forms of political organisation and humanitarian cooperation are emerging. With permission from the local big man, his militias man road-blocks which are maintained until all the area's children have been inoculated⁶⁸⁶. Similar arrangements have not been possible in Congo, Sudan or Angola⁶⁸⁷. Indeed, the Red Cross⁶⁸⁸ has suggested that attempts to provide humanitarian aid is prolonging these, and other conflicts, by sustaining the warring parties.

⁶⁸² Economist "Lessons from Bosnia" 20/11/1999

⁶⁸³ Independent 15/5/2002

⁶⁸⁴ Revolutionary United Front.

⁶⁸⁵ World Health Organisation.

⁶⁸⁶ Economist "Kalashnikovs and coolboxes" 20/4/2002

⁶⁸⁷ Economist "How Angola's war protects polio" 24/7/1999

⁶⁸⁸ Forum. War, money and survival. International Committee of the Red Cross, Geneva, March 2000

The conclusion here is that intervention in the event of gross rights abuse is becoming a new norm in international relations, but it may result in unintended outcomes for states that are the target of such interventions, and for the sovereignty game as a whole. However, the conclusion that human rights trump sovereignty rights could be criticised on a number of grounds, the most serious being that this is Western liberal evangelism acting as a cloak for *Pax Americana*, and I consider this next.

(5:3) Rights observance: a new civilisation standard?

Although it would seem that rights observance is a rising norm in international relations, it is clearly not universally embraced. Despite numerous treaties, promises and exhortations, many states abuse their citizens. Perhaps, after all, they do not take rights seriously. In order to play the sovereignty game, states have to agree to abide by all these international rules, but in reality, they do what they can get away with. The rules are written by the powerful for their own benefit, and the less powerful just have to pretend that they agree with them too. Or perhaps rights are not really universal, and they are less important, or mean different things in different places. This is not an argument that I wish to endorse, but it is plausible. Democracy, rights, impartial laws; all the norms of international relations endorse the values of Western liberal tradition, and the Western liberals are the most powerful players of the sovereignty game.

Pax Americana?

The single most powerful player is America. Now, it may be that America is the single most powerful state *because* of Western liberal values. If there is a correlation between liberal principles and success in the world, then those closer to being perfectly liberal will also thrive best. If true, then the case for liberalism is won on purely instrumental terms; as long as states behave *as if* they are decent liberal democracies, they will prosper, whatever they really feel about liberal morality. This argument is somewhat circular. As the most powerful states are the Western liberal democracies, then it is in their interest to tilt the game in favour of liberal democracy, and to judge success by their own liberal standards. As Latham⁶⁸⁹ notes, as far as America was concerned, this was the desired outcome of the reconstruction following the Second

⁶⁸⁹Latham, R.

Liberalism's Order/ Liberalism's Other: a Genealogy of Threat.
Alternatives. 20 (1), Jan-Mar, 1995, (pp. 111-146)
[Liberalism's Order]

World War, and the institutions founded at the time⁶⁹⁰. The: "expansion of Western forms of life across the globe"⁶⁹¹ therefore represents the reach of American hegemony, rather than the triumph of liberalism. In the past, powerful states and empires have thrived, and their success was not attributable in any way to liberal values or democracy. The difficulty here is that modernity has not produced any attractive alternatives, and at least for advanced industrialised societies, really existing liberalism⁶⁹² seems to be the only present option, so Western hegemony and liberal evangelism are not separable. This poses a number of dilemmas.

For the pre-moderns, or at least those states with pre-modern domestic social forms, they must either become rights respecting liberal democracies themselves, or face isolation, as it does not seem possible to embrace modernity except on liberal terms. As suggested previously (2:5), isolation is probably not sustainable, and: "sovereignty plus"⁶⁹³ may not be an option for long. Nevertheless, even if the unwilling eventually convert to liberalism, the transition could be both lengthy and risky. Amongst the more securely modern, liberalism is a fairly recent practice, and there is room for improvement. As there is no single administrative system that most effectively realises liberalism, there is plenty of disagreement and competition between them, as well as hostility from the pre-moderns, resentful of criticism and interference in their domestic affairs. The late-moderns share these same difficulties, and have sought to mitigate some of them by pooling sovereignty, but this exposes them to the risk of becoming self-regarding strongholds. Kaldor takes the idea further, suggesting that fostering: "islands of civility"⁶⁹⁴ may be the only way of nurturing the growth of democratic norms. This may be inevitable. There is no

⁶⁹⁰Principal amongst these were Marshall Aid, the Bretton Woods organisations and the UN Charter itself.

⁶⁹¹Huysmans, J. Post Cold-War Implosion and Globalisation. Liberalism Running Past Itself? *Millennium*. 24 (3), Winter 1995, (pp. 471-487)

⁶⁹²Brown, C. "Really Existing Liberalism" and International Order. *Millennium*. 21 (3), Winter 1992, (pp. 313-328) [Really Existing Liberalism]

⁶⁹³Jackson

⁶⁹⁴Kaldor (p. 120)

guarantee that the Enlightenment project will be successful, and Huysmans is among those who argue that it is the very success of the globalising liberal order that is, paradoxically, undermining liberalism's institutional sphere, because the vastly increased transaction flows of capital, data, ideas and people are escaping the control of the liberal state. However, it is not only the liberal state that faces erosion; Kaldor argues persuasively that in the post-Cold War era:

“A downward spiral of loss of revenue and legitimacy, growing disorder and military fragmentation creates the context in which the new wars take place”⁶⁹⁵.

Banditry and local warlords, often with the collusion of other big men and their paramilitaries, are replacing the formal institutions of the state with gangsterism. Although Kaldor's arguments are persuasive, her depiction of new wars is not entirely novel. For example, before the departure of France, Vietnam's traditional power structures had collapsed. Religious and anti-colonial movements, and bandit gangs⁶⁹⁶ ultimately developed into paramilitary political organisations in control of different territories, providing order where the French could not⁶⁹⁷. The tactics of Kenya's Mau Mau and Algeria's NLF⁶⁹⁸ in the 1950s were as brutal as any seen in contemporary new wars. However, as Berlin⁶⁹⁹ concludes, ideas and cultures do not move in neat sequential progressions, and novel political and social forms may develop from these less than new forms of banditry. In the wider world national interest and liberal evangelism remain the order of the day.

Pax Americana: interest or evangelism?

Are the demands of state security and the impulse to evangelise incompatible?

⁶⁹⁵Kaldor (p. 92)

⁶⁹⁶The Cao Dai sect, Hoa Hao and Binh Xuyen respectively.

⁶⁹⁷Miller, N. & Aya, R. (Eds.) *National liberation: revolution in the third world*. The Free Press, New York, 1971

⁶⁹⁸National Liberation Front.

⁶⁹⁹Berlin, [Crooked Timber]

For example, Saudi Arabia has a highly illiberal and undemocratic regime, but remains a favoured trading partner with the liberal democracies due to her strategic oil reserves⁷⁰⁰. America, fiercely attached to her sovereignty rights, has joined the late-moderns in pooling sovereignty on trade issues by joining the WTO. The liberal value of free trade is both a matter of national interest and spreading the liberal gospel, although interests often trump morality. Western governments make pronouncements on human rights, whilst continuing to manufacture and export land mines; poor countries are exhorted to stop exporting narcotics or employing children, but it is the West that demands their goods and services; the West praises the deregulated market, but contrives to limit access to its own domestic markets.

Free trade is a liberal good, but it is tempered by the welfare demands of a state's domestic constituency⁷⁰¹; democratic principles are likewise a liberal good, but to preach their virtues smacks of arrogance and interference in both liberal and illiberal domestic political arrangements; rights observance is likewise the fundamental liberal principle, but fear may, *in extremis*, dilute commitment to their observance. It is of course precisely in times of stress that morality is tested, which makes this the weakest, although understandable, of mitigating circumstances. As Wadham⁷⁰² argues, in a civilised society, the rights of even the vilest criminal must be protected. In part, these discrepancies are evidence of hypocrisy. Australia's Northern Territory, for example, imposes prison sentences for certain minor crimes, such as stealing pencils, that effectively target unemployed aboriginal youths, but John Howard, the Prime Minister declared that Australia did not need

⁷⁰⁰Iraq's oil reserves are second only to Saudi Arabia's, which is the world's largest producer. Independent 26/9/2002. However, a later report citing Rifkins' *Hydrogen Economy* shows Saudi Arabia with 55 years reserves, and Iraq with 526 years.

Independent 18/1/2003

⁷⁰¹Agriculture is heavily subsidised in most rich countries. The Common Agricultural Policy (CAP) for example, subsidises British farmers to the tune of £3 billion a year.

Economist "Why the countryside is angry" 21/9/2002

⁷⁰²Wadham, J. Lecture. University of Kent at Canterbury, 17/5/2002

lectures on how to run its affairs⁷⁰³. A commitment to liberal principles may also have unintended consequences. As in the case of trade barriers, a government's first duty is to the welfare of its own citizens; concern for another state's citizens does not generate the same degree of obligation. In part, the problem occurs because there are competing visions of the liberal good, and in part it is because the sovereignty game itself is hardly liberal. States are nominally equal and their sovereignty rights are to be respected in theory, but the UN is not the functional equivalent of a democratic government, and has none of the institutional or administrative mechanisms that this would entail. Although the sovereignty game relies on the assumption that certain elementary values are shared⁷⁰⁴, most states have only: "the most rudimentary sense of the common good"⁷⁰⁵. The tension between the demands of sovereignty and the common good are most apparent where America is concerned.

International bully or world sheriff?

Buruma⁷⁰⁶ concludes that a mixture of disappointment with outcomes and scepticism as to intention, makes a charge of hypocrisy unavoidable. The case of Iraq is illustrative. America now deems Iraq a threat to world peace and her own security, and wants action:

“And if the United Nations Security Council won't deal with the problem, the United States and some of our friends will”⁷⁰⁷.

The United States' bellicosity has had the desired effect; the UN, including some of Iraq's neighbours, closed ranks, and President Hussein agreed to re-

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Economist “An apology delayed” 4/3/2000

⁷⁰⁴ Rengger, N.

A city which sustains all things? Communitarianism and international society. Millennium, 21 (3), Winter 1992, (pp. 353-369)

⁷⁰⁵ Bull (p. 233)

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Guardian 22/11/2001

⁷⁰⁷ The National Security Strategy of the United States was presented to the UN's General Assembly and Congress in September 2002. www.whitehouse.org

admit weapons inspectors⁷⁰⁸. War may have been averted, and a salutary lesson learned by other unsavoury regimes. Unfortunately, it is equally possible that the effectiveness of threatening force may serve as an unwelcome precedent for others, and, as suggested (2:4), self-help and by-passing the UN may become a common pattern. Worse, Iraq may call America's bluff, and the resulting war could turn into a: "Vietnam-like morass"⁷⁰⁹. The legality and prudence of such threats remain questionable, and I return to the issue of proper conduct, and playing by the rules, in the next chapter (6:2). So is this evidence of American bullying in support of sovereign interests, or does it indicate America's willingness to act as the world's sheriff? Either explanation will attract resentment. There is a correspondence between British imperial interests and her hegemonic position during the nineteenth century. As Wyatt-Walker⁷¹⁰ and Latham⁷¹¹ suggest, Britain's maritime superiority ensured the political stability necessary to pursue her industrial and economic interests, but *Pax Britannica* was not limited to *laissez faire* economics and the balance of power. It was also to have a civilising influence, for example the campaign to abolish slavery indicates a genuine commitment to internationalist liberal ideology.

Although the EU is the most ambitious attempt at pooled sovereignty, single-issue cooperation has not been impossible elsewhere; the Kyoto treaty is being ratified, and the ICC has been established without American participation. For the present, pooled sovereignty is likely to expand piecemeal, treaty by treaty, gradually enmeshing states in a web of reciprocal obligations. This may have the greatest restraining effect on sovereign interests, as the Lilliputians tie up the American Gulliver. It may also have the welcome effect of limiting the sovereign freedoms of others, particularly with regards to their domestic political arrangements. In this respect, *Pax Americana* is also intended to have a civilising influence.

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BBC News broadcast 24/9/2002

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Economist "Present at the creation" 29/6/2002

⁷¹⁰Wyatt-Walker, A.

Adam Smith and liberal tradition in international relations. *Review of International Studies*, 22 (1), January 1996, (pp. 5-28)

⁷¹¹Latham, [History]

Rights. A new civilisation standard.

As suggested in (3:1), rights observance is the new civilisation standard. States are entitled to sovereignty only when they are democratic and protect the civil liberties of their citizens, and rights observance is a precondition to this. As Frost suggests:

“the non-intervention norm itself is conditional upon democratic states respecting the rights of civilians, which is a precondition for the establishment of democracy and citizenship rights”⁷¹².

States who respect the rights of their people may be allowed some time to learn the democratic ropes, or to devise alternative forms of government, but rights come first. Like the earlier standard, state legitimacy is conditional on the observation of approved norms, but it differs with regard to the treatment of states that fail to meet the civilisation standard. At present, there is only one status in international relations, and legitimate interventions remain rare. Previously, failures were subject to an array of differential statuses and interventions, even where they were nominally sovereign. Like the earlier civilisation standard, the word is spread formally by the powers, and informally by their missionaries, although this time the white man’s burden is taken up by NGOs, not individual churchmen⁷¹³. Again, this is a strange sort of imperialism that insists on individual security as a prerequisite to adopting a form of political organisation that lets people chose how they wish to be governed⁷¹⁴. The demand for toleration and respect for individual life plans⁷¹⁵ is, of course, an essentially liberal conceit, but it is an unavoidable conclusion to the logic of first

⁷¹²Frost, [Constituting Rights] (p. 118)

⁷¹³Hoffman, M. Lecture. University of Kent at Canterbury, 16/6/2000

⁷¹⁴Economist. “The New Geopolitics”. 31/7/1999

⁷¹⁵Held, D. Cosmopolitan Democracy and the Global Order: Reflections on the 200th Anniversary of Kant’s “Perpetual Peace”. Alternatives. 20 (4), Oct-Dec 1995, (pp. 414-430) [Cosmopolitan]

generation rights. Once individual thought, discussion, and society⁷¹⁶ are off limits, all self-regarding behaviour is likewise off limits:

"The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. . . Over himself, over his own body and mind, the individual is sovereign"⁷¹⁷.

Gray⁷¹⁸ concludes that Mill's simple principle is a constraint only if the vital interests of security and autonomy are accepted as fundamental, and as indicated above (5:1), this is not the case in pre-modern political and social organisations where these fundamentals are the preserve of the few. However, it is difficult to reconcile the adoption of this modern liberal principle for the state, whilst simultaneously rejecting it for the individuals within it, when the legitimacy of the state is derived from the security and autonomy of the individual in the first place. It is of course not the state that makes this inconsistent claim, but the people who are placed to take advantage of the domestic *status quo*, and people are generally adept at maintaining any number of contradictory ideas. It is not the state that is predatory, but the people who consume it.

Paternal Euro-centrism?

So where does this leave the pre-moderns? I have already argued (5:1) that it is not necessary to adopt a modern world-view, or appeal to reason, or employ the discourse of rights, to secure entitlement to rights, and that (5:2) rights are increasingly being taken more seriously than sovereignty rights. I have also argued that sovereignty, the nation, rights, the whole liberal edifice, are

⁷¹⁶Mill, [On Liberty]

⁷¹⁷Mill, [Utilitarianism] (p. 78)

⁷¹⁸Gray, J. *Mill on liberty: a defence*. Routledge & Kegan Paul, London, Boston, 1983 [Mill]

culturally specific to modernity. For moderns, this is simply the most coherent normative explanation of how the world works, and how it ought to work. The pre-moderns, given enough time, will get the hang of it too. This may be true, but asserting that liberalism is better than any other belief system does not make it so, and it does not even have the advantage of being sanctioned by divine revelation, or other external source of authority. As Walzer⁷¹⁹ notes, rational liberalism is our own thick idiom, and is as partisan as any other belief system. Fish's⁷²⁰ point is that nothing is value free or universally impartial. He makes an exception for applied science, because to actually do science, it is necessary to stick to the fiction that it is possible to objectively observe, measure, conclude and such, because that is how science works. The same exception can be made for all belief systems; that *is* how they work. The argument from reason is promising, but it rests on the assumption that liberal rationality is either universal, or superior to, other forms of reasoning. This is self-evidently true only to moderns, who are already engaged with modernity on its own terms.

In Chapter Three (3:3), it was argued that the world is predominantly modern, and later (4:3), that modern rules and standards of judgement applied. Again, this would seem to be true, but it is not much of an advance on arguing that because the majority see the world this way, it must be true. A more honest reformulation may be that this is how the powerful see the world, and they will ensure that their standards of judgement will apply. This would support an argument that the treaties, charters and conventions that enshrine rights are effectively positive laws that reflect the wishes of the powerful. Perhaps it does not matter. To treat someone *as if* they are a rights bearer does him no harm, and may even prevent harm. If he comes to value rights too, then here is another recruit to civilisation. As Frost notes: "this suggests that all talk of

⁷¹⁹Walzer, [Thick and Thin]

⁷²⁰Fish, S.

There's no such thing as Free Speech. And its a good thing too.
Oxford University Press, Oxford, New York, 1994

basic or natural rights must be culturally specific”⁷²¹. However, whilst accepting that the charge of moral imperialism is unavoidable, there are factors that explain why the pre-moderns are also rights bearers.

Rights as culturally specific *and* universal.

Firstly, it is not self-evident that individual security is a value only to liberals; some minimum security would seem to be a perquisite for survival, whatever the *Weltanschauung*. However, whilst explanations derived from socio-biology and evolutionary psychology may account for efficient adaptive behaviour, the variation in human social practices would indicate that no single set of rights will ensure security. For example, among non-Arctic foragers, property is a concept only loosely connected with ownership. Tools are easily made, and readily shared or abandoned⁷²². The value of an item lies in its portability, so storage, even of food is: “economically undesirable, and socially unachievable”⁷²³. The Lockean⁷²⁴ account of property posits the individual as prior to society. A person is the proprietor of his own body, and therefore is also the proprietor of his labour, which extends ownership to anything with which he mixes his labour. However, the pre-modern view holds that:

“people are mutually involved in the production of each others’ existence, the products of their respective labours are due to all”⁷²⁵.

The only right of property is the obligation to give it away. Secondly, they also recognise cruelty and injustice. Rights abuse is the result of human agency, and could be stopped simply by forbearance. Intentional cruelty, whether through indifference or malice, is therefore not the same as the

⁷²¹Frost, [Constituting Rights] (p. 37)

⁷²²Turnbull, C. *The Forest People*. Triad/Paladin, London, 1988

⁷²³Sahlins (p. 32)

⁷²⁴Macpherson, C. *Property, mainstream and critical positions*. Blackwell, Oxford, (Ed.) 1978

⁷²⁵Ingold (p. 227)

misery caused by accident or misfortune, or even through accepted punishments for crimes. Injustice, likewise, is not the same as the misery of random illness, or being the hapless victim of crime; it is an irregularity, or departure from accepted standards of fairness. Rights are culturally specific, and there are probably no common rights that would be recognised as such across all cultures, although torture would seem to be a likely candidate⁷²⁶. Perhaps this is why there is no core of universally agreed rights even amongst the first generation. The point here is that rights abuse is not confined to the moderns. This description of cruelty and injustice through human agency would be widely recognised as witchcraft in most pre-modern cultures. The demand for rights observance could therefore be interpreted as the modern approach to dealing with the immorality of sorcery in large-scale industrial societies⁷²⁷, with genocide and war crimes prosecutions the equivalent of witch-hunting. Thirdly, none of the pre-moderns are pristine isolates. Even where the state controls the domestic media, and restricts access to external sources of knowledge⁷²⁸, the discourse of rights is hardly a well-kept secret. The derivation of universal rights is contestable, but uncertainty regarding their source is not the same as uncertainty regarding their importance, or uncertainty regarding the qualifications for entitlement, although uncertainty regarding their precise nature is problematic.

Coca-Cola imperialism.

Although there is no definitive list of human rights, there is a broad consensus as to the nature of first generation rights; they are intended to avert

⁷²⁶All human rights agreements prohibit torture absolutely, and: "No domestic legal system officially allows it". *Economist* "Ends, means and barbarity" 11/1/2003

⁷²⁷Kinshasa has an estimated 40,000 street children. Accused of witchcraft, they are blamed for the misfortunes that make it impossible for their relatives to care for them, and being witches, they have forfeited the care that would otherwise be owed to them. A local aid agency worker noted that: "the biggest problem is knowing how to sort the real witches from the rest". *Economist* "Sad little sorcerers" 7/12/2002

⁷²⁸There is evidence for example that China has banned the internet search engines, Google and AltaVista. www.reuters.co.uk 9/9/2002

gratuitously inflicted harm. Evangelising on behalf of universal rights is a form of Western imperialism, as already acknowledged (2:3), but this definitively falls short of endorsing cultural imperialism. The ethos of liberalism is freedom to choose, and toleration of the choices made by others. Fox hunting, single parent families, and Hollywood blockbusters are the consequences of choice, not choices that everyone must make. Whilst admiring the achievements of liberalism, it is also necessary to acknowledge the excesses; the rapacious materialism that characterises much of Western culture is unappealing, and seen by many non-Westerners and Westerners alike as an outcome of the liberal reification of the individual. This in itself is seen as hypocritical, because whilst supposedly valuing the individual, the West tolerates huge inequalities between its citizens and does little for the benefit of non-citizens. However, liberalism is founded on the principle of respect for the individual as a moral agent. It therefore precludes toleration of practices that profoundly disrespect the person, but does compel toleration of practices that are disgusting.

Mutilation as a criminal punishment, cannibalism and performing animals, for example, are cultural practices that obligate toleration, although they could be criticised on grounds of prudence⁷²⁹, and would invite: "disinterested concern for the character and conduct"⁷³⁰ of their practitioners. Disinterested concern can, of course be hard to distinguish from unwarranted meddling⁷³¹. Foot binding, creating castrati and slavery, in contrast, cannot be excused by appeal to cultural difference. The first two are imposed on children, without informed consent, and in all three examples, the consequences are born by the victim; the actions are harmful and other-regarding, so fail both the security and autonomy

⁷²⁹If an error of judgement was later discovered, amputation could not be reversed, Kuru (Creutzfeldt-Jakob disease) is a fatal disorder linked to cannibalism, and a performing bear might eat its master or the audience.

⁷³⁰Halliday, R. *John Stuart Mill*. George Allen & Unwin, London, 1976, (p 116)

⁷³¹The French, for example, try to stem the influence of music, language and culture originating in North America, but have been annoying many Canadians since the early 1960s when de Gaulle launched his: "special relationship" campaign.

Economist "A very special relationship" 27/9/1997

requirements⁷³².

The conclusion here is that liberalism and modernity are historically European, and to this extent, their dispersion is a form of imperialism, but this does not justify, let alone require that all Western values or social practices should be adopted along with respect for rights. Rights are part of the modern *Weltanschauung*, and are justified by security and autonomy, although the latter requirement may be weaker in non-liberal cultures, and would affect what should properly be deemed rights. For example, individuated property rights would not feature as a first generation right in a culture where property was held in common, or where tenure and territory are indivisible, as previously considered (3:3). Is this an argument for relativism? Perhaps.

Different rights, or having your state and eating it?

Malaysia's prime minister, Dato Seri Mahathir bin Mohamad famously declared that: "Asian values are universal values. European values are European", and China's President Jiang Zemin has noted that each country has its own history and culture and its own approach to human rights⁷³³, but the argument is not convincing. At best, as O'Neill⁷³⁴ suggests, it acknowledges that there are different ways of living-up to principles in differing circumstances. Although individual rights derive from liberal ideology, to conclude that they are at odds with, or denigrate the communitarian values that characterise many non-Western societies is mistaken. It is also incoherent to demand respect for the autonomy of communities, whilst rejecting the liberal values that justify autonomy⁷³⁵. As

⁷³²Ten argues that harm and maturity are relative and contestable, so should be restricted to extreme and blatant cases.

Ten, C. *Mill: on Liberty*. Clarendon Press, New York, 1980

⁷³³*Economist* "Some milestone" 25/11/2000

⁷³⁴O'Neill, [Toward Justice]

⁷³⁵Carens, J. Complex Justice, Cultural Difference, and Political Community. In: Miller, D. & Walzer, M. (Eds.) *Pluralism, Justice, and Equality*. Oxford University Press, Oxford, New York, 1995, (pp. 45-66)

noted previously (3:3), communitarian values are ultimately derived from the individuals that form the community, and any claim made on behalf of a community is legitimate only in so far as it increases the welfare of its members⁷³⁶. The implied superiority of Western beliefs is insulting, but rights are quite easily separable from Western social and cultural practices; respecting rights does not require the adoption of serial monogamy, McDonalds and genetically modified food. There is also concern that rights are gendered. Women are disproportionably victims of abuse; extrapolating from data for 2000, one in five suffer sexual abuse as children, one in four are victims of sexual violence as adults, and half of all female homicide victims are killed by their partners⁷³⁷. Insisting that rights are universal endorses the privatisation of abuse suffered by women. However, abuse of this kind would seem to be covered by the right not to be tortured, and a further right prohibiting the cultural norms that sanction female subordination would be hard to encompass within the minimalism of first generation rights. The first generation rights to security of the person may of course be secured without references to rights.

Robarchek⁷³⁸ notes that the Semi of central West Malaysia, in common with many isolated peoples, have a view of their home village as a place of dependency, mutual aid and kin affiliation. The forest that surrounds them is a source of unremitting hostility and terror, so even the most mundane activities:

“are enveloped in taboos and circumscribed by ritual in a vain attempt to avoid precipitating the dangers which menace them from all

[Complex Justice]

⁷³⁶This applies to both the liberal and romantic conceptualisations, although the latter in its primordialist form cannot abstract the individual; an increase in the nation's welfare *must* increase the welfare of the individual.

⁷³⁷World Health Organisation. Report on violence and health. 3/10/2002

⁷³⁸Robarchek, C. Motivations and material causes: on the explanation of conflict and war. In: Haas, J. (Ed.) *The Anthropology of War*. Cambridge University Press, Cambridge, New York, 1990, (pp. 56-76) 293

sides”⁷³⁹.

Mature democracies do not always follow the obvious route to redress through political bargaining or international tribunals, either. In 1995, following a class-action case that found Ferdinand Marcos guilty of massive human rights abuse, a \$1.9 billion settlement was awarded against his estate⁷⁴⁰. In a similar vein, after years of fruitless political negotiations, the Musqueam’s 1999 court victory awarded them a 74-fold increase in land-lease rates⁷⁴¹.

It is conceivable that pre-modern political forms could accommodate rights observance, or at least those most directly concerned with personal security, although it is unlikely that the leaders of such states would welcome this development. There is an argument that Arabs, for historical and religious reasons, are ill suited to democracy, but this appears to be both spurious and patronising. It is an argument used to explain why Israelis and Palestinians⁷⁴² cannot compromise, why Islamic immigrants must be refused admittance to Europe, and why autocratic or dictatorial rule is the norm for the Middle East. Islam has not prevented Turks or Iranians from adopting democratic practices, and it should be noted that: “the Arabs have not rubbed along happily without democracy; they have rubbed along unhappily without it”⁷⁴³. As noted in Chapter Three (3:3), self-determination is predicated on a chosen form of government, and some form of democracy would therefore seem essential. The charge that rights are a luxury for the rich is harder to counter, as Colonel Quaddafi claimed: “we need water pumps, not democracy”⁷⁴⁴.

Free speech and freedom of assembly are of little use to someone dead from

⁷³⁹Robarchek (p. 66)

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Economist “To sue a dictator” 24/4/1999

⁷⁴¹

Economist “First nations laugh last?” 24/4/1999

⁷⁴²Bar’el, Z

Ha’aretz “A vision of democracy” 12/5/2002

⁷⁴³

Economist “America and the Arabs” 21/3/2002

⁷⁴⁴

Economist “African debt, European doubt” 8/4/2000

war or hunger. Natural catastrophes apart, these calamities have human causes⁷⁴⁵, and it is likely that many would be averted if rights were taken seriously. Natsios⁷⁴⁶, for example, notes that famine has never occurred in a democracy, a view that has widespread support amongst aid agencies and donor governments⁷⁴⁷, who increasingly link aid to domestic political reform. Nevertheless, political rights do not have much urgency when basic subsistence needs are not even met⁷⁴⁸, and the catastrophe of AIDs is causing some rights activists, and the states affected by the epidemic, to elevate health and other social goods to the status of rights, thus trumping other demands. However, the West is unlikely to be as open handed as the claimants would wish, which runs the risk that rights will be seen as a luxury for the rich.

Mixed motives are not the exclusive preserve of the powerful, and resentment and envy may also play a role, although it would be disingenuous to suggest that resistance to rights respect is always rooted in anti-American sentiment. As the greatest power, it raises the greatest expectations; failure by the US to consistently live up to its own liberal ideals, is not judged merely as failure, but as duplicity, and:

“the response, as often as not, is pathological exaggeration of one’s real or imaginary virtues, and resentment and hostility towards the proud, the happy, the successful”⁷⁴⁹.

Robert Fisk⁷⁵⁰ in a report endorsed by Chomsky⁷⁵¹, suggests that resentment at the apparent indifference to suffering, rather than hatred of liberal freedoms, is a better explanation for anti-American feeling.

⁷⁴⁵Dowden, R. War, money and survival: rounding up. In: *Forum. War, money and survival*. International Committee of the Red Cross, Geneva, February 2000, (pp. 100-107)

⁷⁴⁶Natsios, A US Agency for International Development. www.nkfamine.edu

⁷⁴⁷The link is made explicit in the stated policy objectives of, for example, the US, Norwegian and British governments’ developmental bodies.

⁷⁴⁸In particular the International Covenant on Civil and Political Rights, and the International Covenant on Economic, social and Cultural Rights.

⁷⁴⁹Berlin, [Crooked Timber] (p. 246)

⁷⁵⁰Independent 12/9/2001

⁷⁵¹BBC. World Service broadcast, 12/9/2001

The modern norms of sovereignty and nonintervention were developed as a defence against the destructive religious wars that had raged across Europe, and culminated in the Thirty Years' War. These norms were again reinforced by the architects of the UN, who had good cause to fear the consequences of aggressive interference. Subsequently, rights observance has been gaining ground, and undermining the sovereignty norms. The rights norm has taken root more firmly in the favourable climate of the West, where they are integral to the logic of liberalism and the mutual interference of the late-moderns. States do act from mixed motives, but at least a start has been made. Liberalism, in common with most international practices, was initiated in the West for historical reasons, but derivation does not negate its value.

The conclusion here is that rights are culturally specific and there is no definitive list of universal first generation rights. Food is also culturally specific, but although there is great variety in what people choose to eat, it has to meet certain nutritional requirements to sustain life. Likewise, security and autonomy may be realised differently in different cultures, but the range of rights that could secure these fundamentals are fairly limited. Further, these fundamentals are universal entitlements, not a perquisite for those powerful enough to secure them for themselves, so any state that precludes some of its citizens from the enjoyment of security and autonomy has no value to its excluded citizens and no legitimacy. It is not civilized. The sovereignty game is a modern practice, and states engage with each other on modern terms. Although modernity and really existing liberalism are not all pervasive, it is disingenuous to pretend that modernity stops abruptly at a state's border. It is also dishonest to pretend that the rights that liberals deem essential for the enjoyment of security and autonomy, have no value or meaning once over the border, merely because they originated in the West. Perhaps it is this claim of origin that is imperialist. As Chan⁷⁵² notes, China's Falun Gong and other

⁷⁵²Chan, S.

Buddhist beliefs bear striking similarities with the values associated in the West with the Reformation and Enlightenment.

(5:4) Rights as a moral minimum.

Rights are universal, even if the exact details are culturally specific. As Fish suggests, values are always qualified by the context of the culture in which they are embedded. Freedom of conscience and speech, for example, are fundamental rights:

"If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind"⁷⁵³.

However, free speech cannot be a primary right that trumps all, unless words do not matter. Speech is a purposive public act, and it has consequences⁷⁵⁴, so the right to speak, in common with other rights, is tempered by the demands of individual security and autonomy. Rights are a moral minimum, an attempt to prevent harm, not an exhaustive moral theory; respecting rights may not ensure a perfectly just society, but may at least create a passable one, where security and autonomy are protected. Rights are thus a pre-condition for sovereignty rights. The same civilisation standard should apply to both existing states and nations claiming self-determination, but it does not. The sovereignty game is already stacked in favour of the *status quo*, there are no clear entry procedures for nations, and none for expelling states that persistently fail to observe rights. This may change. The post-Cold War international environment is more hospitable to the idea that intervention to avert rights abuse is morally permissible, and that conditionality and other influence attempts should be directed at states to

⁷⁵³Mill, [Utilitarianism] (p. 85)

⁷⁵⁴In 1999 a jury in Oregon (upheld on appeal in the 9th US Circuit Court in 2002) found that the Nuremberg Files anti-abortion website was an incitement to violence. The ruling was significant, as it weakens freedom of speech as a virtually unassailable defence.

encourage their compliance with rights standards. It therefore seems probable that nations claiming self-determination will also be held to the same standard.

National rights?

The main argument in this chapter is that rights claims are taken seriously, and that in the hierarchy of international norms, individual rights are beginning to trump sovereignty rights. So where do national rights fit? Their members individually have human rights, and if they become states they gain sovereignty rights, but collective national rights are problematic. The principle of national self-determination has widespread currency. Indeed, as suggested in Chapter Two, it was the big idea of the twentieth century, and many nations do claim it as a right. States generally deny it. If national self-determination really is a right, a claim has to be taken seriously, but, as suggested in the previous chapter (4:3), whilst the potential reward for the nation is great, the consequences for states could be dismal. National self-determination does not sit well with sovereignty, although it should. Popular sovereignty legitimises the state, so in theory, it could legitimise any number of states, even one for each nation. However sovereignty, once achieved, is not easily relinquished, and states, for the present, are reluctant to see themselves or their neighbours subdivided into smaller units⁷⁵⁵.

Even the late-moderns who are willing to pool sovereignty are unwilling to divide it, as Spain and Britain illustrate, although both have compromised with some of their component nations by devolving some power regionally. Amongst the post-colonial states, a willingness: “to recognize in the nation-that-comes-next

⁷⁵⁵ Although Czechoslovakia separated amicably into two republics, further devolution of the Czech Republic into Silesia, Bohemia and Moravia is not imminent.

the rights vindicated by their own independence”⁷⁵⁶ is conspicuously absent. Citing WorldWatch Institute evidence, Goldsmith⁷⁵⁷ estimates 40 million deaths in the past fifty years from wars that are the direct result of nations unhappily trapped within the wrong state borders, and argues that for this reason, the Wilsonian principle of self-determination should be taken seriously. However, like Walzer, his argument is weakened because he pleads for tolerance between culturally differentiated nations, not within them. The same evidence also supports a counter argument; that nationalism is such a destructive force that it should be stifled, if only to promote international order. For the present, states retain their primacy in the international arena because they can. So, what is the unhappy nation to do?

National self-determination as instrumental.

The argument in Chapters Three and Four turned on the nation’s value to its members, and in so far as nations resemble the state and kin, the legitimacy of these forms of community were also considered. However, whereas states already enjoy the sovereign right of self-determination, and kin based ties are a matter of community and identity, nations additionally claim self-determination. Unhappy nations who feel that their rights are inadequately observed, therefore presume that they will be better able to secure rights for themselves. This fits with the liberal belief that freedom cannot be forced or granted, and it is plausible that those fearing for their security and autonomy are better motivated to establish institutions and practices amenable to this. Although a right to self-determination is balanced by the obligation to bear the burden of unhappy choices. Is this instrumental approach to self-determination justified?

⁷⁵⁶Walzer, [Thick and Thin] (p. 79)

⁷⁵⁷Guardian 3/5/2002

Jackson, judging by outcomes, suggests not. In the quasi-states typical of post-colonial Africa, few are well functioning democracies⁷⁵⁸. Most have settled into the big man predatory systems outlined above (5:1), and it would be hard to argue that these are a benign alternative to the liberal state for most citizens. The majority of citizens have not collectively exercised their right to self-determination; they have not had the opportunity to try. Self-determination in these circumstances has resulted in not even passably decent polities, and millions are condemned to misery and want. This endorses the view that self-determination is instrumental in so far as it has direct consequences, albeit dire ones, a view shared by Walzer:

“On the other hand, the partners are not bound to stay together forever –not if they are in fact different tribes, with different political and moral cultures, who meet the minimal standards for autonomy or independence”⁷⁵⁹.

Although it will be recalled from Chapter Two (2:4) that Walzer uses the word tribe pejoratively⁷⁶⁰, and he later concludes that few newly independent states actually met his minimal standards. “The tribes have returned, and the drama of their return is greatest where their repression was most severe”⁷⁶¹. The Soviet experiment was totalitarian and imposed on pre-democratic political structures, so when the state failed, the mechanisms for minority protection also collapsed. The space for civil society was limited, so the rights observing culture that might have sustained respect for either individuals or minority nations was missing. The impulse for self-determination is therefore a matter of self-help and survival,

⁷⁵⁸Phoney democracies are not limited to Africa. Peru, Haiti and Malaysia are on a long list of states whose commitment to democracy is pretty much limited to elections, which are themselves neither free nor fair.

⁷⁵⁹Walzer, [Thick and Thin] (p. 76)

⁷⁶⁰Tribes, like nations, have a chequered pedigree. In ancient Rome, the tribes were Latins, Sabines or Etruscans. Morgan (1877) defined them as groups with social, but not political institutions, and Maine (1861), as groups where legal relations derived from status rather than contract. In Africa, tribe was a colonial concept, used to impose order and regional pan-community groupings that simply had not previously existed. In later, post-colonial times, tribe became a euphemism for backwardness, or for the dispossessed and marginalized.

⁷⁶¹Walzer, [Thick and Thin] (p. 63)

but success is not guaranteed, as the ongoing misery in Chechnya indicates⁷⁶². Further, as a sense of victimisation seems to be a recurrent feature of national identity, as suggested in Chapter Three (3:3), potent emotions can be roused when this is evoked.

Kaldor, writing of the disintegration of the former Yugoslavia, argues that the authorities cynically hijacked the language of national self-determination in a self-serving attempt to hang on to power. Political and economic collapse had created insecurity and fear across the region. This was manipulated until the Serbian public felt that their survival was at stake. They:

“experienced a virtual war long before the real war was to take place- a virtual war that made it difficult to distinguish truth from fiction so that war became a continuum in which the 1389 battle of Kosovo, the Second World War and the war in Bosnia were all part of the same phenomenon”⁷⁶³.

Walzer deems self-determination a minimalist moral principle, expressed in terms of the familiar liberal idiom of rights and democracy, and the fundamental value that a nation affords to its members. However, he is silent on the possibility, noted previously (4:1), that membership of the nation may not be an unqualified good, and although he suggests that justice is not the sole preserve of a liberal order, he is equally silent as to what the alternatives may be. As Rustin⁷⁶⁴ notes, Walzer, in presenting his arguments in universal terms is reluctant to concede that they apply well to advanced Western democracies, but perhaps less well elsewhere. Consequently, he avoids the conclusion that self-determination is a liberal value, of value only to liberals, or those attempting to

⁷⁶²The Chechens have been fighting Russian domination and repression on and off since the 1830s.

⁷⁶³Kaldor (p. 39-40)

⁷⁶⁴Rustin, M. Equality in Post-Modern Times. In: Miller, D. & Walzer, M. (Eds.) *Pluralism, Justice, and Equality*. Oxford University Press, Oxford, New York, 1995, (pp.17-44)

establish a liberal polity. Miller spots the dilemma: "The consistent ethical universalist ought to be a cosmopolitan"⁷⁶⁵. Self-determination is a poisoned chalice; unless the nation is already imbued with liberal values and is well on the way towards a liberal order, its members would be better off accepting benevolent rule from a liberal outsider⁷⁶⁶. This is a position that Mill accommodates with equanimity:

"If protection against themselves is confessedly due to children and persons under age, is not society equally bound to afford it to persons of mature years who are equally incapable of self-government?"⁷⁶⁷

An argument that he extends to immature societies. This sentiment may be implicit to liberal evangelism, but the implication that nations who do not aspire to a liberal order are inferior, and not capable of self-determination, reeks of moral supremacy. Perhaps this is unavoidable.

Anaya is not so diffident. He also concludes that national self-determination is instrumental, but argues that it must be explicitly linked to human rights. For pragmatic reasons alone, it is a better justification than doubtful historical claims, or nebulous appeals to culture or diversity. Although Anaya endorses rights, he points out that freedom of speech, says nothing about what language is to be spoken, nor where the boundaries of the self-determining nation should fall. He goes some way to argue that minority protections⁷⁶⁸ should be an additional fundamental right, but as already suggested (5:3), the need for special assistance would be redundant if rights were observed in the first place.

⁷⁶⁵Miller, [On Nationality] (p. 79)

⁷⁶⁶The Bosnian constitution, for example, requires that the Central Bank must be run by a non-citizen, excluding citizens of neighbouring states, until 2003. Peter Nicholl, a New Zealander was the first governor.

⁷⁶⁷Mill, [Utilitarianism] (p. 149)

⁷⁶⁸Being a minority is not of itself a problem. Many Russians in the republics of the former USSR were a privileged elite. It is only now that their privileges are lost, that they feel insecure.

For the moment, self-determination is deemed to be full secession. Unhappy nations do not demand a revolutionary political order, or a change in government personnel, or the overthrow of the state; their challenge to the authority of the state is essentially jurisdictional. They want borders redrawn so that they can have their own sovereign state⁷⁶⁹. However, as already suggested (1:4), both Gellner⁷⁷⁰ and Plamenatz acknowledge that even in the kinder phases, self-determination often results in brutal treatment of minority nations. If national self-determination is claimed in order to gain rights and avoid wrongs, self-determination pivots on performance, and the evaluation will be both pragmatic⁷⁷¹ and moral. Beitz, as noted previously (3:3), concludes that legitimacy only accrues where a state is ordered in accordance with: “appropriate principles of justice”⁷⁷², and national self-determination is justified only in so far as it promotes this. Can rights observance alone meet this criterion, or is a particular form of political organisation necessary?

The fragility of rights respect.

Rights may be a rising norm in international relations, but the mechanisms for their enforcement are precarious; they depend on the state. The late-moderns are predisposed to mutual interference, and have a range of treaties, laws and institutions aimed at enforcing rights. The ECHR, for example, considers cases where national courts have failed to provide redress, or where the relevant

⁷⁶⁹Non-territorially based nations are unusual. As noted previously (4:3), Gypsies are probably unique in that their national identity does not entail a specific homeland. Buchanan considers governments in exile as a possibility, but these are vulnerable and rarely successful.

⁷⁷⁰Gellner, [Nationalism]

⁷⁷¹Treating self-determination as a *de facto* question of what works, can only be said to apply until the 1950s, when it became an injunction against blue water colonisation and the opposite of pragmatism. The argument is sustainable if the decolonisation process is deemed an aberration. This view is probably correct, but it should be remembered that the achievement of sovereignty has always been subject to luck and politics.

⁷⁷²Beitz, [Political theory] (p. 96)

government is accused of rights abuse, and will hear complaints from both individuals or other states⁷⁷³. The ECJ⁷⁷⁴ adjudicates on questions of EU law, which encompasses all three generations of rights, and its judgements act as precedent. Britain has been convicted in both courts. For example, in 1998 a man was convicted of beating his stepson, after being cleared of assault and battery in an English court. The law permitting reasonable chastisement of children was found to be in breach of Article 3 of the European Convention on Human Rights⁷⁷⁵. The same law has led to criticism that Britain is also in breach of Article 19 of the UN Convention on Rights of the Child⁷⁷⁶. Despite this, the reasonable chastisement proviso remains in force outside Scotland, which indicates that rights are fragile even where external enforcement mechanisms are relatively muscular.

Amongst the moderns, enforcement measures are less robust, and amongst those with pre-modern social organisation, rights abuse may be positively sanctioned. Pakistan, for example, allows: “cruel, inhuman and degrading punishments”⁷⁷⁷ to be authorised by tribal councils, and Human Rights Watch⁷⁷⁸ claims that obligations under the Convention on the Elimination of all forms of Discrimination Against Women, to which Pakistan acceded in 1996, are not merely breached, but are systematically undermined by the authorities at all levels. External enforcement of rights can range from censure to criminal proceedings and armed intervention, but these are applied inconsistently, and only to the most extreme

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www.YourRights.org.uk

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www.lawreports.co.uk

⁷⁷⁵Incorporated into UK law as the Human Rights Act, 1998

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[Guardian](#) 5/10/2002

⁷⁷⁷Amnesty International complained formally to Pakistan’s Chief of Justice, by letter on 5/7/2002. A boy had been accused of consorting with a woman from the socially superior *Matsoi* clan, and in punishment, his sister was gang-raped on the authorisation of the Council of Elders.

www.ai.org Elders at the Khyber Agency have threatened to burn down the family homes of any women voting in the forthcoming elections.

⁷⁷⁸[Independent](#) 7/10/2002

⁷⁷⁸

www.hrw.org

cases of abuse. For the present, most people have to rely on their own states, even where their commitment to rights is less than enthusiastic. What is it that makes some states better at observing their citizens' rights?

Is democracy essential?

The nation seeking self-determination does so on behalf of the nation itself, which implies that some form of participation from its constituent nationals is necessary. Although as noted in Chapter Two (2:2), Gray⁷⁷⁹ suggests that this conception of freedom was not necessarily linked to a democratic polity by the ancients, there would appear to be a strong link for the moderns, which suggests that self-determination is only meaningful where some form of democratic institutional and political arrangements are in force. Frost notes that in a democratic state, people:

“have a positive right granted them by the state as citizens to have their negative liberties, their rights as civilians, protected”⁷⁸⁰,

and it is certainly hard to envisage a functioning democracy that could dispense with rights. On attaining sovereignty, the nation could decide to vote away rights and democratic institutions, for example if the majority wished to establish a monarchy or theocracy, but the polity would not remain a democracy. If the franchise was severely limited, a minority could effectively capture the state and promote their sectional interests, but even if this formally qualified as a democracy, it could hardly claim legitimacy through popular mandate. If security and autonomy were systematically abused in a democracy, popular sovereignty would ultimately ensure change. This would be less of a protection where only a minority were subject to abuse, or where only the minority's rights

⁷⁷⁹Gray, [Liberalism]

⁷⁸⁰Frost, [Constituting Rights] (p. 106)

were dispensed with. Berlin suggests that the: “connection between democracy and individual liberty is a good deal more tenuous”⁷⁸¹ than this argument would imply, but the majoritarian principle evoked in each of these scenarios would, in a functioning democracy, necessarily be constrained for safety reasons:

“Nobody but a moral imbecile would really be prepared to deliver himself over body and soul to the majority principle”⁷⁸².

Procedural constraints would therefore need: “to respect the interests of all”⁷⁸³, that is the rights of all, rather than the preferences of the majority. Again, once the fundamental moral equivalence of individuals is accepted, some form of representative rule seems unavoidable, and democracy is the least coercive form conceived of to date:

“if voting for representatives settles the question of who should rule in a way that claims to superior competence or claims to inherent personal superiority do not, it permits freedom of speech and organisation no other regime does”⁷⁸⁴.

As Buchanan suggests, the principle of non-discrimination: “*voids the state’s claim to the territory in which the victims reside*”⁷⁸⁵. In addition to its functional and administrative role, Frost argues that the democratic state is uniquely ethical because: “it creates ethical statuses not available to people in civil society on its own”⁷⁸⁶. Citizens of non-democratic states have only the status of subjects, and although nations and nationals mutually legitimate each other, nationality is not a matter of choice, or conscious reformulation. Further, whilst nationals mutually constitute each other as member or non-member, non-members are as likely to

⁷⁸¹Berlin, [Four Essays] (p. 131)

⁷⁸²Barry, [Democracy] (p. 38)

⁷⁸³Barry, [Democracy] (p. 36)

⁷⁸⁴Barry, [Democracy] (p. 60)

⁷⁸⁵Buchanan (p. 45)

⁷⁸⁶Frost, [Constituting Rights] (p. 114)

attract a sneer, rather than recognition of an ethical standing. By this account, democracy is also instrumental and a necessary adjunct to rights observance, although this does not rule out alternative formulations.

wa Mutua concludes that post-colonial African states cannot be democratised, but his recipe for the future is implausible, in demanding a simultaneous process of new map-making, norm re-examination and reformulation, which will somehow reconnect Africans to their pre-colonial ideals of community and social organisation. An equally millenarian project is suggested by Rika-Heke⁷⁸⁷, who insists that Maori nations could be returned to their former culturally pristine state, if white New Zealanders went away. As Brown⁷⁸⁸ concludes, European liberal conceptualisations of the good are not neutral, but to date, they offer the most promising means of allowing disparate nations to coexist. Democracy is therefore desirable as a safety precaution⁷⁸⁹. It is not a panacea; even in the mature Western democracies, where polls show that three out of four citizens rate democracy as the best form of government, voter participation is in decline, and mistrust of government is on the increase⁷⁹⁰. The Enlightenment ideals of reason, freedom and truth are deeply particularist, and it is dishonest to pretend otherwise, but this does not render them valueless or incomprehensible to non-Western societies. As Laski concludes:

“The price of liberty is exactly divergence of opinion on fundamental questions...No man, and even more, no state, can ever be so right as not to

⁷⁸⁷Rika-Heke, P. Tribes or Nation? Post or Fence? What's the Matter with Self-Definition? In: Murray, S (Ed.) *Not on any Map*. University of Exeter Press, Exeter, 1997, (pp.170-181)

⁷⁸⁸Brown C. Cultural Pluralism, Universal Principles and International Relations Theory. In: Caney, S., George, D. and Jones, P. (Eds.) *National Rights, International Obligations*. Westview Press, Boulder, Colorado, Oxford, 1996, (pp. 166-182) [Cultural Pluralism]

⁷⁸⁹Rustin

⁷⁹⁰Economist “Is there a crisis? 17/7/1999

need doubts of his rightness”⁷⁹¹.

Universal rights as a pre-condition for justice.

The nature of justice is the: “oldest problem in political philosophy”⁷⁹², and is central to the issue of national self-determination. Perceived injustice fuels the claim, and self-determination is the method through which justice will be restored. However, there seem to be two sorts of justice in this equation. In the international sphere, to which the nation aspires: “justice as mutual advantage” prevails. This holds that justice is essentially a utilitarian variation of the social contract, which is ultimately reducible to bargaining power between states. It is a Hobbesian exchange between rational maximisers, and Barry concludes that the argument from mutual advantage is “morally pathological”⁷⁹³, unless it is tempered with reciprocity. This turns the Prisoners’ Dilemma into a multi-play game, but although this brings a sense of fair play and rules observance, it is predicated on the assumption of equal power, not asymmetry of power. Once this is taken into account, the argument from mutual advantage seems reduced to a description of injustice, rather than a prescription for justice. In the international sphere, weaker states are protected from the excesses of this morality by the rules and norms of the sovereignty game, and the will of the players to uphold them. In predatory states of the sort discussed, there is less protection for the weak. The nation, or the individual, is not in a position to reciprocate once excluded from power and participation.

The assertion in this chapter, that rights observance represents a minimal morality,

⁷⁹¹Laski (p. 274)

⁷⁹²Barry, B.

A Treatise on Social Justice, Volume One. Theories of Justice. Harvester – Wheatsheaf, London, 1989, (p. xiii) [Social Justice I]

⁷⁹³Barry, B.

A Treatise on Social Justice, Volume Two. Justice as Impartiality. Clarendon Press, Oxford, 1995, (p. 42) [Social Justice II]

is an exemplar of the counter argument: “justice as impartiality”, or non-discrimination, that postulates justice as universal. The strength of this approach is that it can accommodate different conceptualisation of good, and although it makes only modest claims, it rules-out any possibility of first and second-class citizens. Complex equality rules out plutocracy, meritocracy and such, because they ascribe superiority to one set of qualities across all spheres⁷⁹⁴. That this is wrong derives from this form of argument, as does O’Neill’s⁷⁹⁵ condemnation of deception, fraud and terrorism as types of special pleading that allow one group to victimise another with impunity. It posits a test of moral and social rules, which, as Barry suggests, would be accepted freely by free and equal people. The conclusion here is that rights, and perhaps democracy meet the test. However, whilst the impartiality argument is theorised well within a society, it is complicated by the addition of considerations of justice between them. The sovereignty game represents, to some extent, impartiality; all are equal and all are equally expected to observe the rules of the game, at least in theory. There is little that addresses the asymmetry between states or the uneven distribution of benefits between them, which Howard⁷⁹⁶ fears may lead to the erosion of state legitimacy and the legitimacy of the sovereignty game itself.

A nation is unhappy because it suffers from the rough justice of mutual advantage, and seeks self-determination to avoid this. If successful, it will become a sovereign state with all the privileges that entails. It will still be subject to the logic of mutual advantage, but with luck, the other states will observe the rules of the sovereignty game, and no great harm will befall it. Once the nation has secured the vantage of statehood, there is no incentive to adopt rights, democracy or any of the liberal virtues in its domestic arrangements. As for joining the game, the only judgement required of existing states is a rational calculation; nations will be admitted as

⁷⁹⁴Walzer, [Spheres]

⁷⁹⁵O’Neill, [Reith]

⁷⁹⁶Howard, M. Guardian “Best get used to war” 13/1/2003

states if they can force it, or if it is to the advantage of existing states.

The argument from order.

Now something of this sort can clearly happen, as the haphazard creation of states and the prevalence of rights abusing illiberal states indicate. By this account, to be denied rights and participation is simply bad luck, not injustice. The unhappy nation and its host state are in a relationship analogous to that of the shark and its lunch. Security and autonomy, rights, justice of any kind, do not feature in the calculation. At best, the laws, norms and practice of states that do conform to liberal morality have been imposed by the powerful, because this is their preference. Appeals to this code are simply a prudential strategy to avoid featuring on the lunch menu, or a salve to the liberal conscience. However, even if this nasty depiction of the world is realistic, prudence and conscience have their merits.

On grounds of order, some code of practice that mitigates the worst disruptions, and extends the reach of security and autonomy is to be preferred to the anarchy of *warre*. Hobbes' solution was Leviathan, but in the international sphere, whilst it is conceivable that a world government or empire could fulfil this role, the prospect is not on the horizon. For the present, the rules of the sovereignty game, and the treaties, laws and custom that supplement it, serve as the functional equivalent of Leviathan. In so far as the rules are observed, it is with the consent of states, or occasionally, through the coercive efforts of a coalition of other players. Further, in the absence of Leviathan, it is more likely that the rules will be observed if they are judged to be fair and impartial. There is also the possibility that democracies are more peaceful and therefore conducive to order. The democratic peace hypothesis has yet to be tested, but MacMillan⁷⁹⁷ offers a plausible account of

⁷⁹⁷MacMillan, J. Democracies don't fight: a case of the wrong research agenda. Review of International Studies, 22 (3), July 1996, (pp. 275-299)

liberal pacifism. Individual autonomy is fundamental to the liberal concept of the good, which is incompatible with forceful intervention in someone else's vision, which indicates that peace is not simply more likely between liberal states, but with illiberal states too⁷⁹⁸. Although as Latham⁷⁹⁹ notes, the West's combined military arsenal is awesomely large for such peace loving states. Brown offers a more pragmatic explanation for this apparently post-Clausewitzian state of affairs:

“War between advanced industrial liberal democracies is unthinkable not because they are liberal democracies but because they are advanced and industrial and therefore, probably by definition, have political systems that meet the minimum standards of rationality required to preclude war as an instrument of policy amongst themselves”⁸⁰⁰.

Conclusion.

It is plausible to conclude that the same logic applies to individual security and autonomy, however, the coercive power of the state over its own citizens is great. Rights are the citizen's first defence against this, and democracy seems to be the best way to secure them. Although this does not rule out alternative forms of participatory government, it is hard to imagine what these may be. Oligarchy and riot⁸⁰¹, for example, would meet the test of popular participation, but would probably not be conducive to even the minimal order usually expected of legitimate government, and a system based exclusively on majority will would be far from safe for minorities.

The conclusion here is that impartial rights, whilst not a universal moral theory, are a pre-condition for the realisation of justice, and are more likely to be secured in

⁷⁹⁸The crux of MacMillan's argument is that the focus on the: “liberal state”, rather than liberalism, is misleading. States are not unitary, and their actions are sometimes dictated by liberal values, and sometimes by highly illiberal, or mistaken, *raison d'état*.

⁷⁹⁹Latham, [Liberalism's Order]

⁸⁰⁰Brown, [Really Existing Liberalism]

⁸⁰¹Barry, [Democracy]

some form of democratic polity, although this is no guarantor of impeccable rights respect or perfect justice. A commitment to these values is likely to form the basis on which any evaluation of a nation's claim to self-determination is made. Brute force apart, there is no guaranteed route to self-determination. In a world of states, with no Leviathan to arbitrate, the only hope of achieving self-determination is with the consent of existing states, which may be hard to come by. However, if consent is to be obtained, it will be states that judge the merit of the nation's claim. Self-determination is instrumental; it is claimed as the antidote to injustice, so the first evaluation will be of the injustice itself. Secondly, even if the injustice suffered is great, self-determination, and more importantly, the collaborative will to enforce it, will only be considered where the likely outcome is also just. I turn to this in the next chapter.

Chapter Six

Unhappy Nations.

Why do some nations claim self-determination for themselves? It has already been suggested that unhappy nations claim self-determination in order to escape injustice, and that the injustice suffered must be so severe that it amounts to rights abuse. This is a plausible justification for claiming, and achieving, self-determination⁸⁰², but it points to a number of difficulties. Does any infringement of rights justify self-determination, or must it reach a certain level of intensity? Israel achieved self-determination as a result of persecution, but what a harsh precedent if the qualification for success is surviving genocide. Do numbers count? An estimated 500,000⁸⁰³ died during the 1994 Rwandan genocide, a tiny fraction of the Holocaust mortality, but nearly 75% of the Tutsi population, whilst estimates for Kosovo indicate approximately 5,000⁸⁰⁴ dead, yet this triggered NATO intervention, and the survivors are well on the way to achieving self-determination. The answer here would seem to be that it is a question of intent, rather than definition, although as Kuper⁸⁰⁵ notes, this is also problematic. Genocidal intent was denied regarding the disappearance of the Guayaki Indians in Paraguay, because the motivation was economic; their land was required. This is poor consolation for the Guayki, so outcomes, whether intended or not, must also factor in the judgement. Not all unhappy nations suffer such egregious rights abuse:

“most nationalists are...perfectly ordinary... men and women seeking an escape from immediate oppression and injustice”⁸⁰⁶,

but they do claim self-determination. What of those happy nations who do not claim self-determination? The answer cannot be that they are happy because they have their own states; few nations have managed this feat. A more

⁸⁰²Charvet

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www.hrw.org

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[New York Times](http://www.nytimes.com) 11/11/1999

⁸⁰⁵Kuper, L.

Genocide. Its political use in the twentieth century. Pelican, England, 1981

⁸⁰⁶Smith, [Nationalism and] (p. 111)

plausible suggestion is that they are happy because they are majority nations. Minorities often suffer ill treatment, and feeling themselves to be a minority in their own home is a recurrent nationalist grievance. However, this fails to account for minority nations who also seem happy.

The Silesians and Lazi may, as indicated (5:1), simply not feel oppressed, or may have calculated that attempting self-determination is too risky, given the uncertain outcome. Spain, for example, is home to Galicians, Catalans and Basques, each having a similar degree of regional autonomy, but whereas the Catalans and Basques have demanded recognition as: “an associated state”⁸⁰⁷ with Spain, the Galicians have not. Their history can be traced back to the ancient kingdom of Galicia, independent until the fifteenth century, they have a distinct culture and widely spoken language, yet despite the best efforts of the Galician nationalist parties, the nation refuses to awaken⁸⁰⁸. Galicia is one of the poorest and economically undeveloped regions of Spain, whereas Catalan and the Basque Country are the two richest. The unhappiness here would seem to be of the sort felt by Padania⁸⁰⁹; resentment at high taxation and footing the welfare bill⁸¹⁰.

Both Buchanan and Walzer⁸¹¹ conclude that unfair or coercive distribution is justification for self-determination, but have in mind rather more drastic circumstances where the state is systematically looting a nation’s resources for less noble purposes. The Free Aceh Movement, for example, seems to be a

⁸⁰⁷ Independent 23/10/2002

⁸⁰⁸Núñez, X. National Reawakening within Changing society: the Galician Movement in Spain (1960-97). Nationalism and Ethnic Politics, 3 (2), 1997, (pp. 29-56)

⁸⁰⁹Padania is the name the Northern League has given to the region they would like to see independent of the Southern half of Italy.

⁸¹⁰ Economist. “Northern exposure”. 8/11/1997

⁸¹¹Miller, D. & Walzer, M (Eds.) Pluralism, Justice, and Equality. Oxford University Press, Oxford, New York, 1995 [Pluralism]

response to the extraction of vast natural resources from their homeland whilst the majority of locals remain impoverished⁸¹². Strategically, the Basques' and Catalans' wealth places them in a strong negotiating position; as Buchanan notes, the threat of secession becomes even more costly to the parent state, and may effectively function as power of veto. Spain's regions may be discovering their national identity in a response to the crises of modernity, but it is equally probable that they are responding to the opportunities afforded by late-modernity in the shape of the EU. The Galician sleeping beauty may yet awaken if there is a prospect of more regional aid⁸¹³. Conversely, growing dissatisfaction with EU regulations, principally the plans to dismantle the low-tax regimes of the Channel Islands, has prompted some in Jersey to consider a claim for national self-determination. Pointing to their unique language, ancient culture, and relative autonomy, they calculate that independence would enable them to continue as an offshore tax haven⁸¹⁴. By presenting their demands as rights claims, nations are appealing to states in a familiar idiom.

They use the discourse of rights⁸¹⁵ as evidence of their commitment to their observance, and as proof that their claims must be taken seriously, or seriously refuted. Miller⁸¹⁶ is perceptive when he notes that by formulating what is essentially a linguistic identity as a national identity, francophone Canadians have elevated their demands for cultural protection into a rights type claim. Kurds, for whom a claim to nationhood seems to be a fairly recent development, have been subject to appalling state sponsored mistreatment, although this may be easing, at least in Turkey, in anticipation of EU accession⁸¹⁷. However intensely the

⁸¹² Economist "Preparing for Aceh's next battle" 22/7/2000

⁸¹³ Following the disastrous coastal pollution from the November 2002 sinking of the oil tanker *Prestige*, and the failure of central government to respond for over three weeks, local grievance may fuel nationalism and claims to self-determination.

⁸¹⁴ Independent 2/9/2000

⁸¹⁵ Frost, [Constituting Rights]

⁸¹⁶ Miller, [On Nationality]

⁸¹⁷ Economist "Getting just a little better" 26/10/2002

Québécois feel the indignity of their language being marginalised, their suffering and the Kurds' is not of the same magnitude. Evidently, there are many sources of unhappiness, and it is plausible that the nature of the injustice should determine the nature of the redress, which I consider in this first section (6:1). In the following section (6:2), the wider context against which claims will be judged by outsiders, is examined. This will invite scrutiny of the conduct of the nation and its host state, and the wider community of states. In the next (6:3), the possibly insurmountable difficulty of reconciling the evaluations of insiders and outsiders is considered, and the chapter concludes (6:4) with a consideration of the options of exit, voice and loyalty available to unhappy nations.

(6:1) Sources of misery.

Proportionality.

Ethnic cleansing is a new term for an old practice⁸¹⁸. The ancient Assyrians and Romans⁸¹⁹, many have found it a useful strategy for bringing a troublesome area to heel, posting a warning or accessing resources. It became the method of choice in the nineteenth century, being a strategy that fits neatly with the nationalist equation of one nation=one state, and its popularity seems to have increased throughout the past century. At one end of the spectrum it may manifest as subtle pressure to leave, at the other, extermination. It may be planned, as in Rwanda, or a side effect, as the unhappy history of indigenous peoples' contact with Europeans demonstrates. Ignoring these extremes: "Population cleansing is a planned, deliberate removal from a certain territory of

⁸¹⁸The term came to prominence in the Bosnia/Herzegovina conflict of the early 1990s, and is usually taken to mean population transfers undertaken with extreme brutality directed at civilians.

⁸¹⁹Kuper

an undesirable population”⁸²⁰. The undesirable features may be anything; nationality, class, religion, but whichever is selected serves as the basis for removal. Removal too may be anything; the: “ghastly criminal concoction”⁸²¹ of wartime Croatia unleashed the Ustaša, whose removal policy for undesirables was based on killing 1/3, deporting 1/3 and converting 1/3. In view of the brutality and misery that attempts to secure national self-determination have inflicted, Bell-Fialkoff sets out to provide an objective, practical solution.

Unsurprisingly, the outcome is no more helpful than that of Hardt and Negri, who conclude that nations are a bad idea whose time is fortunately over. However, the attempt is instructive because it illustrates the hazards posed in applying a formulaic approach to settling the nationalist problem. Bell-Fialkoff starts from the premise that all nations want their own state, and that the best solution is for outsiders to manage ethnic cleansing, as this would be more civilised and humane than leaving nations to do it for themselves. He nominates the UN or the US for the task. In order to decide who can stay and who must leave, he devised an index intended to sort the victims from the victimisers, by allocating scores for factors such as group size, territorial base, length of tenure and such. He then applies this to a number of high profile nationalist conflicts. In Ulster, Catholics score +.5, but Protestants -1.2, so they should leave:

“Jews of Israel also get a value of +.5: they had suffered pogroms and massacres before and during the creation of Israel and had to endure years of non-stop terrorism”⁸²².

Palestinians score a puny -3.4, so they should leave. There are a number of difficulties in this approach, any one of which scuppers the whole enterprise.

⁸²⁰Bell-Fialkoff, A. *Ethnic Cleansing*. Macmillan, London, 1996, (p. 3)

⁸²¹Brown, J. *Surge to Freedom. The End of Communist Rule in Eastern Europe*. Adamantine Press, United Kingdom, 1991, (p. 232)

⁸²²Bell-Fialkoff (p. 245)

Some highly salient issues are ignored; not all nations want their own state, and the UN and the US may not be keen on accepting the job of supervising forced evictions. No attention is paid to the crucial issue of land and place, so the likelihood of resistance from those to be expelled is overlooked, as is the reluctance of target states to admit them⁸²³. Bell-Fialkoff's choice of relevant factors is contestable, and the assumption that these can somehow be identified and weighted, let alone agreed upon, is doubtful in the extreme. He also assumes that self-determination is a final solution, which leads him to neglect some other inconvenient points, notably that national problems do not stay settled. New nations awake, and new others are identified. A more profound difficulty is that Bell-Fialkoff seems to be a primordialist.

National sentiment as racism.

He is familiar with the sort of arguments considered in Chapter Four; Barth⁸²⁴, the social construction of self and other, national identity as a process, with nationalisms reformulated over time. However, Bell-Fialkoff also believes that nationality is derived from race, and other blood based: "natural phenomenon"⁸²⁵. He is clearly puzzled that Montagu and others⁸²⁶ perversely ignore race, which he considers an obvious component of nationality. He seems unaware that, since the 1960s, no one has seriously taken race as a remotely objective classification. Race is a folk concept; it is used to classify and systematically exclude members of the selected group from full participation in the social system controlled by the

⁸²³His suggested destination for Bosnia's deported Muslims is Turkey, Ulster's Protestants can go (back?) to Scotland, and the Palestinians have an abundance of destinations to choose from.

⁸²⁴Barth, [Boundaries]

⁸²⁵Bell-Fialkoff (p. 63)

⁸²⁶I assume Bell-Fialkoff is referring to Edmund Leach, Marshall Sahlins, JP Scott and others who contributed to Ashley Montagu's landmark text (Montagu, A. (Ed.) *Man and Aggression*. Oxford University Press, Oxford, 1968) that decisively refuted biological determinism and the role of instinct as factors in human social behaviour. The later work of sociobiologists and evolutionary theorists such as Wilson and Dawkins removed any lingering credence for the idea that human groups form discrete and separable population units.

dominant group. In the hands of nationalists, race can be used to attribute physical, psychological and moral characteristics which justify or naturalise discrimination. By accepting the folk concept, Bell-Fialkoff's justification for sanitised ethnic cleansing is the moral equivalent of triage. The conclusion here is that any simplistic solution or mechanistic calculation of the sort proposed by Bell-Fialkoff is unlikely to be helpful.

Ethnic cleansing; a solution to the problem of nations?

Like capital punishment, ethnic cleansing prevents re-offending through the simple expedient of removing potential troublemakers. Race is of course relevant to the problem of nations, as it is precisely the targets of racial marginalisation who most often suffer rights abuse, although Kuper notes that race can stand for religion or political affiliation⁸²⁷. In nearly all of the cases he examines, religious divisions were significant, and he suggests that:

“religious values...may be ideologically significant at a different level⁸²⁸, shaping sentiments of exclusion, and derogatory stereotypes of...other religions”⁸²⁹.

As already indicated (4:4), bounded groups have been a feature of human social organisation for millennia; self is defined in contrast to the other. Dehumanising the other is a necessary precursor to ethnic cleansing, as this facilitates the: “gratuitous atrocity of torture, perpetrated with incredible brutality”⁸³⁰ that seems always to characterise it. Ethnic cleansing would seem to be an efficient strategy

⁸²⁷Kuper notes that although groups identified through political affiliation were excluded from the Genocide Convention, political undesirables are frequent targets, and he points out that Stalin contrived the death of 15 million.

⁸²⁸Having noted that religion may function at different level to other ideologies, Kuper does not explore this further. It may be that certainties regarding ends, sanctions any means.

⁸²⁹Kuper (p. 90)

⁸³⁰Kuper (p 104)

for attaining national purity, but if this were so, genocide would by now have resulted in at least some non-plural societies. This of course reveals the flaw in Bell-Fialkoff's approach and the one nation=one state logic of nationalism. Nation is not a static concept; it is constantly reformulated, and subject to endless division. If, for example, the Basques were granted statehood, it would not be long before further subdivisions were revealed; French Basques, urban Basques, Basques with the wrong religion. As long as all varieties of Basque were felt to be equally authentic facets of Basque national identity, this would not be problematic. However, if one variety of Basque found themselves to be deemed inauthentic and the subject of persecution, there would be a new minority nation claiming self-determination.

Where sovereignty rights are inadequately matched with individual rights, national minorities are vulnerable. They rely for their protection on social mechanisms that may not be adequate, or outside intervention that may not be forthcoming. Amongst those states that take rights seriously, genocide or the mass deportations that Bell-Fialkoff recommends is unthinkable. Although the liberal values of toleration and equality may be strained, political institutions which promote the norms of rights observance offer the best protections for unhappy nations. There are however many unhappy nations who have not suffered injustice of this gravity.

Past wrongs and modern rights.

They too present their claims as rights claims: "An assertion of right is a conclusion about what the moral priorities are"⁸³¹. Accordingly, their claims have to be taken seriously by those who also take rights seriously. The most effective refutation of a claim to self-determination is denial. Given the

⁸³¹Buchanan (p. 151)

dominance of the modern *Weltanschauung*, denial of rights is not a credible option, nor, as indicated (5:3) is it credible to claim that rights differ radically in different cultures. Denying authenticity is most effective; if a group is not recognised as a nation in the first place, any national claims can simply be ignored. Eyne, for example, is a tiny village ceded to France under the Treaty of the Pyrenees (1659), but the villagers decided: “to return the town keys to the mother country”⁸³², arguing that they share the language and culture of bordering Catalan, and wish to return to the *status quo ante*. Eyne has debts it cannot service, and the relative wealth of Catalonia cannot have escaped the villagers’ notice. France does not recognise the villagers as a nation, and have rejected the argument that the treaty violated the villager’s right to self-determination and should be abrogated. In contrast, the Mi’Kmaq have demanded that their treaty (1760), must be respected:

“if governments deny the existence of our aboriginal title, then we will have no alternative but to deny the existence of Crown title”⁸³³.

The Marshall ruling of 1999 confirmed that the treaty guaranteed their rights to hunt and fish, so the Mi’Kmaq are no longer subject to the restrictive laws that apply to other Canadians. Australia’s aborigines do not have treaties⁸³⁴ to bolster their claim that past wrongs entitle them to special treatment, but they are slowly winning⁸³⁵ their argument with many Australians:

“There’s more bound up in this than simply property rights. We face here the question of our history and our national honour”⁸³⁶.

⁸³² Times 26/3/1999

⁸³³ Economist “Of fish, trees-and natives” 13/11/1999

⁸³⁴ Australia was settled on the now obsolete doctrine of *terra nullius*; that the land was uninhabited. Earlier settlements acknowledged the presence of indigenes with legal personality and the ability to enter into treaties.

⁸³⁵ The Mabo (1992) and Wik (1996) judgements and the Native Title Act of 1993 are amongst their recent successes.

⁸³⁶ Economist “A question of honour” 6/12/1997

As suggested (4:4), the state: “is the crucial agency of distributive justice; it guards the boundaries within which”⁸³⁷ all social goods are distributed. It was therefore a grave injustice that Australia’s indigenous peoples were not fully recognised as citizens and rights holders for so long. Although in other circumstances, attempts to acquire territorial rights are judged to be avaricious land grabs, as in the 2001⁸³⁸ case where Liechtenstein sued for the return of 430,000 acres of land confiscated by Czechoslovakia after the Second World War.

German annexation of the Sudetanland and the dismemberment of Czechoslovakia had been agreed at Munich (1938)⁸³⁹. The injustice of denied German self-determination and the: “collective humiliation”⁸⁴⁰ following the First World War, was to be rectified, and war averted⁸⁴¹. The attempt failed. Under the Beneš decrees of 1945, the Sudeten Germans were evicted; stripped of their citizenship and property, without compensation, some 2.4 million were expelled, often with great savagery. The remaining Sudetenlanders in Austria and Germany say they want the decrees overturned, but the Czechs refuse: “those who began an appalling war have no claim to revise its effects”⁸⁴². The Czech Republic and others⁸⁴³ have no wish to receive a flood of property claims, even though their refusal may jeopardise their EU accession. These illustrations indicate that states face some profound difficulties in addressing past wrongs. The conclusion here is that apportioning blame and balancing the severity of victimisation over the centuries is unlikely to be helpful.

⁸³⁷Walzer, [Spheres] (p. 281)

⁸³⁸[Independent](#) 8/6/2001

⁸³⁹The Pact was made between Germany, Britain, France and Italy.

⁸⁴⁰Berlin, [Crooked Timber] (p. 245)

⁸⁴¹Keylor, W. *The Twentieth Century World. An International History*. Oxford University Press, Oxford, New York, 1984

⁸⁴²[Economist](#) “A spectre over Central Europe” 17/8/2002

⁸⁴³Poland, with the help of the Red Army, expelled between 6 and 8 million Germans at the time.

Judging from the present.

Each case is unique, and must be judged on merit, and the consequences⁸⁴⁴ that are felt in the present. Anaya concludes that plausible claims to self-determination form two classes; those based on the restoration of the *status quo ante*, and those based on respect for human rights. Arguments from history are difficult to sustain, although there are some fairly straightforward cases where self-determination is analogous to the recovery of stolen goods⁸⁴⁵. The re-emergence of the Baltic states after 1989 are suitable examples; the period of Soviet rule had been widely considered illegitimate, so the resumption of statehood was greeted as a return to normal. However, as Buchanan notes, history has many unjust takings, and a line has to be drawn somewhere for purely practical reasons.

In the case of indigenous peoples, hindsight tells us that they suffered injustice, both in the original appropriation of their lands, and in their subsequent marginalisation. However, at the time of contact, the appropriation was not illegal or considered unjust, and given the intervening centuries, *pace* Rika-Heke⁸⁴⁶, it is not possible to restore indigenes to their pristine pre-contact state, or to re-home the descendants of the later settlers. As noted before (5:3), many aboriginals face discrimination in the present; they are over represented in the prison population, and they are subject to laws that disproportionately affect them⁸⁴⁷. These present injustices, as Walzer⁸⁴⁸ suggests, would be the most appropriate targets for reform.

Eyne and Catalonia do not seem to suffer unduly in the present, whatever their feelings about past ills. They are embedded in decent liberal democracies, and if

⁸⁴⁴Fish

⁸⁴⁵Buchanan

⁸⁴⁶The restoration of Maoris to a pristine pre-contact polity was discussed in Chapter Five (5:4).

⁸⁴⁷Economist "An apology delayed" 4/3/2000

⁸⁴⁸Walzer, [Spheres]

they see an opportunity to further their national interests, normal politics provides the means to do so. Whilst there may be a moral right to secession, this is qualified by obligations to those left behind⁸⁴⁹. Wealthy claimants, whose desire for self-determination seems motivated by resentment at meeting their share of the welfare obligations that citizenship entails, would need to recompense those who would suffer by their departure. Further, Spain may argue that other resources, from central government or the EU, had contributed to Catalonia's wealth, so the: "lost investment argument"⁸⁵⁰, justifies recompense. The Sudeten Germans represent a harder case. The injustice they suffered is less remote and intangible, and must still weigh heavily on the survivors. However, the Czechs could argue that the Sudetenlanders suffered no injustice; they are simply living with the consequences of their own acts. In the pre-war election, 91% of them voted for pro-Nazi parties⁸⁵¹, and presumably they would have been happy with the consequences victory would have brought. Even more difficult is the Israeli / Palestinian conflict. Both have suffered appalling injustice within living memory, and the consequences continue to shape the present in the brutalities they inflict on each other. The conclusion here is that whilst past injustice may be deeply felt, it is to present injustices that states and the international community should look.

Happy Nations?

So why are some nations happy? It is highly improbable that any nation has felicitously avoided all wrongs in the past, although it is conceivable that their present happiness is not marred by recollecting the miseries of history. As noted (3:4), national histories and myths take evidence from the past to sustain the social reality of the present. Todorov, reviewing the case of Bulgaria, suggests that as a small nation with a long history of oppression, and years of practice in

⁸⁴⁹Buchanan

⁸⁵⁰Buchanan (pp. 104-106)

⁸⁵¹

Economist "A spectre over Central Europe" 17/8/2002

living in a multinational polity⁸⁵², Bulgarians were uniquely sympathetic to the plight of their Jews, and refused complicity with their wartime persecution. The Danes were too, successfully smuggling the bulk of their Jewish population to safety in neighbouring Sweden. As previously suggested (4:1), nationality can become the primary social identifier, which sets the boundaries for mutual obligation, which seems to have been the case here; the Danes viewed their Jews as Danes⁸⁵³, not others. Both Bulgarians and Danes had national stories and myths that accommodated multiple identities, and: “when identities are multiplied, passions are divided”⁸⁵⁴.

In examining the justifications for secession, Buchanan concludes that where a nation is being harmed, and individual nationals are suffering rights abuse, then secession is justified. The converse may therefore hold, that in the absence of rights abuse, nations will be happy in their host state, as long as they feel that their culture is safe, and any territorial grief is attenuated by time. This is plausible; given the difficulty in achieving self-determination, a nation enjoying at least the minimal protections for security and autonomy may judge it prudent to keep what they have. The arguments from diversity and ideological purity are not convincing for similar reasons; there are no empty Americas to which those wishing to experiment with new social forms can depart, and given the disinclination of states for subdivision, unusual or pure enclaves carved out of existing states are unlikely to be welcomed. The conclusion here is that happy nations feel a reasonable expectation that their basic rights will be observed,

⁸⁵²Todorov notes that Bulgaria has long been home to Greeks, Turks, Armenians, Serbs, Gypsies and Jews. Independent 1/6/2001

⁸⁵³The apocryphal story of Denmark’s war-time King and court wearing the Star of David in solidarity with Danish Jews is untrue, but it is emblematic of the nation’s myths, and social ideals. There were episodes of anti-Semitism after the war, which seems to have been provoked by the return of Danish refugees from Sweden. In exile, Danish Jews were treated well, less so non-Jewish Danes who fled later, and those who remained under occupation in Denmark.

⁸⁵⁴Walzer, [Thick and Thin] (p. 82)

their culture will not face gross discrimination and their tenure is not unduly threatened.

This is simply to say that they are not overly oppressed. This is a modest requirement that does not entail: “the metaphysical optimism”⁸⁵⁵ essential for Utopia and a perfectly just outcome. However, decent treatment is subjectively evaluated, so justice must meet the demands of both the international and local contexts, and I turn to this next.

⁸⁵⁵Berlin, [Crooked Timber] (p.15)

(6:2) Making judgements.

Nations have an endless supply of misery to justify their claims to self-determination, and states must make judgements about which should qualify for self-determination. The modern *Weltanschauung* dominates, and it is therefore against essentially Western liberal principles that complaints of injustice and claims to national self-determination will be evaluated. In this sense, the judgement has already been made; rights are to be observed, and their abuse is to be condemned. However, the content of a principle does not prescribe its form or scope⁸⁵⁶, so there are still hard choices to be made, and these will be determined by local norms⁸⁵⁷. The social and economic opportunities open to India's: "backward" castes are circumscribed, but various attempts at affirmative action have been introduced to overcome their exclusion from political participation, and in 1997 KR Narayanan, a Dalit, was elected president. In contrast, American efforts at affirmative action have been largely directed at social and educational exclusion, presumably in the belief that political disengagement is a consequence of the former. India and America are both democracies, but their social ideals are radically different; solutions rooted in a commitment to equality of opportunity and meritocracy simply could not be applied to the problem of political exclusion in a society predicated on caste. As O'Neill insists, there is one:

"minimal, modal, but authoritative demand: others cannot be given reasons for adopting principles which they cannot adopt"⁸⁵⁸.

People are socially embedded, and assuming that there are universal solutions to all manifestations of injustice is simply implausible, and likely to be: "ethically

⁸⁵⁶O'Neill, [Toward Justice]

⁸⁵⁷Barry, [Democracy]

⁸⁵⁸O'Neill, [Toward Justice] (p. 3)

disastrous”⁸⁵⁹ if put into practice. Justice is not morally relative, but it must be culturally comprehensible⁸⁶⁰.

As O’Neill suggests, first generation rights and the obligation to respect them are morally symmetrical in the abstract, but their enjoyment is dependent on the social and political institutions of the state. It is thus the state that bears the obligation to ensure that rights are observed, but the state itself is also an abstraction; it is people who are the agents of the state, and it is on these individuals, citizens, fellow nationals and the wider international community of civilians, that responsibility falls. O’Neill thus draws attention to virtue, and the obligations that are not dependent on rights, but on role; the honest accountant, impartial judges, attentive parents⁸⁶¹. By starting with obligations, it forces attention on who bears the burden of realising rights. In the matter of first generation rights, the obligation is universal:

“Justice is a matter of perfect obligation, matched by rights; its demands fall on all, and are owed to all. Required virtues...also make demands that fall on all, but will not specify recipients and occasions for virtuous action”⁸⁶².

The indeterminacy of virtue is unavoidable, because it is context dependent. Justice requires fairness, probity, truthfulness, whereas the executive virtues needed for its administration are self-control, insight and decisiveness, and in the wider social context, the virtues of altruism, sympathy and care apply⁸⁶³. Thus there is an obligation to rescue those in distress, but only where it is feasible. Virtue is clearly culturally specific, and in a world with pre-moderns, moderns

⁸⁵⁹O’Neill, [Toward Justice] (p. 73)

⁸⁶⁰Walzer, [Thick and Thin]

⁸⁶¹O’Neill, [Reith]

⁸⁶²O’Neill, [Toward Justice] (p. 184)

⁸⁶³This summary is intended to be illustrative. It is not a complete list of all the virtues considered by O’Neill.

and late-moderns, there is a multiplicity of interpretations. This is not so much a clash of principles, but a clash of ways of implementing them, so context is crucial to judgement. As Berlin⁸⁶⁴ argues, judgement assumes that people have choices, but not everyone is equally free to make the same choices, whether through education or lack of opportunity. The nation claiming self-determination as a remedy to persecution is not to be trusted to judge their enemies benevolently, as the Serbs in Mitrovica well know. However, outsiders in the form of the UN, are demanding: “standards before status”⁸⁶⁵; respect for the liberal norms of tolerance, the rule of law and rights observance are to be pre-conditions to any consideration of formalising Kosovo’s self-determination.

Standards before status: is this fair?

The precise form will be shaped locally, but good governance, democratisation and rights respect offer Kosovo’s Serbs and Albanians their only prospect for future security, and as Kofi Annan agrees, the global pattern of conflict reduction since the end of the Cold War period is evidence of this⁸⁶⁶. As Barry notes:

“In a liberal society, everyone has the privilege of believing what he likes—even that the earth is flat or that men are noumenal beings. But when it comes to questions of”⁸⁶⁷

judgement that will have direct consequences for the lives of those concerned, some caution is required. Balance and compromise are more likely to avert the desperate situations and intolerable choices that nationalist conflicts so often fuel. Decency is safer than perfection⁸⁶⁸. O’Neill argues that: “duties are the

⁸⁶⁴Berlin, [Four Essays]

⁸⁶⁵Economist “First, be nicer to each other” 5/10/2002

⁸⁶⁶Annan, K. Preventing conflict in the next century. In: Fishburn, D. (Ed.) *The World in 2000*, Economist Publications, 1999, (pp. 91-92)

⁸⁶⁷Barry, [Democracy] (p. 348)

⁸⁶⁸Berlin, [Crooked Timber]

business end of ethical and political requirements”, because: “nobody has rights unless others have duties”⁸⁶⁹, even if it is the minimalist duty to refrain from causing harm.

Whilst this argument is compelling, the demand for decency and active citizenship entailed is a formidable goal, even in passable places. How can people who have tormented each other so cruelly manage this? O’Neill cites the former Czechoslovakia, where ordinary citizens: “refusing complicity with injustice”⁸⁷⁰ through small acts of defiance were instrumental in bringing about the change of regime⁸⁷¹, but she also admits that in really dire circumstances, even trivial non-conformity brings huge risk. In nationalist conflicts, the nationality of the other is proof of non-conformity, and whilst Frost⁸⁷² condemns the demonising of the enemy other, it is one of the most potent weapons in the nationalists’ armoury. Refraining from using it would have been expecting rather a lot from a nation enduring persecution and fearing genocide. This would indicate that decent political institutions are a precondition to decency, which justifies the conditionality of standards before status. Again, this is expecting a lot from people who have learned from experience that the institutions of a predatory state are not impartial dispensers of public goods, and Frost is among those who recognise that newly democratising states may face a shaky start:

⁸⁶⁹O’Neill, [Reith]

⁸⁷⁰O’Neill, [Reith]

⁸⁷¹Although it does not weaken her case, Czechoslovakia had been a modern industrialised democracy before the Second World War. This, and Dubcek’s attempt at: “socialism with a human face”, memory of the 1968 Soviet invasion, and the knowledge that the Red Army would not be sent back, may also have been instrumental in deposing the communist regime.

⁸⁷²Frost, [Constituting Rights]

"Freedom is difficult to establish, and is not to be had for the asking. It depends on institutions and habits that do not emerge of themselves"⁸⁷³.

This again raises the issue of intervention; the late-moderns and the moderns with a crusading bent may feel that assisted nation building is justified, whilst others, particularly those with a shaky grasp of democratic practice, may fear that it could lead to intrusion and interference in their own affairs. There are also obligations that fall on the claimants.

Some useful advice.

Plamenatz formulated his advice for newly independent states during the first wave of decolonisation, but was overtaken by events. However, with the ending of Cold War imperatives, his suggestions have a renewed pertinence. He cautioned nations to avoid terrorism; colonialism is on the decline due to the expansion of liberal norms. Rights respect is therefore crucial, because it is only through appeal to rights: "for all men"⁸⁷⁴ that nations can claim the moral high-ground. Self-determination is a possibility only because it fits the principles of the powerful:

"It is your good fortune that you are on their conscience. If they had the temperament of a Mao-Tse-Tung or a Colonel Nasser, you would not stand a chance against them"⁸⁷⁵.

He also advised that democracy and freedom could not be deferred until prosperity and universal education were secured, and that international respect would not be automatic on the attainment of sovereignty. This would be dependent on how well they measure up to European standards; rights observance, the rule of law,

⁸⁷³Plamenatz (p. 21)

⁸⁷⁴Plamenatz (p. 19)

⁸⁷⁵Plamenatz (p. 207)

observance of international laws and norms. He also had some good advice for the international community.

De facto self-government has its attractions as a pre-condition to recognition of *de jure* statehood, but is an invitation to self-help and violence, and no guarantee of a decent rights respecting regime⁸⁷⁶. Plamenatz concluded that self-determination should only be granted when the nation was ready for democracy. This justified continued colonial occupation, and by extension, intervention.

Capacity hinges on the presence of a knowledgeable body of citizens who know the rules and believe that the government's job is to rule in their interest. It is these knowledgeable citizens who will ensure that the state is not captured by self-serving elites, and that minorities will not be denied participation. The most effective assistance is the encouragement of diverse, widespread and legal oppositions, to encourage political sophistication and prepare the way for democracy. Western democracies are doubly obliged to assist. Firstly, because they can, both materially and because they have democratic experience. Secondly, it is the Western democracies that have imposed their standards, so they must assist nations in attaining them. The former colonial powers bear a third obligation to assist, as they bear some responsibility for the difficulties that continue to afflict post-colonial states. Plamenatz argues that assistance will not always be effective, in which case, the nation must be left to its own devices, but this is problematic. Disengagement is not an option that can be contemplated with a clear conscience, and prudence would indicate that the fallout from collapsed or predatory states cannot easily be contained. So, how is the international community to judge whether a nation that would be a state is ready for democratic self-government?

⁸⁷⁶Kosovo and East Timor may achieve decent polities, but they are both under the tutelage of the UN. Chechnya and the other former Soviet Central Asian republics suffering the attentions of Russia's Army are being taught a different lesson.

Judging from behaviour.

The only available information is that suggested by the behaviour of the nation, and what they promise for the future. Garton Ash considers the circumstances of Albanians in Kosovo and Macedonia. Their respective host states emerged from the Soviet collapse with very fragile democratic institutions, and in both, the Albanian population felt victimised, and protested peacefully. In Kosovo, their reward was to be stripped of what autonomy they had in 1989, which unleashed the KLA⁸⁷⁷ and later, a brutal attempt at destruction and NATO intervention. The ANLA⁸⁷⁸ followed a similar course, but their conduct was very different from the KLA's⁸⁷⁹; uniformed, they observe the war conventions and do not target civilians. Their manifesto goals:

“compared with the demands of the KLA, Bosnian Serbs and Croats, the IRA or ETA, these look as if they were drafted by Amnesty International”⁸⁸⁰.

Many of their demands have been met. The IRA⁸⁸¹ and ETA⁸⁸², in contrast, live in decent democracies and their use of violence is hard to justify. If, as suggested (5:2) by Frost, the rights bearing civilian and the rights bearing citizen are mutually constitutive, and self-determination is justified to achieve this, then their claims to self-determination are redundant, or a subject for negotiation. Like the Palestinians, resort to terrorism against civilians has drastically compromised their moral authority, whilst massively raising the stakes for both sides. Both have paid a high price, which makes negotiating, and forgiveness, very hard. The Chechen's moral authority has also been deeply diminished by their conduct. The taking of

⁸⁷⁷Kosovo Liberation Army.

⁸⁷⁸Albanian National Liberation Army.

⁸⁷⁹[Independent](#) 9/7/99

⁸⁸⁰[Guardian](#) 10/11/2001

⁸⁸¹Irish Republican Army.

⁸⁸²Euzakdi ta Askatsuna; translates as Basque Nation and Liberty.

700 hostages in a Moscow theatre in October 2002 will have served to reinforce the Russian’s opinion of them as barbarians. Even in the mid 1990s when they enjoyed a degree of autonomy, the lawless banditry, hostage taking and anarchy that ensued indicate little capacity for democracy and public virtue. It also illustrates the problem with leaving nations to their own devices. “Today we rejoice as an independent nation governing our own destiny”⁸⁸³, said Mr Gusmao, the first head of state of the Democratic Republic of East Timor. After:

“450 years of unenlightened Portuguese rule, 24 of brutal Indonesian occupation, and two and a half under the supervision of the UN”⁸⁸⁴,

East Timor was finally rewarded. Meeting modern standards for *jus ad bellum* and *jus in bello*, the East Timores’ justification for fighting and their conduct were perfect. They had suffered terribly, but the Falintil guerrilla forces showed: “outstanding decency and restraint”⁸⁸⁵. The population had voted⁸⁸⁶ by a substantial majority for independence, and the new administration, with UN assistance, looks set to inaugurate a respectable democratic polity⁸⁸⁷. Unfortunately, the Timores’ success seems less to do with this than the questionable legitimacy of Indonesia’s claim to it in the first place⁸⁸⁸. As noted previously (2:4), Eritrea is one of the few liberation success stories. The independence struggle was fought with some decency, and as a fledgling democracy, was hailed as a beacon for Africa. Unfortunately, the inexplicable return to war with Ethiopia in 1998, the arrest of dissidents, and the postponement

883 Independent 20/5/ 2002
 884 Economist. “Indonesia minus” 18/5/2002
 885 Independent 20/5/ 2002
 886 Votes of course do not count for everything. In October 2002, Gibraltarians voted against any form of joint sovereignty with Spain, let alone Spanish sovereignty, but the Spanish are having no truck with the locals’ wishes, and the British government is squirming.
 887 Independent 5/12/2002 reported rioting in the capital Dili. Discontent here also seems to have stemmed from misplaced optimism in the benefits of self-determination.
 888 Indonesia’s own sovereignty derives from inheriting the entire Dutch colonial legacy, of which East Timor was never a part.

of elections suggest that the initial optimism was misplaced⁸⁸⁹. Nevertheless, conduct and goals are crucial, a point not lost on many aspirant nations.

The Tamil tigers and the Sri Lankan Government have pledged not to use child soldiers⁸⁹⁰, understanding that aid and eventual recognition may turn on this⁸⁹¹, and Iraqi Kurds⁸⁹² have drawn-up a constitution for Kurdistan, proposing democratic institutions, respect for rights and the impartial rule of law. As evidence of their commitment to the liberal virtue of tolerance, they have left the Arab parts of Iraq to decide what they want for themselves. Membership of UNPO⁸⁹³ is open to any nations, loosely defined, that pledge to observe the five principles on which its Charter is based:

- “The equal right to self-determination of all nations and peoples;
- Adherence to the internationally accepted human rights standards;
- Adherence to the principles of democracy and rejection of totalitarianism and intolerance;
- Promotion of non-violence and the rejection of terrorism as an instrument of policy;
- Protection of the natural environment”⁸⁹⁴.

There are 53⁸⁹⁵ members. The conclusion here is that many nations are aware that they will be judged against the liberal norms of international behaviour, both in their conduct and goals. They are entitled to question how others fare.

⁸⁸⁹ Economist “Slouching into tyranny” 23/11/2002

⁸⁹⁰ Mr Otunnu (UN Special Representative for Children and Armed Conflict) has suggested that two million child soldiers have died between 1987-1999.

⁸⁹¹ Economist “Kalashnikov kids” 10/7/1999

⁸⁹² Guardian. 10/7/2002

⁸⁹³ Unrepresented Nations and Peoples Organisation.

⁸⁹⁴ www.unpo.org (25/6/2002)

⁸⁹⁵ The Chechen Republic Ichkeria remains a member (19/11/2002), which indicates that adherence to the Charter’s principles is not altogether strict.

Caesar's wife.

Those who judge a nation's suitability for self-determination are also subject to scrutiny, and if the West is to claim the moral authority to judge, it is beholden to scrupulously observe the principles, and not just the legalities, of the international community. Unfortunately, the record is poor. Walzer, for example, introduced the concept of: "supreme emergency"⁸⁹⁶ in response to a danger so awful that normal standards of conduct could be relaxed, but this is a moral hazard. The terrorist attacks on America do not seem to represent the same class of danger that a victory for Nazi ideology would have entailed, yet, as illustrated (3:1), prisoners captured in Afghanistan and elsewhere have been detained without regard to due process. Britain and America are on the brink of invading Iraq, and Russia claims that its raging across Chechnya which saw over 80,000 dead in the first campaign alone,⁸⁹⁷ is justified by exceptional circumstances. Kaldor is adamant that impartiality is essential, which she extends to practical assistance.

She fears that the presence of NGOs and other internationals in crises, too often contribute to the continuation of problems by legitimating all the protagonists. In her opinion, it is essential to:

"establish conditions for an alternative political mobilisation. This means that mediators have to be very clear about international principles and standards and refuse compromises that violate those principles"⁸⁹⁸.

Food aid can prolong conflicts, as in Sudan, where the SPLA⁸⁹⁹ has been fighting the northern government for the best part of half a century, receives 70,000 tonnes

⁸⁹⁶Walzer [Just and Unjust] (p. 251)

⁸⁹⁷Economist "Still a mess" 25/9/1999

⁸⁹⁸Kaldor (p.120)

⁸⁹⁹Sudan Peoples' Liberation Army.

of food a year from the UN⁹⁰⁰. Ignatieff⁹⁰¹ shares Kaldor's concerns, and also prescribes intervention and assistance with state building, arguing that one of the primary functions and justification for the state is the monopoly of violence: "where every man is Enemy to every man"⁹⁰², only Leviathan can secure peace. War in the hands of professionals is far safer for civilians than the: "ragged" variety that is attendant on state collapse. Although order is probably safer than anarchy, the evidence from Afghanistan and Kosovo⁹⁰³ indicates that the: "reconstruction of legitimacy"⁹⁰⁴ may prove to be an ambitious task, especially where there was little legitimacy in the first place. The:

"task includes disarmament, demobilisation, protection of the area, capture of war criminals, policing and/or establishing and training local police forces, and the restoration of the judiciary"⁹⁰⁵.

It is, however, time to stop profiteering from the misery of others. Aid that turns out to be more like a soft loan to the donor's domestic producers, goods and services that are wholly inappropriate, and the: "military waste-disposal"⁹⁰⁶ of Cold War surplus ordnance that so exacerbates conflicts, do not contribute to the international common good. The proposed purchase of an air traffic control system by Tanzania is typical⁹⁰⁷. The conclusion here is that the Western democracies are far from scrupulous observers of the standards expected of

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Economist. "A merciless battle for Sudan's oil" 31/8/2002

⁹⁰¹Ignatieff, M.

The Warrior's Honour: Ethnic War And The Modern Conscience. Chatto & Windus, Vintage, London, 1999

⁹⁰²Hobbes (p. 186)

⁹⁰³As at March 2000, there were 40,000 NATO troops in Kosovo. The UN were aiming at a police force of 6,000, but still had only 2,000. Judges could not be recruited locally and were being hired overseas. Russia and China, both veto wielding Security Council members, have steadfastly resisted any moves in favour of self-determination.

Economist. "Reconstructing Kosovo" 18/3/2000

⁹⁰⁴Kaldor (p. 114)

⁹⁰⁵Kaldor (p. 134)

⁹⁰⁶Kaldor (p. 96)

⁹⁰⁷The Tanzanian government agreed to buy a BAE military system for £28 million. All it needed was a commercial system that would have cost £7 million, but could have been purchased anywhere. BBC Broadcast. 20/3/2002

others, although failure to live up to decent standards is not an argument for abandoning them.

Double standards.

Nor is it an excuse for bullying weak and would-be states whilst leaving the powerful, or useful, to go about their business. Many existing states routinely abuse their citizens, and by Plamenatz' criteria are not fit for self-government. "They may often respect" international norms: "in practice because they find it expedient to do so, but they do not believe that they ought to"⁹⁰⁸. However, as suggested in Chapter Three (3:1), as long as states observe the norms, perhaps this does not matter. The Tibetans may not much mind that China is not enthusiastically committed to rights, if they would only withdraw. Turkey is frequently criticised for rights abuse by Europeans dangling the carrot of EU membership, particularly over the discrimination faced by Kurds, but this smacks of double standards:

"for decades, Kurds in the south-east have been voting for assimilation into Turkey with their feet"⁹⁰⁹.

Although Israel's ferocious suppression of Palestine is widely reported, the West on the whole, condemns it *sotto voce*. The European Parliament did pass a resolution in April 2002 proposing sanctions, but this was in response to a: "cheap humiliation"⁹¹⁰; Israel had refused permission for two EU ministers to meet Chairman Arafat, but allowed an American one to do so⁹¹¹. In 1999, America also threatened sanctions unless Israel enforced adequate intellectual

⁹⁰⁸Plamenatz (p. 43)

⁹⁰⁹

Economist "So where is Kurdistan?" 10/6/2000

⁹¹⁰The European Council makes international agreements, and can do so only with the authority of all member states' governments. The Council declined to act on the Parliament's resolution.

BBC Broadcast. 25/4/2002

⁹¹¹

Jerusalem Post www.jpost.com

property laws to prevent CD piracy⁹¹². Only petty slights seem to provoke criticism, not large scale abuse, nor did this prevent nearly \$3 billion in military aid and assistance being transferred in the following year, which excluded \$7.9 billion in loan guarantees and \$180 million research funding for the Arrow Missile⁹¹³. There are various explanations for this reluctance to criticise; the EU is Israel's largest trading partner, the power of domestic lobbies in the US and guilt. Perhaps the West sympathises with Israel as the only democracy in a volatile region. Faced with similarly appalling attacks on their own citizens, their own electorates might also vote for a government that promised safety at all costs⁹¹⁴. The sanctions imposed on Iraq and the threat of attack have all the appearance of double standards, although it should be noted that Israel, unlike Iraq, has not signed the NPT, and is not the subject of Chapter Seven⁹¹⁵ UN resolutions⁹¹⁶. Double standards are also evident in the failure to condemn rights abuse in countries such as Kuwait or Saudi Arabia, or the admission of states like Russia to the Council of Europe.

This after all has the express purpose of serving as a forum for European states pledged to rights respect, democracy and the abolition of capital punishment. In Russia: "Torture and ill-treatment are virtually routine in police stations", and conditions in:

"pre-trial detentions centres are generally so appalling that they amount to cruel, inhuman and degrading treatment"⁹¹⁷.

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www.csmonitor.com

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US State Department www.USAID.org

⁹¹⁴ Benjamin Netanyahu is to challenge the incumbent Ariel Sharon, for Israel's Prime Ministership in January 2003. He is campaigning on the promise of draconian anti-terrorism measures.

⁹¹⁵ Chapter Seven resolutions address: "action with respect to threats to the peace, breaches of the peace and acts of aggression" and may result in enforcement action. Chapter Six resolutions address the: "peaceful settlement of disputes".

⁹¹⁶

[Economist](#) "Double Standards" 12/10/2002

⁹¹⁷

[Amnesty](#) November/December 2002, Issue 116

Amnesty also notes that the death penalty has not been abolished. In 1997, the Council's Secretary General, Peter Leuprecht took early retirement, protesting that: "soft" standards were allowed to new members⁹¹⁸, but otherwise there seems to have been little protest. Then there is Africa, largely abandoned; some predatory states continue to function, but others face collapse of the sort overwhelming Congo, Liberia, and Angola. An estimated 1.5 million Angolans died as a result of war between 1975 and 1991⁹¹⁹. The misery looks set to continue. Despite UN sanctions, blood diamonds continue to find a market⁹²⁰, and a number of countries continue to supply arms to both UNITA⁹²¹ and government forces⁹²². Aspirant nations may reasonably feel that standards before status is an unfair hurdle, when the decent democracies, let alone the most predatory states, fail so conspicuously to meet these standards themselves.

Competing approaches; the pre-modern, modern and late-modern.

Amongst those states with pre-modern political institutions, sovereignty rights are paramount, and nonintervention is the principal rule of conduct. For the moderns and late-moderns, rights observance is a rising norm, and nonintervention is subordinate, although they vacillate, and are inconsistent in their commitment to rights observance. The UK, in many ways late-modern in its approach to rights observance and its experiments in regional devolution, is manifestly uncommitted to wholesale approval of the new model, as its treatment of refugees, for example, and indecision over Gibraltar attest. Nevertheless, while injustice may provoke a claim to self-determination and engender sympathy from outsiders, it is possible

⁹¹⁸ Economist "Walter Schwimmer, timid moral policeman" 27/11/1999

⁹¹⁹ Economist "Angola's endless war" 25/9/1999

⁹²⁰ OneWorld reported UNITA as earning £250,000 a day from sales.
www.oneworld.net

⁹²¹ União Nacional para a Independência Total de Angola: translates as National Union for the Total Independence of Angola.

⁹²² The Council for a Liveable World notes that in 1996, after the war had supposedly ended, the US authorised military assistance worth \$80 million to the government. www.clw.org

that rights will become the pivotal issue determining whether outsiders will judge a claim to be valid and worthy of support. A great deal also depends on luck.

Outsiders may be terribly sympathetic, but they will only be willing or able to act in very limited circumstances. Catalans, Bretons and Walloons are fortunate that they live in decent democracies with a late-modern approach to divided sovereignty. Likewise, the aboriginal nations of North America, Australia and New Zealand are in decent democracies with a modern approach to sovereignty and rights. For these groups, self-determination is a matter of appealing to decency and normal political negotiation. Most of the states that escaped after the end of the Cold War were able to do so because the Soviet Union lost the will and the power to oppose their self-determination. The Baltic states, for example, seem to be succeeding in combining national identities that stress shared culture, history and language, with a genuine commitment to political and economic reforms that promote both rights and democracy. The former Central Asian republics⁹²³ have fared worse, and endure repression and poverty, with little prospect of democratic reform⁹²⁴. The dreadful wars in the former Yugoslavia demonstrate what may lie in store for aspirant nations claiming self-determination from imperfectly liberal states. Indonesia's restive provinces of Aceh and Irian Jaya, for example, continue to suffer, but with the passing of the Suharto regime, Indonesia is beginning to put its own house in order. In time, their secession may seem less of a disaster⁹²⁵, or their claims to self-determination may seem less pressing. As Buchanan suggests, there is no reason to deny self-determination merely because it has not been enjoyed in the past:

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Economist "Stabler Stans" 14/3/2002

⁹²⁴ Here, the local populations seem to be embracing a militant form of Islam, rather than nationalism. This may reflect pre-modern domestic institutions, although it may indicate that Islam is particularly suited to political mobilisation. It may also suggest that Islam offers a competing model of social cohesion to the nation.

⁹²⁵

Economist "The fire next time" 9/12/2000

“we can grant the same rights to nations that *ought to have been* independent, where the solidarity of the group is plain to see and the crime of the ruling power is oppression rather than conquest”⁹²⁶.

Claimants in states with pre-modern political institutions are likely to fare worse, as the treatment of Iraq’s Marsh Arabs and Kurds indicates, and the fate of nations in collapsed states is uncertain in the extreme.

⁹²⁶ Walzer, [Thick and Thin] (p. 71)

(6:3) Telling stories.

If the civilisation standard of rights respect spread across the globe, would nations stop claiming self-determination? Perhaps. If unhappy nations were less fearful, they may cease to view self-determination as their only escape, and nation would become simply another aspect of social identity. However, rights abuse is not the only injustice that nations suffer. There is also the past.

Filtering the truth (back to the translation problem).

Nationhood is self-ascribed. Sometimes, a claim to nation is an expression of cultural pride, or serves notice to the wider community that the language, customs and other elements of national distinctiveness deserve respect. However, it also sounds an early warning that trouble is afoot, and may signal intent. Self-determination is similar to self-defence; theoretically a last resort, in practice it is the first. A nation fearing for its culture, its place in the landscape and its survival will not wait until all has been lost, but will act first to prevent this. The difficulty here is that nations make their own judgement as to the severity of the threat they face, and the truth is hard to come by. This is not because nationalists are inveterate liars, but simply that events are incorporated into an existing body of understood truths⁹²⁷. Inconvenient facts are not ignored because they do not fit, but because their relevance is not recognised. Campbell, for example, follows Hayden White's argument that history is a series of events that may be: "emplotted" in a variety of ways, and thus serves as an: "extended metaphor"⁹²⁸. It is the act of inclusion, of remembering events, that makes them real, so no chronology can independently explain their significance, because events:

⁹²⁷van Dijk

⁹²⁸Coste, D.

Narrative as Communication. University of Minnesota Press, Minneapolis, 1989, (p. 17) 345

“can be narrated in different ways (or overlooked entirely), often to support contradictory conclusions”⁹²⁹.

The importance of context and belief has already been considered at some length (1:1), and need not be repeated here. However, it is important to recall Chomsky’s assertion that speech is purposive. Nationalists telling stories have both their fellows and the wider international community as audiences, and these too bring their own subjective interpretation to events. Ascherson⁹³⁰ for example, suggests that the intervention in Kosovo was provoked by horror; the pictures in 1992 from the Omarska detention camp⁹³¹ were too redolent of Auschwitz for the West not to act. The terminology used also determines judgement, as amply demonstrated by Campbell in his comparative study of ten explanatory histories of the Bosnian conflict:

“calling the conflict in former Yugoslavia a case of ‘ancient ethnic hatred’ and ‘civil war’ has often been code language for recommending a policy of partial or total non-intervention”⁹³²,

whereas depicting it as a case of aggression or defence invites a more militant outside response. Kaldor, however suggests that both descriptions miss the point; ethnic cleansing and genocide were the goals, so:

“What did it matter whether the crime was committed by Serbs from Belgrade or by Serbs from Bosnia?”⁹³³

Likewise, the reluctance to name the genocide in Rwanda as such, forestalled effective international action, and the depiction of Kashmir as a border dispute between India and Pakistan, deflects attention from the claim to *azadi*

⁹²⁹Campbell

⁹³⁰Observer 6/6/1999

⁹³¹Omarska was one of three notorious camps (with Trnopolje and Keraterm) in the Prijedor region of the Republika Srpska, Bosnia.

⁹³²Roberts

⁹³³Kaldor (p. 118)

(self-determination)⁹³⁴ that Kashmiri's themselves make. Fearful nations crave security, but as Kassimeris notes:

“All nations are afflicted with a deep sense of their past; the Greeks, however, are prisoners to theirs...they have never come to terms with their defeats and occupation under the Ottoman Turks”⁹³⁵.

Ashis Nandy suggests a similar theme; India and Pakistan are: “captive to the memory”⁹³⁶ of their decolonisation and partition. Describing their conflict in 1948 as between ethnic or religious groups is to miss the point; it was an episode in which morality collapsed.

Memory and symbol: confronting the past or reliving it?

In benign circumstances, symbols indicate the nation's boundaries⁹³⁷. They identify, more or less, who is authentically a national, who is tolerated, who is excluded. Returning to Plamenatz' distinction between patriotism and nationalism (4:1), it is evident that love of one's nation can become hatred of another, so perhaps even patriotism should be treated warily, as an early warning that something could trigger a shift to malignant nationalism. Ilya Glazunov is preoccupied with restoring Russian national identity, but in doing so he juxtaposes images of romanticised Slavic heroes and scaly tailed monsters representing the West, Judaism and other enemies, and: “hovers perilously on the cusp between patriotism and rabid expressions of racial superiority”⁹³⁸. Symbols of difference are not restricted to representation; China used to cherish the notion that Chinese Han were a pure race, children of the: “Yellow Emperor”. Despite generous funding directed at finding evidence to support this, the Chinese Human Genome Diversity Project has now produced evidence

⁹³⁴ Economist “The Valley of the shadow” 22/5/1999

⁹³⁵ Independent 15/1/1997

⁹³⁶ Economist “Old journeys revisited” 12/2/2000

⁹³⁷ Smith, [Nationalism and]

⁹³⁸ Independent on Sunday 18/4/1999

that the Han are not: “more evolved”⁹³⁹; their ancestors, like everyone else’s, also emerged in Africa.

Mary Robinson complained that, following the drastic curtailment of civil and political liberties, UN monitors had predicted a crisis, but Europe’s: “wilful deafness to warnings from Kosovo”⁹⁴⁰ resulted in late and costly intervention, and a war that the West: “did not mean to fight, had not prepared to fight and were not willing to fight”⁹⁴¹. Evaluated from the nation’s perspective, the warnings may have come sooner, although symbols can have a potency that outsiders may underestimate. Whilst happy nations may reserve national symbols and patriotic fervour for football matches, national symbols are taken rather more seriously⁹⁴² by unhappy nations and their host states. Flying the national flag may be both a challenge to the state, as in the case of the Irian Jaya’s separatists⁹⁴³, and a statement of intent, hence the disquiet felt by Croatia’s 600,000 Serbs when Croatia declared independence and adopted the flag of the wartime state⁹⁴⁴. In extremity, the symbolic dimension of the nation is drastically transformed.

Every representation of difference is dragooned into service as border guards. Even trivial differences of accent or address reinforce the polarisation of self and other. The fearful and insecure nation suffering the hurt of having its identity undervalued or reviled, can come to believe that its very existence is at threat. The nation becomes the only source of security; self-help and safety in numbers provide the unifying logic. A siege mentality develops and everything is filtered through the perception of the nation as victim, which becomes the primary focus of identity. Once nationalism has a community in its grip, it is

⁹³⁹ Economist “Children of the black emperor” 10/7/1999

⁹⁴⁰ Observer. 6/6/1999

⁹⁴¹ Economist. “Messy war, messy peace” 12/6/1999

⁹⁴² America takes her flag seriously (there have been attempts to amend the constitution so as to prohibit desecration of it) but does not face claims for self-determination from unhappy nations.

Economist. “Old Glory’s strength” 3/7/1999

⁹⁴³ Economist “Flying the flag in Irian Jaya” 4/11/2000

⁹⁴⁴ Economist. “Franjo Tudjman” 18/12/1999

difficult for conflicting parties to negotiate concessions; tolerance and understanding are not qualities easily extended to, or expected of, a despised and feared opponent. The abuse of fundamental rights becomes entwined with all aspects of social identity, so for example, although all sixteen of Banja Luka's mosques were destroyed in the course of the Bosnian war⁹⁴⁵, the destructions that occurred on Fridays were more bitterly felt⁹⁴⁶. Returning to Walzer's marriage analogy⁹⁴⁷, in its extreme form, self-determination is more akin to the response of a battered wife; she may escape to a refuge, press for criminal charges or, *in extremis*, kill her abuser in self-defence.

"The Valley"⁹⁴⁸ was filmed in 1998, in the Drenica valley, then a KLA stronghold. There was no voice-over⁹⁴⁹, the narrative being drawn from a series of statements and explanations offered by villagers, both Albanian and Serb, the KLA, and central government troops and police sent to protect Serbs in the region. Ultimately, all of them had the same story to tell:

"They are not like us. This is our land. It is sacred. We have been here for generations, for five hundred years, a thousand. How can they call us occupiers in our own homeland?" Then plans of revenge for the hurts inflicted, and how the blood of their sons would strengthen their roots".

The sense of grievance was palpable, and all this before the conflict escalated and NATO intervened. As Knightley⁹⁵⁰ suggests, tales of atrocity are part of the wartime armoury, as the British Government's dossier of Iraq's rights abuse

⁹⁴⁵Zametica, J. *The Yugoslav conflict; an analysis of the causes of the Yugoslav war, the policies and the regional and international implications of the conflict*. London, Brassey's for the I.I.S.S. 1992

⁹⁴⁶Destroying mosques on a holy day was seen as doubly malicious, because it represented a double attack on Islam; the prosaic malice that anticipated a higher death toll amongst the faithful at a time when more could be expected at prayer, seems to have been overlooked.

⁹⁴⁷Walzer, [Thick and Thin]

⁹⁴⁸C4 Broadcast. "True Stories: The Valley" 25/5/1999

⁹⁴⁹The documentary made it clear that the Albanians were having the worse of it. Serbs complained of harassment, and having to leave their homes to live in prefabricated temporary accommodation. Albanians had their homesteads razed, the inhabitants and livestock killed, and those who fled were forced to camp-out in whatever makeshift shelters they could scavenge.

⁹⁵⁰Independent on Sunday 27/8/1999

attests⁹⁵¹. Exaggeration renders the enemy barbaric and depraved, and justifies actions that might otherwise be questioned, because as Jabri⁹⁵² notes, the same discourse and symbolic order are shared by the participants. Memory, myth and retelling tales all function in the creation of the idea of nation, and as Michael Steiner⁹⁵³ has discovered, many Kosovans would much prefer to exact revenge. In an attempt at even-handedness, four KLA soldiers have been arrested and charged with war crimes, but as the men are adulated as heroes⁹⁵⁴, this has not gone down well locally. Given the crucial role of myth in national consciousness, would it be possible to manipulate the myth?

Plato⁹⁵⁵ certainly thought it possible, as did Crossman⁹⁵⁶, although with rather less approval. Fascist propaganda in Italy and Germany during the pre-war years was relentless, and Plato could have served as a blue print for Goebbels' propaganda machine. By the outbreak of war, the press, radio, theatre, cinema, creative arts, music, writing, and art exhibitions were all controlled, with the same theme from all sources, including the education of children⁹⁵⁷. In Italy, the school curriculum was rewritten and children passed through a series of organisations designed to inculcate obedience, self-sacrifice and courage. A boy who started as a Son of a She Wolf in 1923 would, by 1940, have passed through the whole gamut of Fascist education. It would have been remarkable for even a small number to survive such a process without succumbing to the message. Propaganda is effective when it draws on the social norms and underlying morality of the nation, and national myths are clearly potent forces in social mobilisation that have been put to murderous effect in the Balkans and

⁹⁵¹The catalogue of alleged evidence was entitled: "Saddam Hussein: Crimes and Human Rights Abuses". BBC World Service 2/12/2002.

⁹⁵²Jabri, [Discourses]

⁹⁵³The acting viceroy in Kosovo. (*Economist* "Inching forward" 2/11/2002)

⁹⁵⁴*Independent* 23/11/2002

⁹⁵⁵Plato, *The Republic*. Lee, D. (transl.) (Second Edition, revised) Penguin Classics, London, 1987

⁹⁵⁶Crossman, R. *Plato today*. George Allen & Unwin, London, 1959

⁹⁵⁷Rhodes, A. *Propaganda: The Art of Persuasion in World War 2*. Chelsea House Publishers, London, New York, 1983

numerous other conflicts. Is it possible to manipulate myth in order to prevent the nation from becoming a malevolent source of insecurity?

Memory and symbol: confronting the past and rewriting it?

It is intuitively plausible that the same techniques that awaken rabid nationalism could be used to awaken a more benign form. However, it is less plausible that a state wishing to soothe strident nationalism would be willing to resort to such totalitarian methods. The assumption here is that a state or nation employing exclusionary propaganda to further its goals has already rejected rights respect and the liberal values of tolerance and diversity. By extension, where such liberal values are honoured, totalitarian propaganda is not compatible. States do of course attempt social engineering, but generally this is done incrementally. Britain, for example, has laws prohibiting racial discrimination⁹⁵⁸, schools and workplaces have codes of good practice, and there are media guidelines on taste. Racial discrimination has not been eliminated, but improvements are accumulating. A more assertive approach might produce swifter results, but Britain is home to other groups who suffer discrimination on grounds of gender, age, disability and the like, so there are competing demands for the assistance of formal social institutions in achieving equality of treatment. However, as suggested previously (3:4), unhappy nations may lose their sense of grievance if they are able to focus on myths that do not dwell on past hurts.

Whilst the purposive reinvention and manipulation of myths are not readily available tools in liberal societies, myths do adapt and change in the telling. The shift of emphasis is usually gradual, but the process can be accelerated. Former Minister of Justice, Dr Dullah Omar said that a:

⁹⁵⁸The first Race Relations Act of 1965 was amended by the 1976 Act, which established the Council for Racial Equality, the Human Rights Act of 1999, and the Race Relations Amendments Act 2000. This last placed a positive duty on public authorities to promote equality.

“commission is a necessary exercise to enable South Africans to come to terms with their past on a morally accepted basis and to advance the cause of reconciliation”⁹⁵⁹.

South Africa’s Truth and Reconciliation Commission⁹⁶⁰ may come to serve as an exemplar for the future. Fergal Keane⁹⁶¹ has suggested that Ireland has a propensity for self-mythologising, which always renders the Irish romantic martyrs of the anti-British struggle. He believes that Ireland also needs a commission to tell the truth, and decide what history is to be taught to their young. In Northern Ireland the peace process is faltering, but here too there is acknowledgement that telling the truth is a requisite for future peace; the Saville enquiry into the 1972 Bloody Sunday killings⁹⁶², Sir Ronnie Flanagan’s review of the 1989 Omagh bombing, and the judicial review of the murder investigation of Pat Finucane⁹⁶³ indicate that Dr Morrow’s views are increasingly widely held:

“How we individually and collectively deal with our past...will determine our future”⁹⁶⁴.

Confronting the past from a different perspective may prove the most effective means of rewriting the nationalist myth by incorporating other aspects of their histories, although exogenous events may also provide a catalyst for reflection. The end of the Cold War, for example, ignited a series of transformations which are still unfolding, and the September 11th attack seems to be propelling Canada into closer alignment with America, which: “runs counter to the emotional impulse for secession”⁹⁶⁵. Reconciliation with the past, although seemingly essential, is, as Campbell and Roberts

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Truth and Reconciliation Commission. www.doj.gov.za

960 Established by the Promotion of National Unity and reconciliation Act, No. 34, 1995.

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BBC Radio 4 interview. October 2001

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www.bloody-sunday-inquiry.org.uk

963

World Service broadcast 14/11/2001

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From a speech by the outgoing moderator of the Presbyterian Church to the Church Assembly, June 2001. www.presbyterianireland.org

965

Economist “Quebec thinks continentally” 6/10/2001

demonstrate likely to be difficult, given the subjectivity of truthful narratives. It may also be stymied if reconciliation is deflected towards securing compensation.

Benjamin Farencz, the US' chief prosecutor at Nuremberg, and director of the post-war restitution program, suggests that this was the template for subsequent truth and reconciliation tribunals. For the first time, restitution was directed towards individuals, not victor states. Germany has for years expressed remorse for Nazi era crimes, and as recently as 1999, the German government authorised a further 10 billion Deutschmark fund to compensate East and Central European forced labour victims, and Germany's Protestant Church has awarded a further 10 million Deutschmarks.⁹⁶⁶ However, few other states have been as willing as Germany to either acknowledge responsibility or pay restitution, as illustrated by the Durban racism summit⁹⁶⁷. Slavery is appalling, but this is a modern belief; in many pre-modern societies, it was part of the natural order. There may be merit to the \$300 billion compensation⁹⁶⁸ claimed by black American groups. It is essentially a matter of domestic litigation aimed at securing the compensation promised on manumission, but the \$777 billion⁹⁶⁹ restitution for slavery claimed by Africa smacks of opportunism⁹⁷⁰, and is more likely to prevent even statements of regret. America's Southern States, having been cast in the role of the defeated, have perhaps been unfairly burdened with the guilt of slavery. Reconciling this guilt with pride in the distinctive features of Southern identity is a cause of resentment. More recent crimes are, however

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BBC World Service, 13/7/2000

⁹⁶⁷The UN's World Conference against Racism, Racial discrimination, Xenophobia and Related Intolerance, 31/8-7/9 2001.

⁹⁶⁸

BBC Radio 4, 4/9/2001

⁹⁶⁹This sum has been suggested by the African World Reparations and Reparations Truth Commission.

⁹⁷⁰Holding children responsible for the crimes of their parents is questionable. Setting aside the moral difficulties, the practical difficulties of establishing whose ancestors benefited or suffered from slavery are insurmountable. Further, it is not evident that the descendants of slaves taken by Europeans are more worthy of recompense than those taken by Romans or Barbary corsairs.

being addressed; Tulsa, the site of a massacre (1921) of black citizens, is considering setting-up a compensation fund of \$1.2 million, and in 1994⁹⁷¹, Florida granted \$2.1 million in reparations for destruction of the Rosewood area (1923). The conclusion here would seem to be that not all past ills can be ameliorated by financial restitution⁹⁷², or apology, however sincerely expressed. Nevertheless, a willingness to acknowledge past wrongs sends a powerful signal about the future. It affirms the future inclusion of victims of past wrongs, and the mutual obligation that exists between citizens and nationals. This approach is of course painful, particularly where the protagonists have been inflicting harm on each other, sometimes for generations. Where each consider themselves to be the victim, and view their own acts of brutality as retaliatory and justified by circumstances, reconciliation may be impossible, but:

“A nation which doesn’t see clearly what it has done in the past is doomed to do the same again”⁹⁷³.

⁹⁷¹ Independent 5/2/2000

⁹⁷² Economist “Blanket apology” 27/5/2000

⁹⁷³ Tor Brandacher, speaking for the children fathered by Germans during their wartime occupation of Norway. Many of the children were institutionalised and severely mistreated. They seek compensation and apology.

Guardian 7/12/2002

(6:4) Exit, voice and loyalty.

Hirschman's⁹⁷⁴ model is plausible and elegant. Where an individual is faced with a decline in the product or services offered by his usual supplier, he has three options; exit, voice or loyalty. His response will be determined by the ease of exit and available alternatives, and whether he expects his complaints, backed by the threat of exit, to lead to improvement. If the cost of exit and voice appear too costly, he may remain loyal and silent, hoping for an improvement, or, if he is one of the few who actually benefits from the present arrangements, he may be loyal and noisy in his support for the *status quo*. Nations claiming self-determination fit quite neatly into the model.

Exit.

However, where Hirschman posited exit and voice as broadly equivalent and a matter of preference, nations are in a more difficult position. Self-determination is claimed by the nation in response to the crises, or opportunities, of modernity. As Wolf⁹⁷⁵ notes, the crises may be demographic, ecological or rooted in legitimization. Causes vary, but the crises that provoke claims to self-determination are almost always caused by the host state, and it is from this state that self-determination is required. Exit, in the form of secession, is not an easy option and carries little guarantee of success. An individual may exit the nation through social mobility and assimilation into a more favoured group, either in his own host state or another, but as already noted (4:4), a right of exit is not balanced by a right of entry⁹⁷⁶, so even for individuals, exit is a risky option. For nations, the task is altogether more arduous.

⁹⁷⁴Hirschman, A. *Exit, voice and loyalty: responses to decline in firms, organizations, and states*. Harvard University Press, Cambridge Massachusetts, 1970

⁹⁷⁵Wolf, E. *Aspects of group relations in a complex society: Mexico*. In: Shanin, T. (Ed.) *Peasants and peasant society*. Penguin, Harmondsworth, 1979, (pp. 50-68)

⁹⁷⁶Walzer, [Spheres]

Firstly, the nation is rarely in a position to exit unilaterally. A war of national liberation may result in *de facto* self-determination, but recognition and the formal status of sovereignty comes from the wider community of states, which is given grudgingly⁹⁷⁷. Decolonisation demonstrated that occupying powers rarely leave without a fight, and the paucity of interventions indicate the international community's lack of enthusiasm for direct assistance. Secondly, given the importance of place and culture, most nations want to stay at home. They wish to exit from the control of the host state, not the place itself. It is the host state that nations must convince, and given the difficulties that exit presents, voice may be a safer alternative.

Authentic voice.

Voice is not entirely without risk. Nations claiming self-determination are both complaining about perceived injustice and threatening the state with exit. Hirschman's firms and service providers could either meet the wishes of their clients or ultimately go out of business. For states and nations, citizens and nationals, the stakes are higher. Faced with a threat to its sovereign integrity, the state's response may range from negotiated settlement, as in the case of the Czech and Slovak Republics, to brutal suppression, as in Myanmar's response to the Karen⁹⁷⁸. In decent places, first generation rights are fairly well protected, and democratic political institutions allow for the flow and exchange of ideas, however unwelcome. So, for example, Italy's Senate voted for devolution, to the delight of Padania, although one of the opposing Senators complained that this would lead to:

⁹⁷⁷The Taliban in Afghanistan had *de facto* control but its legitimacy was not widely recognised, although this did not affect Afghanistan's sovereign status. Prior to intervention there had been growing calls for engagement. (*Economist* "Unban the Taliban" 24/7/1999)

⁹⁷⁸

Independent 26/1/2000

“local selfishness, loss of national identity and loss of the solidarity on which the welfare state was built”⁹⁷⁹.

France, likewise, has agreed to grant Corsica: “reinforced decentralisation”⁹⁸⁰, which seems to mean that infant schools will now be able to teach in Corsican. There were fears that this would undermine the linguistic purity of French and many argued that President Chirac had been correct in 1999 when he refused to amend the constitution to give recognition to regional languages⁹⁸¹.

Plebiscites are a good gauge of a nation’s wishes, although they are not without problems, and can be rigged. Wording and boundaries can be manipulated to encourage the desired results, or, as in the case of the Irish vote on ratification of the Nice Treaty in October 2002, or the recurrent polling of Quebec, referenda may be resubmitted until the voters give the correct result. The political institutions of democracies are tailored to meet the welfare needs of rights holding citizens, making no formal distinction between them, which makes it difficult to accommodate group interests. Freedom of association and speech allow for demonstration and protest, and nations may of course form political parties to speak on their behalf, but this is an option available to any interest group. Plaid Cymru⁹⁸², and the Scottish Nationalist Party have the same status as the Monster Raving Loonie Party⁹⁸³. Nevertheless, their constituency can be measured by electoral success.

⁹⁷⁹ Independent 7/12/2002

⁹⁸⁰ Independent 23/5/2001

⁹⁸¹ Economist “Indignant” 10/7/1999

⁹⁸² The Party of Wales.

⁹⁸³ The party does not seem to have survived the death of its founder, Screaming Lord Sutch, in June 1999.

How to tell what the nation really wishes?

Nations are self-defined in a variety of ways, but leadership elections and democratic participation on the basis of individual equality are not usually defining features. Amongst the Pathans, for example, loyalties are determined according to clan, personal patronage and vocation. Political power is allocated through shifting coalitions and status competition amongst hereditary religious or land owning leaders. These leaders may accurately represent their followers' interests, but this has not been tested by plebiscite. At partition, it was agreed that Kashmiris should decide whether to accede to India or Pakistan. Pakistan was confident that, if put to the vote, the outcome would be determined by religion, although even if the Muslim majority did vote to join Pakistan, there would be Buddhist and Hindu enclaves in Ladakh and Jammu. India was confident that cultural affinity would prevail, but missed the point; the Kashmiris' own: "place, kinship and culture"⁹⁸⁴ would be the deciding factor, although an independent Kashmir is not an option either India or Pakistan favour.

Demographic change is an ideal method of ensuring the desired outcome of a plebiscite, as long as voters can be relied upon to vote in line with nationality, although the strategy requires patience. It has served China well in Tibet, and Morocco, for example, has encouraged 350,000⁹⁸⁵ Moroccans into Western Sahara, and they now outnumber the local Sahrawi⁹⁸⁶. A similar settlement pattern in the North Americas, Australia and New Zealand displaced the indigenes.

984

Economist "Valley of the shadow" 22/5/1999

985

Economist "Triumph for procrastination" 4/11/2000

986

Economist "It's a mirage" 22/1/2000

Following devolution, the state-like political unit of Scotland quite neatly matches⁹⁸⁷ the Scottish nation. As befits a modern liberal state, political authority is allocated through democratic procedures that allow all Scots to participate. For Scots, this may form part of national identity, as their self-determination was achieved through the negotiation of normal politics, but for most nations, citizenship is separable from nationality. Galicians, as suggested previously (6:1), are quite secure in their Galician identity, their place in Galicia and their culture, which are quite separate from their status as Spanish citizens and the rights and liberties that this entails.

Their nationality and citizenship confer dissimilar benefits and obligations. This may change. Faced with ecological and demographic crises resulting from a sunken oil tanker which threatens the collapse of their livelihoods, it is not clear how the Galicians will respond. They may conclude that the failure of central government to tackle their problems was plain incompetence, but if they believe that the indifference arose because they are Galicians, then the legitimacy of Spain's authority may be questioned. As one incensed fisherman warned: "When Galicia awakes, it'll be very hard to lull it to sleep again"⁹⁸⁸. Given the catastrophe, the fisherman was probably voicing a widely held view, which may lead to increased support for Galicia's nationalist parties. Alternatively, aware of their government's views on self-determination, and the stated disregard for the outcome of Gibraltar's referendum in which 99% voted against joint sovereignty with Spain⁹⁸⁹, Galician nationalists may feel that normal politics would prove ineffectual and copy the Basque's tactics in pursuing their claim to national self-determination. How would the Galician's authentic voice be known then? By the number of bombs? What

⁹⁸⁷This unusual congruence is unlikely to persist if further national divisions emerge, perhaps between the Gaelic speakers of the Highlands (themselves divided by glen and clan), and the lowlanders (also divided between the Anglicised westerners centred on Edinburgh, and the more authentically Scottish in Glasgow) or the islands (also divided between the Western Isles and the Orkneys and Shetlands).

⁹⁸⁸[Independent](#) 7/12/2002

⁹⁸⁹BBC1 broadcast 8/11/2002

of Turkey's Kurds? Turkey denies they are a separate nation and remains wary of political parties with ethnic or religious affiliations, so the Kurdish voice is muted. PKK⁹⁹⁰ wishes for an independent Kurdistan, but it is not safe to assume that this is the wish of all 12 million⁹⁹¹ Kurds.

Whose voices count?

As indicated in Chapter Four (4:4), nationals can be relied upon to identify who counts as self or other, although like the nation itself, this process of identification is also subject to reformulation. In the absence of democratic social and political institutions, how can the state, and the wider political community be confident that the wishes of all nationals are represented? Suffrage is always dependent on status. On the whole, those considered incapable of making decisions for themselves are excluded and those with expertise speak for them. Who should be deemed incapable or expert is culturally specific, and could be based on any combination of age, wealth, profession and the like. In Scotland, for example, where the franchise is widely drawn, children are excluded, and the experts are adults. Where religion is a significant social factor, greater authority may accrue to senior clerics, formally as in Iran, or informally as in Wales, and in patriarchal societies such as the Pathans', women are excluded, and adult men are the experts. Pathan social structure is also lineage based, so authority and the power of patronage are linked to certain families and clans, whilst others are excluded entirely. The difficulty here is not so much that certain status groups are excluded from participation, but that their interests may be disregarded or worse.

Children are always deemed incapable, although the transition to capable adulthood is culturally variable. In Britain, children are deemed adult at

⁹⁹⁰Partiya Karkeran Kurdistan: translates as The Kurdistan Workers' Party.

⁹⁹¹Economist "Allies from hell" 5/10/2002

eighteen, for voting purposes, age seventeen for driving and may marry or join the armed services at sixteen. Children's interests are guarded variously by the state, through public provision of schools and other social services, and through legislation governing activities from child employment to car seats. Parents or those acting *in loco parentis* are expected to ensure the welfare of their children and there are punishments for those who fail to do so, and assistance for those who need it. The system is imperfect, but illustrates that participation is not a prerequisite to decent treatment. Women's status may prevent formal participation, but like children, there are functional constraints to their mistreatment. Women and children are essential to the nation's inter-generational continuity, and they are definitively included nationals.

Uncertain loyalties.

According to Hirschman's model, the state stands to lose the loyalty of its citizens because it is failing them and risks their exit or complaints. If exit or complaint are considered too costly, citizens should remain loyal, awaiting improvement noisily or in silence. However, noisy or silent citizens may not be loyal to the state at all. Nations are embedded in states, so the absence of voice and exit may not signal tacit consent but may mask seething resentment. Although nationality and citizenship are separable, faced with Wolf's triple dislocation, nationality becomes the primary social identifier, and the primary object of loyalty. The nation is no longer slumbering, and noisy or silent citizens may not simply be waiting for the state to improve. They may be actively, if covertly, promoting their nation's interests, waiting for an opportunity to express voice or exit. A claim to self-determination is therefore not merely an early warning of discontent that the state can safely ignore. It may be a signal that loyalty has been withdrawn altogether, and that exit will be attempted, whatever the cost.

Noisy loyalty.

As Frost⁹⁹² notes, it is often tribal and religious leaders, those men at the top of the social hierarchy, who are willing to argue that they are content with their people's status, and the lack of rights protections that some or all endure. It cannot be assumed that those who benefit from the *status quo* fairly represent the wishes of all their people; their voices may simply be the loudest in claiming:

“special expertise about Important Things which entitles them to lay down the law for everyone else”⁹⁹³.

As O'Neill⁹⁹⁴ warns, accepting the word of self-appointed spokesmen makes the audience complicit in the silencing of others. Corporal punishment is not permitted in British schools, so reports that children had been beaten in Mosque schools caused a furore. Ann Cryer, the local Member of Parliament, complained that:

“If these were white kids and a Christian institution something would have happened already”⁹⁹⁵.

The Police Child Protection Unit interviewed various teachers, imams and the governing board, who admitted there was a problem, but the: “community leaders” denied that anything of the sort could happen. This points to a dilemma. If a claim to self-determination is deemed invalid because it is voiced by traditional leaders, then any nation with undemocratic social organisations, which is perhaps most of them, will be hard put to prove that self-determination is widely desired. Modern states must therefore accept the undemocratic

⁹⁹²Frost, [Constituting Rights]

⁹⁹³Economist “The New Geopolitics”. 31/7/1999

⁹⁹⁴O'Neill, [Reith]

⁹⁹⁵Independent 19/10/2002

authority of un-elected leaders, or deny they have authority at all. Burchell⁹⁹⁶ suggests that this was the tactic used by John Howard⁹⁹⁷, who frantically reversed official policy on indigenous rights, claiming their leaders were: “out of touch”. Nevertheless, even if they are out of touch, some form of communication is needed. France is home to a large minority of Islamic immigrants, many of whom are conspicuously failing to assimilate, but drawn from over 120 countries, they have no representative voice⁹⁹⁸. The classic responses of oppressed minorities are social banditry, mafia organisations or millenarian movements⁹⁹⁹, and these have been adapted to French conditions in the form of rioting, crime and a new found interest in religion, a pattern also seen in Britain, as noted in Chapter Four (4:4). These illustrations indicate that social exclusion can lead to violence in decent rights respecting democracies, although it is usually only sections of minority nations who are disaffected¹⁰⁰⁰. Other members are able to participate in the wider social, economic and political culture of the majority. Where minority nations find themselves in fragile on undemocratic states, it may be the whole nation that faces exclusion.

The dangers of not counting.

Exclusion may simply mean that some groups do not count as members of the majority nation and may be accorded subordinate status. However, as O'Neill notes, individuals considered deviant and minority nations, may simply not count as human¹⁰⁰¹. Whilst women and children may be low status, their

⁹⁹⁶Burchell, D. Multiculturalism and its Discontents: Majorities, Minorities and Toleration. Seminar. Nationalism, Identity and Minority Rights Conference, University of Bristol, September 1999

⁹⁹⁷Australia's Prime Minister, in office since 1996.

⁹⁹⁸Economist. “Rejecting their ancestors the Gauls” 16/11/1996

⁹⁹⁹Heuman, G. (Ed.) *Out of the house of bondage*. Frank Cass & Co Ltd, London, 1986

¹⁰⁰⁰The Ministerial Group on Public Order and Community Cohesion (the Cantle report) produced after the riots in Bradford, Oldham and Burnley, found that the majority of participants were young unemployed men.

¹⁰⁰¹O'Neill, [Toward Justice]

identification as nationals assures some protections. Outsiders may be less fortunate. The functional constraints that apply to women and children do not apply to the excluded, although some may be tolerated. As Burchell suggests, although toleration is a virtue amongst liberals, it may also be seen as a patronising gift from the tolerant to the tolerated, which carries the implicit threat that the gift could be withdrawn, or passed to a more favoured minority.

Hunter-gatherers seem always to be beyond the reach of tolerance. They are seen as not owning their land, or not using it properly, as the aboriginal land claims and the displacement of indigenous peoples discussed earlier (6:1) illustrate. Although intimately attached to the landscape, they are not fixed in it, so appear rootless, the greatest crime for nationalists¹⁰⁰². Now displaced to marginal zones of desert, tundra and forest, foraging peoples may find that exit is no longer an option; there is nowhere to go. In states with pre-modern social institutions, they are perennial targets of genocide, and Kuper offers enough examples to be convincing. To the modern state foragers are an: “administrative incongruity”¹⁰⁰³, and invariably subject to settlement attempts; Siberian Nenets, Indian Andamanese and Ugandan Ik are no longer nomadic. Gypsies face mounting obstructions to their nomadic traditions, although like the indigenes of North America, Australia and New Zealand, they have at least gained voices. Voice, however, is not the only means of expression. Signs and symbols associated with the nation can acquire huge significance, and although any form of cultural expression may represent the national cause, the most conspicuous form of voice is violence.

¹⁰⁰²Gellner, [Nationalism]

¹⁰⁰³Blench, R. Natural Resources perspectives, Number 43, June 1999, (Overseas Development Institute)

Wars of national liberation may be fought to achieve exit, but other forms of violence may also be instrumental. Violence, from bombing, assassination and kidnap¹⁰⁰⁴, underscores political demands and keeps the nationalist's grievances in the public domain. Intimidation of undesirable minorities may encourage their exit, although it may provoke retaliation and counter retaliation, a pattern so common that it may be a feature of all conflicts. Amongst the moderns and late-moderns, normal politics holds a route to voice for the nation denied self-determination, for the pre-moderns, the options are less certain. Once awakened the nation rarely returns to slumber. Faced with the overwhelming power of the modern state, pathological behaviour from oppressed and humiliated nations or individuals is almost inevitable¹⁰⁰⁵, as Fisk suggests they may strike: "with the wickedness of and awesome cruelty of a doomed people"¹⁰⁰⁶. Self-immolation, hunger strike and suicide attacks may seem to be the only option for voice. Others may resort to the: "magic of despair"¹⁰⁰⁷; the Boxer Rebellion (1900), the Sioux Ghost Dance¹⁰⁰⁸ and the Karen's: "God's Army"¹⁰⁰⁹ shared a belief that their rituals would render them invincible in battle. As Worsley¹⁰¹⁰ notes of the emergence of Melanesian cargo cults in the late nineteenth century, colonial occupation seems to encourage millenarian movements, as indicated by the Books of the Prophets and the evidence of Flavius Josephus documenting the guerrilla war that culminated in the siege of Masada in 73 A. D.¹⁰¹¹ and the Diaspora. There are contemporary movements; God's Army may still be

¹⁰⁰⁴There are numerous examples; ETA and IRA bombing campaigns, the assassination of high profile political targets such as Indira Gandhi and Anwar al Sadat, the kidnapping of Fiji's government and the Iranian embassy hostages.

¹⁰⁰⁵Berlin, [Against]

¹⁰⁰⁶Independent 12/9/2001

¹⁰⁰⁷Gluckman, M. *Order and Rebellion in Tribal Africa*. Cohen & West, London, 1963

¹⁰⁰⁸Brown, D. *Bury my heart at Wounded Knee. An Indian History of the American West*. Picador, London, 1981

¹⁰⁰⁹Independent 26/1/2000

¹⁰¹⁰Worsley, P. *The trumpet shall sound: a study of 'cargo cults' in Melanesia*. Paladin, London, 1970

¹⁰¹¹Harris

extant, despite the surrender of Johnny and Luther Htoo in January 2001, and Jon Frum's cult is still active in Tanna, Vanuatu. Although millenarian cults may be essentially spiritual or Utopian, Miller and Aya suggest that they provide a unifying ideology and frequently evolve into political movements. The Admiralty Islands' Paliau movement, for example, commenced as a cargo cult after the Second World War, but is now an independence movement and the cargo theme has been abandoned¹⁰¹².

Silent (dis)loyalty.

As Barry¹⁰¹³ notes, the options of exit and voice may simply not be available, which leaves only silence. However, as Scott¹⁰¹⁴ convincingly argues, there is a distinction between what can be voiced in public and in private. On the public stage, the language and conventions of the powerful majority is used, but behind the scenes, there is a private space where the subordinate can safely criticise the other. Scott offers the good Czar as the archetype of the loving father; his authority and legitimacy is never questioned, and if taxes are too high, this is because wicked courtiers have deceived him. Tax evasion is therefore sanctioned whilst loyalty to the Czar is maintained¹⁰¹⁵. Anti-government protestors in Morocco claim loyalty to King Mohammed VI¹⁰¹⁶, and in China, complaints are presented as patriotism¹⁰¹⁷. In each case, the protestors seek fairness, their dissatisfaction:

¹⁰¹²Whilst millenarian cults often emerge under occupation, cargo cults seem to occur only where pre-modern societies with a materialistic ethos come into contact with modern ones. It may therefore be the disparity in material wealth that instigates the forms and practices specific to cargo cults.

¹⁰¹³Barry, [Democracy]

¹⁰¹⁴Scott, J. *Domination and the Arts of Resistance: Hidden Transcripts*. Yale University Press, New Haven and London, 1990

¹⁰¹⁵The protestors may accept the legitimacy of the Czar, the King and the Chinese nation, but as the penalties for treason are usually severe, they are also prudent in refraining from challenging the legitimacy of the authorities.

¹⁰¹⁶Economist "Morocco's voyage from feudal to modern" 10/6/2000

¹⁰¹⁷Economist "A Chinese puzzle" 21/4/2001

“can be resolved by changing the individuals occupying office or in relationship with one another, without changing the pattern of the offices or relationships”¹⁰¹⁸.

As Walzer¹⁰¹⁹ notes, where the values that support the *status quo* are conspicuously and commonly ignored by those whose duty it is to uphold them, the system may collapse and a new order may take hold, as happened in the former Soviet Union. Covert resistance behind the scenes takes a variety of forms depending on the structure of the host state, from petty acts of malicious property destruction and animal mutilation, to arson, murder and spontaneous riot. Subversive jokes, rumours and news can be spread locally, or reach a wider audience through Samizdat press, mobile telephony and the internet.

A slave cannot contest the terms of his subordination, but it is implausible to suggest that the dominant ideology is so powerful that he cannot even imagine an alternative. Feudal Europe was rigidly hierarchal, but the millennial theme of the world turned upside down lingers on in cultural practices such as carnival and Twelfth Night. The public discourse is limited by what the powerful are willing to hear. In traditional Somali society, for example, women have low status and few rights, and as Lewis¹⁰²⁰ notes unhappy wives cannot challenge their husbands' behaviour, or appeal for redress. They are, however, prone to spirit possession. Previously demure and obedient, the afflicted wife becomes a demanding harridan: “speaking in tongues”, and the only cure is pampering and gifts; voice may be gained only obliquely. However, the underlying ideology may be so pervasive that it is not possible to even express radical alternatives. As van Dijk¹⁰²¹ suggests, the whole function of ideology is to reproduce and legitimate the domination of the already dominant. Like myth, ideology depicts social relations as natural and

¹⁰¹⁸Gluckman (pp. 86-87)

¹⁰¹⁹Walzer, [Thick and Thin]

¹⁰²⁰Lewis, I. *Ecstatic Religion*, Penguin, Harmondsworth, 1971 [Ecstatic]

¹⁰²¹van Dijk, T. Discourse as Interaction in Society. In: van Dijk, T. (Ed.) *Discourse as Social Interaction*. Sage Publications, London, 1997, (pp. 1-37) [Discourse]

inevitable, so novelty must be built incrementally: “Social critics commonly start from where they stand”¹⁰²². The novelty of the world turned upside down lies in the role reversal of the normally subservient and dominant; it is not a new order. The rebellion is ritualised, as in the case of the Zulu *Nombkubulwana*¹⁰²³, where wives:

“became temporarily lewd viragoes, and their daughters marital herdsmen; but they accepted the social order and did not form a party of suffragettes”¹⁰²⁴.

The whole discourse of rights is, arguably, similarly pervasive. Like the expansion of baronial privileges, rights of all kinds are universal; women, minority nations or specified classes are no longer excluded. Rights now encompass humanity, so the remaining arguments about who should count are largely focused on animals¹⁰²⁵. Likewise, there are arguments that second and third generation rights are not properly rights, and no consensus as to which are properly first generation rights. There is, however, little support for arguments that deny rights altogether or that propose an entirely novel range of rights¹⁰²⁶. Given the dominance of the modern *Weltanschauung* this is to be expected.

Self-determination: the cure for misery or virtue's just reward?

What is it that tips the pride and love of culture and place into malignant and xenophobic nationalism? The answer would seem to be fear. A nation

¹⁰²²Walzer, [Thick and Thin] (p. 47)

¹⁰²³Princess of Heaven.

¹⁰²⁴Gluckman (p. 127)

¹⁰²⁵Even here, there is a cut-off. Fruit flies, fish and nematode worms do not seem to count as much as fluffy mammals.

¹⁰²⁶There are arguments that women and children are vulnerable to gender and age specific abuses, as noted (5:3) and various conventions such as the 1989 Convention on the Rights of the Child and the 1979 convention on the Elimination of All forms of discrimination Against Women acknowledge this. However, special protections for vulnerable groups are intended to ensure enjoyment of fundamental rights. There is no credible counter argument that vulnerable groups should be denied rights.

fearing for its place in the landscape and its culture, fears that its survival is at risk. Every slight, every display of difference comes to be seen as a threat to survival on a par with rights abuse. As Ropeik¹⁰²⁷ suggests, people are generally poor at assessing risk, and frightened people make bad judgements. Reducing fear would therefore seem to be essential, and curtailing rights abuse would be a good first step. Persecution may be a major force in consolidating social identity, and with it, a sense of victimisation. However, Japan's *kakure kirishitan*¹⁰²⁸ (hidden Christians) no longer face harassment, and many are abandoning their unique form of worship. Likewise, many Jews fear that tolerance is eroding their distinctive culture, reducing it to a single religious dimension. As Britain's chief rabbi, Jonathan Sacks notes: "The trial...is that there is no trial"¹⁰²⁹. This may be a loss for cultural diversity, but it is a gain for tolerance and safety.

Many nations have a highly developed sense of grievance, rooted in ancient histories and past hurts, to on-going abuse that borders on genocide. National self-determination represents an escape from these miseries. States too are fearful, but their concerns lie with maintaining their sovereignty and the need for order¹⁰³⁰, which Jabri¹⁰³¹ concludes is the primary goal of the states system. Nations claiming self-determination challenge sovereignty and order, and are accordingly to be resisted. A nation's suffering may be acknowledged, the international community may intervene and statehood may be granted, but this fairy-tale ending is rare in the real world. Unhappy nations would be ill advised to trust in outside assistance for the relief of their troubles¹⁰³². There are no institutional or administrative procedures for

¹⁰²⁷David Ropeik is Director of risk communication at the Harvard Centre for Risk Analysis. *Economist* Letters, 29/6/2002

¹⁰²⁸*Economist* "Keeping the faith" 11/1/1997

¹⁰²⁹*Economist* "To be and not to be, that is the answer" 16/11/1996

¹⁰³⁰McCorqudale, R. Human Rights and Self-determination. In: Sellers, M. (Ed.) *The New World Order. Sovereignty, Human Rights and the Self-Determination of Peoples*. Berg, Oxford, 1996, (pp. 9-34)

¹⁰³¹Jabri, [Discourses]

¹⁰³²Forceful intervention in North America, Australia or New Zealand on behalf of the

measuring hurt and apportioning blame, so this is not an option for unhappy nations. Although there are some options available to unhappy nations. Exit is rarely easy, and voice may be difficult, which leaves the nation with loyalty. However, noisy loyalty may mask vested interests and silence may mask disloyalty. States and nations face a dilemma; nations are rarely democratically structured, but it is popular support that confers legitimacy to a claim. How can the authenticity of a claim be judged? A late-modern state may be willing to test opinion by plebiscite, but a modern one, fearful of challenges to its sovereignty, is unlikely to do so. The nation faced with a pre-modern state may be highly constrained in the action it can take to promote a claim to self-determination. Nevertheless, judgement is unavoidable. The difficulty here is that nations, states and the wider international community all have their own stories to tell, and their own filters through which the truth must pass. Myth, memory and symbol are potent, and can be manipulated to foster grievance and a sense of victimisation, but it is not so clear that they can be manipulated to create contentment. Truth and reconciliation may however, indicate a more promising means of reformulating the myths that sustain national identity, although the process may be gradual.

However, if as suggested, rights are rising in the hierarchy of international norms, then those states that abuse their citizens may fear that their legitimacy is undermined, and the respect of their peers forfeited. If rights abuse becomes the justification for intervention, and there is a real risk that the individuals responsible for it may be held accountable, then this may goad them to reform. As Plamenatz suggests, rights are on the conscience of the powerful. In the struggle between states and nations, states have the upper hand, so nations would do well to couch their claims in terms that appeal to

claims to self-determination made by their indigenous first nations is extremely unlikely, as is intervention in support for the claims of Catalans, Walloons or Bretons. Russia and China are likely to remain safe from interventions, as is Africa, and indeed most regions of the world, although for different reasons.

the conscience. A demand for rights observance may be an affront to states, but is not of the same order of threat as a demand for self-determination. Equally, nations may still claim self-determination even where they enjoy the security and autonomy that rights observance promotes. The point here is that if rights are respected, the immediacy of the nation's claim may reduce. States too may feel that the threat nations pose to their sovereignty seems less alarming. As nations and states become habituated to rights observance they may become less fearful of each other, and less fearful for their survival. States may then feel secure in their sovereignty, and nations secure in their culture and place in the landscape¹⁰³³.

¹⁰³³(Some) self-determination *and* rights seem to have taken the urgency out of the Scottish desire for sovereignty. Economist "Puzzles of patriotism" 4/1/2003

Conclusion

Self-determination or rights?

In the contemporary world, national self-determination is an assault on state sovereignty. Rights observance is not. In the modern world power lies with states, and it is in the discourse of the powerful that supplicant nations must lodge their appeal. The modern discourse is liberal. Predicated on the moral value of the individual, first generation rights are the liberals' guarantor of security and autonomy. Nations should appeal to the conscience of the powerful and claim rights.

If men and women were secure in their rights, they might become less fearful for their states and nations. This would not preclude a claim to national self-determination, but may reduce the urgency of it. States may resist the curtailment of their liberty to which rights observance could lead, but this may seem a lesser evil than the loss of sovereignty that national self-determination entails. This is a rosy scenario. Unfortunately, there is no certainty that rights observance will become widespread. Although rights seem to be a rising norm in international relations, there are other norms, and states are selective in their commitment. Some may remain wedded to sovereignty and the freedom this allows them to abuse their own citizens. States such as Myanmar or Saudi Arabia may be slow to reform. Nor is there any certainty that rights observance would have the desired effect of reducing the urgency of a nation's claim to self-determination. Rights respecting polities may remain home to nations fiercely bent on self-determination, as Basques and Irish nationalists attest. This last point indicates some of the problems that nations pose for International Relations.

The discipline is adept at theorising states. Following defeat in the Second World War, fascism is discredited beyond redemption. The collapse of the Soviet Union seems to have done the same for communism. Liberalism now has no competing modern ideologies. It therefore offers the only modern justification for the state and the states system. The just society is thus the democratic state, rationally ordered on liberal values and dedicated to the

principle of individual liberty. States too have accepted the hegemony of: “Really Existing Liberalism”¹⁰³⁴, however grudgingly. As Coker notes, liberalism takes few other ideas seriously. Nations, those communities united by romantic ties of blood and soil, do not fit this template. The inconvenient persistence of nations has of course not gone unnoticed, but the response of states, and the theories that legitimate them, has largely been a feat of denial; nations are treated as a form of state in waiting. The difficulty here is that this is true. Nations do resemble states in many respects, and many nations harbour ambitions to become states, but this is not the whole picture. The synchronous history of nation and state illustrates how half of the nation’s story became submerged.

In Chapter One, I traced the roots of the idea of self-determination. It was evident that the concept is slippery, acquiring nuance and meaning according to context. Thus the pan-Somali nationalists claiming self-determination saw this as the just restoration of state to nation, whilst their neighbours viewed the claim as an irredentist land grab. As far as the outside world is concerned, self-determination for Somalia now seems to mean abandonment. Indeterminacy of terms is perhaps inevitable when they have such widespread currency across disciplines and in everyday speech. Sometimes it simply does not matter, but with self-determination the identity of the relevant self is crucial. I therefore looked to the historical emergence of the idea of nation in its European homeland.

Following Gellner¹⁰³⁵, Anderson and others of the modernist school, I concluded that nation is an essentially modern concept. The separation of temporal and spiritual authority and the idea that legitimacy is derived from individuals could not be accommodated by the pre-modern world-view. Likewise, huge socially cohesive populations, and rapid social and

¹⁰³⁴Brown, [Really Existing Liberalism]

¹⁰³⁵Gellner, [Nationalism]

technological innovation would have been incomprehensible. This view is supported by anthropologists such as Woodburn and Lee from their studies of contemporary foragers, and others, such as Sahlins and Lewis¹⁰³⁶ from their work on agriculturalists. The radical distinction between the pre-modern and modern *Weltanschauungs* is important. It demonstrates the enormity of the transition to modernity, and the painful social dislocation that occurred. It may indicate that those states with pre-modern domestic institutions face a similar ordeal, although Service's view of historical discontinuity undermines the assumption of uni-linear progress. On this reading, progress is not a series of developmental landmarks and contemporary pre-modern polities may leapfrog modernity altogether. Modernity itself is not monolithic. There were two major trajectories in Enlightenment thought about nations, which I term liberal and romantic, although Smith¹⁰³⁷, for example distinguishes them as political and cultural. The liberal nation is a rational political construct. Self-determination entails democracy, as all elements of the self must do the determining, and rights are to be respected as a protection against the tyranny of the state. The end result is today's mature Western democracies. The romantic nation represents the sentimental attachment to kin, culture and place. Self-determination offers the security of living amongst one's own, and the preservation of all that is unique to the nation. The end result was fascism. Given this baleful association, it is hardly surprising that thinkers such as Carr and Berlin¹⁰³⁸ were extremely reluctant to credit the nation with anything positive. Much safer to stay with decent liberal states where culture and sentiment are matters of polite toleration and respect for difference. Chapter Two continued the focus on the evolution of self-determination on a narrower time scale.

Heater suggests that self-determination was the twentieth century's big idea, although its meaning changed radically during the three phases identified. Each

¹⁰³⁶Lewis, [Somaliland]

¹⁰³⁷Smith, [Nationalism and]

¹⁰³⁸Berlin, [Four Essays]

resulted in a flurry of new states that settled the national problem, only to have it resume with the next phase. After the First World War, self-determination was granted to nations, but the idea was compromised from the outset, being subordinate to the victors' war aims. Germany, the principal target, was required to demilitarise, and substantial reparations and territorial assets were acquired by her enemies¹⁰³⁹. The universal principle of self-determination only applied to European nations in the former territories of the vanquished. As Cobban notes the whole process was marked by hypocrisy and muddle, a charge that applied to subsequent settlements. After the Second World War, self-determination became equated with decolonisation.

Empire had lost legitimacy, and as Plamenatz concluded, self-determination appealed to the conscience of the powerful. The link with nation was severed, although many states attempted nation building after attaining self-determination. The post-colonial states also demonstrated that not all who demand self-determination want democracy or freedoms for their fellow citizens. The last phase emerged with the end of the Cold War.

There were no victors to impose their vision of self-determination, and the position now seems more confused than ever. The collapse of the Soviet Union may represent the unfinished business of Europe's imperial dismemberment¹⁰⁴⁰, whilst other claims to self-determination more closely resemble the struggle for independence from alien rule, as in the cases of Kashmir and Tibet. This last phase also saw the emergence of a new world-view¹⁰⁴¹; the late-modern.

Functional treaties and practical organisations constrain sovereignty, but SALT and the WTO, for example, are essentially contractual arrangements. However, the past half-century witnessed an array of humanitarian legislation that may

¹⁰³⁹Carr

¹⁰⁴⁰Williams, [Failed Imagination]

¹⁰⁴¹Cooper

constrain sovereignty more profoundly; war crimes tribunals for former Yugoslavia and Rwanda, escalating calls for humanitarian intervention, the arrest of former dictators. Reciprocal interference, experiments at pooled sovereignty in the EU, and Britain's recent venture with devolution further indicate a new departure from modernity, although the disjunction is not as radical as that between the pre-modern and modern. In the course of one century, the identity of the self-determining self changed three times, so in the following two chapters I considered the puzzle of the proper self, starting with the liberal nation.

In Chapter Three the focus fell on states. In part, this was because states are the principal actors in international relations; they provide the context in which nations are situated, and it is states that nations must convince of the justness of their claim. Further, liberal theories of the just polity emphasise the state. Nation and state are often treated as synonyms, in the writing of Paine for example, but it was evident that this is not a safe assumption. My purpose here was to untangle state from nation. I commenced with an exploration of the state from a legal perspective, drawing on the work of theorists such as Shaw and Brownlie¹⁰⁴². International law tends to be relatively static, a trailing indicator of practice, but it is constitutive of the state¹⁰⁴³, which may account for their innate conservatism. International law represents an idealisation of international relations, and has been remarkably effective in socialising states into habitual observance; as Jackson notes, players want to win the sovereignty game, not change it. This represents a further hurdle for aspirant nations. New players may not be welcomed.

The writing of Locke, Mill¹⁰⁴⁴ and other theorists of the liberal canon were considered next. These posed another hurdle for the nation, as arguments from social contract, the man/state analogy and pragmatism each implicitly

¹⁰⁴²Brownlie, [Basic Documents]

¹⁰⁴³Doty

¹⁰⁴⁴Mill, [On Liberty]

favours order and the *status quo*. No claim is made for particular states, but none consider mechanisms for creating new ones or dissolving old ones¹⁰⁴⁵, except through the normal politics of participatory democracy and the residual right of revolt. There is no partial right of revolt or secession. Constitutive theory suggests how the moral value of the polity is derived which could accommodate the romantic nation, but Frost¹⁰⁴⁶ ignores nations. Territory justifies state *and* nation, but each sets about claiming place from two entirely separate value systems and distinct arguments. As Sunstein argues, territorial jurisdiction is the foundation of state sovereignty, but in contrast Ingold demonstrates how tenure is a matter of social relations and identity. The justifications are not even conducted in the same discourse, which indicated a further source of difficulty. States and nations may simply not comprehend each other.

Nations stress their antiquity, their grievances and their uniqueness in evidence of their authenticity and their right to claim self-determination. States see them as constructed social identities and a menace to the integrity of the state. The contrast is a red herring; as Bartelson¹⁰⁴⁷ notes, states, international law, the very concept of sovereignty, are all social constructs, and it would be perverse to argue that this somehow rendered them illusory. Anderson concludes that the confusion stems from analysing nations as a primarily political concept, when they are better understood in terms of kinship and belief.

Although the liberal nation is an essentially political construct, few of the modernist school entirely ignore kinship and belief. However, whilst authors such as Miller¹⁰⁴⁸ and Kymlicka¹⁰⁴⁹ do examine culture and ethnicity, it is from the perspective of liberal values, and how liberal states can

¹⁰⁴⁵Charvet

¹⁰⁴⁶Frost, [Ethics]

¹⁰⁴⁷Bartelson, [Genealogy]

¹⁰⁴⁸Miller, [On Nationality]

¹⁰⁴⁹Kymlicka, [Minority Cultures]

accommodate variant minority cultures. They are generally silent on the difficulty faced by minority nations in illiberal states, and given the identification with fascism, they are wary of the blood and soil elements of romantic nationalism. Various liberal approaches to the nation were considered next.

Tamir, for example focuses on the social function of national myth that explains the present in terms of the past. This emphasises the essential fluidity of the imagined nation, which is constantly reinventing and adapting itself. The difficulty here was the underlying assumption that the process is somehow a one-off event; nations claim self-determination and become states, or they are denied statehood and remain a source of conflict. This overlooks: “national dormission”¹⁰⁵⁰. It is entirely likely that as modernity presents new crises or opportunities, previously sleeping nations will awake and the process of reinvention will continue. This is what nations do, and why the problem of nations never stays settled for long. Waldron¹⁰⁵¹ refines the nation further by focusing on culture, which on this reading encompasses all those unique social identifiers that the community shares and values, although: “collective self worship”¹⁰⁵² cannot defend the indefensible. Difference can be a source of pride, but also of resentment and fear. McCormick views nations as a: “historically evolved social reality” in which individuals are constituted. Nation confers identity and belonging, and is thus the moral foundation of the just polity. His conclusion implausible, as is Gilbert’s who suggests that a claim to nation is a claim to legitimate government. The difficulty in using liberal arguments to justify the nation, is that they do not justify nations as a concept separate from the just state.

Indeed, the just state could omit the nation entirely. Many people cherish and value their states and define themselves in terms of their citizenship; a sense

¹⁰⁵⁰Gellner, [Encounters]

¹⁰⁵¹Waldron, [Minority Cultures]

¹⁰⁵²Berlin, [Against]

of separable nationality is absent. By stressing the political, liberal evaluations suggest that nations and states are the same sort of concept, and merely insist that the state in the one nation=one state equation is a decent liberal one. They fail to accommodate the possibility that the nation may offer community and identity, a sense of shared history and all the other unifying qualities that justify self-determination, without a shred of liberal values. Cobban was not alone in viewing nations as a recipe for massacre and oppression. Barry¹⁰⁵³, for example, is disturbed by attempts to rehabilitate the nation because he fears that it lends respectability to the claim that national moralities are incommensurable. My conclusion here was that nations, in so far as they resemble states, can use the same liberal justifications to claim their own state. However, whilst the liberal nation may be rehabilitated, the focus on political aspects of the nation leaves the romantic nation under-examined, and I turned to this in Chapter Four.

Here the focus fell on kin. The refinements of theorists such as Marion-Young and Kymlicka¹⁰⁵⁴, and insights from anthropology were incorporated. Belief is crucial to sustaining social identity, although the significance of cultural identifiers such as language or religion is self-selected and variable. As Lapid suggests, identity is constructed through a multiplicity of memberships; sometimes family or professional association predominates, in other contexts it may be the nation. Given the liberal view that romantic nationalism borders on the pathological, it should be noted that loyalty to the nation is as often engendered by love of kin and place as it is by racism and the fear of immutable contamination. Anderson's formulation of nation as imagined kin offers a valuable insight; at its most basic, kinship divides the world into kinsmen and enemies. I therefore considered the issue of bounded obligation and mutual obligation due to imputed kin.

¹⁰⁵³Barry, [Limits]

¹⁰⁵⁴Kymlicka, [Immigrants]

Kinship as the basis of entitlement has its attractions; entry is effortless, the only condition to be met is birth. However, as Miller notes, an imposed identity is not the best basis for conferring moral worth. I considered the cosmopolitan logic of generalised reciprocity, but concluded that outside the immediate family or amongst some small-scale pre-modern social forms, the modern world is inhospitable to this form of distribution. Instead, balanced reciprocity is the order of the day, although Jackson suggests that need generates an asymmetric claim, a stance endorsed by Beitz¹⁰⁵⁵ and O'Neill¹⁰⁵⁶. The market exchange of goods and services is the epitome of balanced reciprocity, but this form of distribution is not limited to the economic sphere. As Walzer¹⁰⁵⁷ suggests, each social good has its own culturally appropriate distributive agency; the exchange of gifts, the allocation of jobs and such. Nationality too is a social good to be distributed, perhaps the most important, because membership is the gateway to all the goods that the nation has to offer. For the nation claiming self-determination, the good may include statehood.

Although I concluded that this was a high-risk strategy for the nation, the rewards are attractive. As indicated in the preceding chapter, states enjoy a raft of exclusive privileges. The paramount status of states and the dominance of the modern *Weltanschauung* obliges nations to claim goods using the discourse of states, and there have been some successes. Although the Inuit consider landscape in essentially pre-modern terms as an element of identity and social relations, they successfully mounted a modern territorial claim and in 1999, Nunavut became Canada's latest self-governing territory. The attachment to landscape is illustrative of the profound divergence between the liberal and romantic formulations of nation, and I concluded the chapter with a comparative analysis of their recruitment and boundary maintenance strategies.

¹⁰⁵⁵Beitz, [Political Theory]

¹⁰⁵⁶O'Neill, [Toward Justice]

¹⁰⁵⁷Walzer, [Spheres]

In the liberal formulation, states and nations are virtually synonymous. This is probably the greatest cause of International Relation's difficulty with nations, because it supports the assumption that nations are discrete, bounded units with their own unique cultures. However, this empirical approach has been discredited for over three decades. Working from the assumption of: "The universality of ethnic opposition"¹⁰⁵⁸ where, as Lewis¹⁰⁵⁹ notes, self is negatively defined by what it is not, Barth¹⁰⁶⁰ argued that inclusion is relational, not cartographical. It rests on understanding the internal rules of the game, which allows certain elements to remain insulated whilst others benefit from reciprocal engagement with outsiders. The diacritical characteristics of the nation are self-ascribed, and may be language, residency and so on. The liminal is inherently dangerous and there are always gatekeepers to be appeased or vanquished. Nations and states are spatially anchored, but where a state has armed guards and customs patrols, the nation has myth and symbol. The liberal nation and the romantic nation are radically different.

I was not persuaded that the romantic nation can be entirely rehabilitated. Love of kin and place may be admirable, and nationality an important element of social identity, but not if they lead to massacre and oppression. However, nations are not entirely liberal, or entirely romantic; they are both, although the weight of each varies by context and nation. Nevertheless, there is a tendency for states to focus on the political whilst nations stress the cultural. By employing distinct discourses, nations and states frequently engage each other at cross-purposes. Nations are ducks *and* rabbits. My conclusion here was that nations derive their legitimacy in the same way, and extent, to which they resemble a good family and a decent state. The corollary is that they have no legitimacy when they resemble dysfunctional families and predatory states. Good families cherish their kin, and decent states respect the rights of their citizens, and these should be the deciding factors in granting or refusing

¹⁰⁵⁸Smith, [Nationalism and]

¹⁰⁵⁹Lewis, [Social Anthropology]

¹⁰⁶⁰Barth, [Boundaries]

self-determination to nations. However, states are ill equipped to judge on matters of sentiment, so claims are likely to be judged against liberal political values. In Chapter Five I therefore considered the likelihood that rights observance would be the deciding factor.

I tentatively concluded that human rights are usurping sovereignty rights in the hierarchy of international norms. States are committed to their observance, albeit imperfectly but: "Dishonesty is always a useful guide to the existence of moral standards"¹⁰⁶¹. Amongst those states with pre-modern domestic institutions, rights are most fragile. The liberal insistence that individuals are of equal moral worth is an alien concept, and the commitment to observing their rights is half-hearted. However, the international environment has changed since the Cold War, and the powerful may no longer tolerate: "sovereignty plus"¹⁰⁶². The moderns are committed to rights and sovereignty rights, and it is amongst these that the tension is most evident. States already suffer many restrictions on their sovereignty, and like the late-moderns, they may come to accept that protecting the rights of their citizens is a normal duty, and that failure will result in interference. However, even the late-moderns are ambivalent, as Britain's convictions at the ECJ and ECHR demonstrate. Theorists such as Kaldor and Boulding, and practitioners such as Kouchner¹⁰⁶³ and Laidi support my conclusion that humanitarian intervention and aid conditional on rights observance are fitfully on the increase. Given the widespread disregard for rights and the reluctance of states to intervene, Jackson and MacCormick are not alone in concluding that sovereignty will continue to trump rights. The strongest argument against rights as a rising norm is the charge that they represent liberal evangelism and American hegemony.

¹⁰⁶¹Walzer, [Spheres]

¹⁰⁶²Jackson

¹⁰⁶³

The charge is partly true. Modern liberal states are also players in the sovereignty game. However, as Wyatt-Walker and Latham¹⁰⁶⁴ note, *pax Britannica* was not exclusively shaped by national interest, and America, the solitary superpower, may also act from mixed motives. Although modernity and liberalism originated in the West, this does not negate their value. Gray¹⁰⁶⁵ concludes that rights function to preserve personal security and autonomy, so are culturally specific, and whilst O'Neill acknowledges that there are different ways of living up to principles in differing circumstances, this does not endorse a claim that different states or nations have different rights. The liberal value of personal autonomy may be less central to the pre-modern world-view, but personal security and fear of the cruelty of others would seem to be universal concerns, whichever idiom is used¹⁰⁶⁶. I concluded that rights are a moral minimum and thus a precondition to sovereignty¹⁰⁶⁷.

Self-determination is not a right of nations. Once they have achieved sovereignty nations can claim sovereignty rights, but this, as Anaya notes will be conditional on their respect for their future citizens' rights. This raised the difficulty, noted by Rustin, that those states with the best record of rights respect are the Western democracies, although even amongst the late-moderns who, in the EU have the greatest range of institutions to ensure their protection, rights respect is sometimes precarious. I therefore considered whether democratic political institutions are a necessary concomitant to rights, and concluded reluctantly that this seemed to be the case. To be self-determining implies that the wishes of the whole self must be represented, which as O'Neill¹⁰⁶⁸ notes, precludes the exclusion of certain categories of people, and the principle of impartiality demands that no group is granted special exemptions that allow them to discriminate between citizens. The sovereignty game itself is not democratic, being governed by reciprocal

¹⁰⁶⁴Latham, [History]

¹⁰⁶⁵Gray, [Mill]

¹⁰⁶⁶Walzer, [Thick and Thin]

¹⁰⁶⁷Frost, [Constituting Rights]

¹⁰⁶⁸O'Neill, [Reith]

advantage¹⁰⁶⁹, but here too, there are norms and laws to temper the excesses of states, and if the practice of democracy spreads amongst states, the sovereignty game may become more democratic. I concluded that nations should be granted self-determination on condition that they are, or are likely to become, rights respecting democratic polities. Nations, however, claim self-determination to escape injustice, so in the final chapter I considered this.

My conclusion in Chapter Six was that injustice will also be judged in terms of the liberal canon, although this is complicated by the fact that whilst nations suffer rights abuse, they also suffer other injustices. As Charvet suggests, rights abuse is a plausible reason for claiming self-determination. I therefore considered how rights abuse should be measured. Genocide is the most extreme form of rights abuse, but it is a cruelly high bench mark. I therefore considered less egregious circumstances. Bell-Fialkoff, for example, devised a formula for calculating the relative suffering of nations. The attempt was flawed, but it demonstrated the difficulties of making judgments and imposing solutions. Indeed, his prescribed solution, humane ethnic cleansing, is more preposterous than his arbitrary selection and weighting of grievances. Uprooting and evicting a nation would seem certain to guarantee only more misery for the nation and its new host state. I concluded that apportioning blame for past wrongs and identifying the victims would generally prove fruitless. Buchanan suggests that there is a case for granting self-determination when the circumstances are analogous to the restoration of recently stolen property, but Walzer's¹⁰⁷⁰ conclusion that present injustice should be the subject of concern stands. However, whilst justice is not morally relative, it must be culturally comprehensible¹⁰⁷¹.

The difficulty here is that rights themselves may be incomprehensible, especially for nations claiming self-determination as a remedy to persecution.

¹⁰⁶⁹Barry, [Social Justice II]

¹⁰⁷⁰Walzer, [Spheres]

¹⁰⁷¹Walzer, [Thick and Thin]

Revenge may seem a more pressing concern than decency and active citizenship, which as O'Neill notes, are preconditions for rights respect. Imposing preconditions is problematic; too many existing states would fail the test, and it demands some form of tutelage. In Kosovo, for example: "standards before status"¹⁰⁷² has been imposed, which entails a considerable commitment to assist with state building. Assistance and intervention are rare; this may add accusations of bias to the charge of double standards, but aspirant nations should not pin their hopes on outside help. Eritrea is one of the few liberation success stories. The independence struggle was fought with some decency, and as a fledgling democracy, was hailed as a beacon for Africa. In contrast, the Chechen's moral authority has been deeply diminished by their conduct; terrorism aimed at civilians, and the lawless banditry and anarchy that characterised their brief period of autonomy suggest that they are not ready for democratic self-government. Aspirant nations, their host states and the wider community of states, are all subject to scrutiny. None have unblemished records, but this is not an argument for lowering or abandoning rights standards. However, whilst states judge the injustice suffered by nations in terms of rights denied, nations have other grievances. I turned to this next.

Nations claim self-determination when they fear for their culture and their place in the landscape. Sustained through myth and history, victimisation becomes a central feature of national identity, which forestalls reflection and the need to take responsibility for the future. Given the success of propaganda in mobilising nations for war¹⁰⁷³, I therefore considered the possibility of reshaping myths to a more benign end, but concluded that this would be a nonstarter. A state or nation demonising the other and drawing on exclusionary nationalist stories to further its goals would not adopt such a course, and modern states rarely have the totalitarian control necessary for

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Economist "First, be nicer to each other" 5/10/2002

¹⁰⁷³Crossman

effective propaganda. Nevertheless, a nation's fear and grievance will not diminish until it confronts the past. Keane wants changes in the school history curriculum to combat the Irish sense of martyrdom, and the Saville Enquiry and other judicial reviews underway in Northern Ireland point to the need for honesty, the foundation of South Africa's Truth and Reconciliation Commission. Germany has apologised for Nazi era crimes and paid billions of Deutschmark in restitution. Honesty about the past signals the future inclusion of victims, and may result in national stories that do not nourish fear. The difficulty here is that truth and reconciliation presuppose a mutual willingness to speak. What can nations do when confronted by states unwilling or unable to hear them?

I approached the problem using Hirschman's model. Exit for the nation ultimately rests on the consent of states, which is rarely forthcoming. Voice may therefore be a safer option. The institutions of modern states allow for the exchange of ideas, which has allowed some nations to vote for and achieve self-determination, although usually this falls short of full state sovereignty. However, nations are rarely democratically structured; loyalties and political power are allocated by a variety of means from heredity to patronage. National leaders claiming self-determination may reflect the nation's wishes, but this has not been tested by plebiscite, and as Frost¹⁰⁷⁴ notes, it is often these leaders who declare themselves satisfied with their people's lack of rights protections. O'Neill¹⁰⁷⁵ warns that accepting the word of self appointed spokesmen makes the audience complicit in the silencing of others. Silenced and excluded others have fewer options, and pathological behaviour is almost inevitable¹⁰⁷⁶, but voice can still find expression through other means, from suicide bombers to war. Although nations may resort to what Gluckman calls the: "magic of despair"; the Boxer rebellion and the Mau Mau, cargo cults and other

¹⁰⁷⁴Frost, [Constituting Rights]

¹⁰⁷⁵O'Neill, [Reith]

¹⁰⁷⁶Berlin, [Against]

millenarian movements. Although Barry¹⁰⁷⁷ suggests that silence may sometimes be the only option available, this cannot be taken for loyalty. Once a nation awakes, there are always other options as Scott suggests. In public, the language and conventions of the powerful is used, but behind the scenes, covert resistance takes a variety of forms depending on the structure of the host state; murder and spontaneous riot, subversive jokes and Samizdat press, mobile telephony and the internet. In the modern world of states, the discourse of rights is the language of the powerful, and it is this language that nations must use if they wish a claim to self-determination to succeed.

As more states become late-modern and habituated to the scrutiny and interference of others, rights observance may become the paramount virtue in international relations. Sovereignty may lose its relevance, and Havel's optimistic prediction may come true:

“states will begin to change from cultlike entities charged with emotion into far simpler and more civilized entities...that will represent only one of the many complex and multi-levelled ways in which our planetary society is organized”.

Claims to national self-determination may then be viewed as a matter of cultural preference, and the future may see a thousand states or a few monsters. They may be unequal in their commitment to rights, with: “islands of civility”¹⁰⁷⁸ surrounded by a sea of barbarity, but perhaps rights observance will be contagious.

¹⁰⁷⁷Barry, [Democracy]

¹⁰⁷⁸Kaldor



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