

## CHAPTER TWENTY ONE

### **Internal self-determination and secession**

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It is generally agreed that peoples have a right to self-determination. The principle is present in UN and other legal documents as a moral<sup>1</sup> or as a legal right (see also Chapter 17). But we must immediately distinguish between the right to internal self-determination and the right to external self-determination. The right to external self-determination is the right to own a sovereign state. It can apply to a population that already owns a sovereign state, but also to peoples that do not yet have one. In the latter case, it involves the violation of the territorial integrity of the encompassing state. It can take the form of secession when the people creates its own state, or association if the people associates itself with a neighboring state. Internal self-determination is in general defined as the right for a people to develop itself socially, economically and culturally within an encompassing state and to determine its political status within that state. This is how the notion is defined in the *UN Charter* (UN, 1945) and in the *Declaration on friendly relations among states* (UN, 1970). This is also how it is defined in the *Declaration on the rights of Aboriginal Peoples*. (UN 2007) In this paper, I focus essentially on the right to internal self-determination and its connection with secession. It is relevant to issues of external self-determination, because one of the main reasons for allowing unilateral secession to take place is the violation of the right to internal self-determination. If the encompassing state is not willing to grant internal self-determination to its component nations, this for the UN can count as an injustice and seems to justify a unilateral remedial right to secede. So in general, UN documents assert that peoples have a primary right to internal self-determination and have a remedial right to secession or external self-

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<sup>1</sup> For a different view see Chapter 25.

determination. And unilateral secession can be justified in the case of colonies, oppressed peoples and when the state does not secure internal self-determination for its internal minorities.<sup>2</sup>

### *Different forms of internal self-determination*

Internal self-determination can take different forms. It can first be formulated in a very weak sense as the right to participate in the election of representatives coming from one's own community and as the possibility for those elected individuals to take part in the government of the encompassing state. This, for instance, is the sense in which the Supreme Court of Canada defines internal self-determination in the *Reference Case on the Secession of Quebec* (Supreme Court of Canada 1998). According to the Supreme Court, the Quebec people is not 'denied meaningful access to government to pursue their political, economic, social and cultural development ' (Supreme Court of Canada 1998, # 138).<sup>3</sup> In a second sense

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<sup>2</sup> See for instance the *Declaration on friendly relations among states* (UN, 1970): 'Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour'.

<sup>3</sup> See also section Supreme Court (1998)#136 : 'The population of Quebec cannot plausibly be said to be denied access to government. Quebecers occupy prominent positions within the government of Canada. Residents of the province freely make political choices and pursue economic, social and cultural development within Quebec, across Canada, and throughout the world. The population of Quebec is equitably represented in legislative, executive and judicial institutions'. In short, to reflect the phraseology of the international documents that address the right to self-determination of peoples, Canada is a 'sovereign and independent state conducting itself in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction'.

of the expression that might be called the canonic interpretation, internal self-determination can also mean the right to self-government. This is perhaps the most obvious sense of internal self-determination because it implies that the people has political control over its own institutions within the encompassing state. It is the sense in which, for instance, Will Kymlicka (2007 : 206-213) uses the expression. But thirdly, internal self-determination can also mean a right to an even more sophisticated form of self-government such as one implying a special constitutional status. Here the idea is that a special asymmetric constitutional arrangement could be designed to meet the specific demands of the people. The right to internal self-determination, thus understood, is the right of the people to have its own constitutional arrangement within the state. In this case, we have a robust interpretation that goes beyond the idea of self-government, because self-government is compatible with the principle of equality of status among federated states, while a special constitutional status reflects a politics of difference, not of equality. The demands of for a special juridical status granted to the province of Quebec within Canada or for a constitutionalized form of asymmetric federalism implying a unique distribution of powers between the federal state of Canada and the province, or for a special right of opting out of a federal program with financial compensation, are illustrations of this third form of internal self-determination (see also Chapter 7).

These three different interpretations are not necessarily competing with each other, since each may be the correct institutional measure to put in place in a given political context. For instance, in a country where there are peoples with populations of equal size, a unitary state governed by an equal number of representatives coming from these different peoples could under normal circumstances allow each of them to self-determine themselves. So in this case, we would perhaps require only a weak form of internal self-determination. But when the populations involved have different interests on different territories with very different natural

resources, it is perhaps important in addition to allow for self-government for each of the peoples, thereby creating local governments that are closer to the populations. This can be done by territorial federalism or by a devolution of powers to the constituent peoples. But we may also have cases where the third measure must in addition be implemented. This happens when the people is in a minority position within the state.

### *Defining peoples*

In the framework of a theory that seeks to clarify the right to internal self-determination, it is important to define the 'people' to whom the theory assigns this right (see also Chapter 25). Most authors today have difficulty in coming up with a simple, univocal definition of 'people.' But the problem perhaps springs from the fact that there are several kinds of peoples. This situation makes it difficult to identify a definitive list of shared features. I think there are at least seven different kinds of peoples. The different concepts correspond to different forms of national awareness. In particular, one can see oneself as belonging to an ethnic, cultural, civic, socio-political, diasporic, multisocietal and multiterritorial people.

One sees oneself as a member of a given *ethnic* people when one identifies oneself as sharing the same ancestral origins as the other members of the group. A number of Aboriginal peoples find themselves in this situation. One sees oneself as a member of a given *cultural* people when one identifies oneself as having different ancestral origins, but sharing the same mother tongue, institutions and history (e.g., the Acadian people). One sees oneself as belonging to a given civic people when one shares the same sovereign country and when the country is seen as a state involving a single people (e.g., France, Italy, Japan). One sees oneself as a member of a given socio-political people when one participates in a political community that is not sovereign but involves within it a majority of individuals who belongs the world's largest sample of a group sharing the same language, institutions and history (e.g.,

Quebec, Scotland, Catalonia). One sees oneself as a member of the same diasporic people when one belongs to a group whose members have the same language, culture and history, but who are spread across different discontinuous territories (e.g., the former Jewish diaspora) and form minorities on each of those territories. One sees oneself as a member of a multisocietal people when one is part of a sovereign state and the state is seen as comprising several national societal cultures (e.g., Great Britain, Spain, Canada). Finally, the idea of a multiterritorial people supposes that the group is located on a continuous territory that does not correspond to legally-defined borders. For example, the Kurdish people occupies a non-fragmented area (Kurdistan) that crosses the official borders of existing states. This also applies to the Mohawk people.

Of course, being able to correctly identify the conception adopted by the majority of a population is one thing, and being able to determine the legitimacy of that conception is another thing. There are also very often conflicts among sub-groups in the population with respect to how to describe the people as a whole. What we call a 'people' is often only the result of ideological conflict among these various sub-groups. A people's specific type depends on the image accepted by the majority of the population at a given time. A national self-image is correctly attributed when a majority of individuals in the population have that self-image. But the legitimacy of the self-image is entirely something else. This last question is a normative issue, and it depends largely on the ability of the population as a whole to apply politics of recognition for the minorities living on the territory.

Despite the very wide variety of peoples, there are shared features. In order to understand all of them, we need to use the concept of societal culture. This notion makes it possible to introduce a general concept of the people understood in the institutional sense. Societal cultures are to peoples what citizens are to persons. Even though they may have many different ways of viewing themselves as persons, individuals are citizens in the public

arena. Likewise, despite the very wide variety of peoples, they are all to be understood as involving societal cultures in the public arena. As a matter of fact, peoples are either single societal cultures or aggregates of societal cultures. This institutional conception of the people is what we end up with when we proceed by abstraction from the diverse sorts of peoples and retain only their shared features. It closely resembles the conception advanced by Rawls (1999 , note 17) and it is partly influenced by the work of John Stuart Mill. It also closely resembles the conception described by Jürgen Habermas (2001, 17), which was inspired by the work of Julius Fröbel.

A ‘societal culture’ involves first a ‘cultural structure’. In the simplest case, a structure of culture has three important features : a shared public language, shared public institutions (those in which the shared public language is mainly spoken), and a shared public history (i.e. a common historical heritage of shared public institutions). These three components are compatible with the existence of minority languages, institutions and histories that are formally recognized, institutionally respected and financially supported.

According to this view, language plays an important role in the development of a particular national consciousness. It shapes a common understanding among the people and it creates bonds between them. Of course, two distinct peoples may differ even if they share the same language because the two communities are on different territories with different institutions and different histories. But this is not a reason for denying the importance of language as a fundamental source of common national consciousness among the members.

There can also be multilingual peoples, but this can be possible only because this multilingualism has become a shared common feature in the national consciousness of the population. Language is thus also crucial even for multilingual states because multilingualism can precisely be a tie that binds the population together.

Apart from being embodied into a structure of culture, a societal culture also has a character. If the shared public language, institutions and history make up the culture's structure, the culture's character is constituted by the beliefs, values, ends, lifestyles, customs and traditions shared by a critical mass of the population at a given time. But it is important to distinguish between the structure of culture and the character of culture. (Kymlicka 1989, 166-168; Kymlicka 1995, 104) The culture's character can change even if the population keeps essentially the same structure. The reason is that language is not necessarily the expression of a single lifestyle or of a single conception of the good life or common good. It is compatible with an irreducible, reasonable pluralism of points of view on such matters. Shared public institutions are also not necessarily the reflection of a set of specific customs and traditions. They can also be subject to an irreducible pluralism of values and points of view. Finally, the shared public history is defined essentially by its subject, and is in principle compatible with an irreducible variety of narratives and interpretations. A shared public history is thus not necessarily the reflection of a commonly shared narrative identity.

In many cultures, institutions are not clearly distinguished from the culture's character. For example, an ecclesiastic institution is both an institutional component and the expression of a set of religious beliefs. Indeed, in some societies, the institutions can almost all be described as having a religious dimension. And in many societies, the majority very often imposes its own character to minorities. In traditional societies, the culture's structure tends to merge with the culture's character. The whole population shares the same set of beliefs, values, lifestyles, customs and traditions. However, in modern societies, the structure of culture tends to increasingly be separated from its character, and to leave room for an irreducible diversity of lifestyles, conceptions of the good life, and ideas about the common good.

The concepts of societal culture, cultural structure and cultural character are all borrowed from Will Kymlicka (1989, 1995). According to him, societal cultures do carry 'lifestyles,' 'memory,' 'shared values,' 'shared practices,' 'traditions' and 'conventions'. A societal culture conveys a 'shared vocabulary of traditions and conventions.' (Kymlicka 1995, 76) But even if they are always in a way incarnated in specific characters, they can more or less keep the same structure even when their characters change.

Peoples have an institutional identity, but it does not necessarily mean that they own a sovereign state. The institutional identity of a people can be minimal, such as in the case of aboriginal peoples on reserves. It can be extensive, as in the case of sovereign peoples. Peoples can also have non-sovereign governments, such as federated states (e.g., Quebec), semi-federated states (e.g., Catalonia) or governments stemming from a devolution of powers (e.g., Scotland). But some peoples' institutional identity does not involve any governmental organisation at all. By a political conception of peoples, we simply mean that they have a distinctive institutional personality in the political realm. This does not mean that they are organized into political governments. It means that peoples come in the political space equipped with one or many common public languages, a set of common public institutions in which the common public language(s) is (are) spoken and a common public history, which is the common public heritage of the common public institutions. They may sometimes also have governmental institutions, but it is not necessary to have such institutions in order to have an institutional identity. Some peoples like the Acadian people, for instance, have a common public language, a common public history and various institutions such as schools, universities, hospitals, museums and newspapers without having any governmental institutions. The Scottish people also had a non-governmental institutional identity before the devolution of powers.



*Recognition as an argument for internal self-determination*

Peoples understood in the institutional sense of the term are acting entities in the political realm. Just as persons present themselves equipped with the status of citizens, peoples have an institutional identity of societal cultures. The concepts involved are political not metaphysical. There is no need to consider issues of personal identity or social ontology. Now according to the Rawlsian version of political liberalism, we owe respect to the various agents present in the political realm as long as they also show respect toward the other agents that are also present in the political realm. Given that persons and peoples are such agents, it means that persons and peoples can become moral agents and can be equal sources of valid moral claims. So the least we can do is to recognize the existence of persons and peoples. But what does it mean to recognize peoples?

Jean-Marc Ferry (1996) argues in favour of recognition policies that are strictly symbolic, that apply to past relationships among peoples and that serve to repair crimes that have been committed by certain peoples. In this sense, politics of recognition need not have any constitutional, institutional or financial implications. Recognition politics are politics of atonement and we rely on the virtues of symbolic recognition for resolving past grievances. Galeotti (2002) develops a slightly different approach. She accepts that there must be institutional (constitutional and financial) consequences that follow from a symbolic recognition, but she believes that these institutional consequences should not themselves be entrenched in the constitution. Peoples should be granted only symbolic recognition in the constitution, so she refuses to entrench rights that would describe particular institutional consequences that follow from accepting these symbolic rights.

But consider once again the concept of people and let us wonder what it means to recognize the existence of a given people understood in the institutional sense. If we suppose in accordance with political liberalism a political conception of peoples, peoples will have an

institutional identity. Now as we saw in the previous section, peoples can be defined in the political realm as having an institutional identity conceived as a societal culture, i.e. as forming a society involving institutions whether these are governmental or not. But if this is how we conceive peoples, then their recognition as peoples amounts to a recognition of their institutional identity, and this means that we must recognize their right to preserve and develop their institutional identity. Peoples may have all sorts of collective interests, but among these, those that relate to the development of their institutional identity must occupy a special position, because they relate to their very existence as peoples. The interests that relate to the preservation and development of their institutional identity can for this reason perhaps rank as legal rights.

Now the right to maintain and develop its own institutions is precisely the right to self-determination. This follows from our initial definition according to which internal self-determination is the right to develop oneself economically, socially and culturally within the encompassing state. So when peoples are understood as having an institutional identity, their recognition as peoples naturally leads to a right to internal self-determination (see also Chapter 19). So when we conceive peoples as having an institutional identity, we can understand why the right to internal self-determination plays a central role for the recognition of peoples. Since peoples are individuated in the political realm as having an institutional identity, there does not seem to be a clear way to separate the symbolic recognition of peoples from the constitutional, institutional and financial consequences of such a recognition. Internal self-determination is the minimal way by which we recognize peoples that behave as moral agents in the political sphere. The right to internal self-determination is a primary right, as opposed to a remedial right, because peoples have the right to preserve and develop their institutional identity as peoples, regardless of the fact that they have been the subject of

various forms of misrecognition in the past, or some other kind of injustice (see also Chapters 22 and 23).

*Deliberative procedure as a an argument for internal self-determination*

We discussed above various substantial versions of internal self-determination. What makes them substantial is that they all have important institutional, constitutional and financial consequences. The collective representation of the people into the government of the encompassing state, self-government and special constitutional status imply changes in the institutional, constitutional and financial arrangements of society. But there is perhaps a less substantial account of the right to internal self-determination. It may be understood as the right to initiate a constitutional debate whether or not it leads to a constitutional amendment. This account has been proposed by those who argue for the importance of deliberative democracy, acknowledgement or patriotic democracy.

Let me dwell a little more on this alternative approach because it has a growing influence among philosophers and political scientists. A first version is one according to which internal self-determination involves at its core a deliberative democratic process. Among the promoters of deliberative democracy, we can mention Joseph Bessette (1994), Simone Chambers (1996, 2000), John Dryzek (2000), Jon Elster (1998), James Fishkin (1991, 2003), Amy Gutmann (2003) Anthony Simon Laden (2001) and Dennis Thompson (2004) It is an approach that insists on the virtues of *deliberation*. But there is also another trend, perhaps nowadays less influential but with profound historical roots, available to those who follow the path opened up Patchen Markell (2004) and Jim Tully (2000). They are trying to find a way out of the classical conception of struggles for recognition and sovereignty in favour of an approach based on acknowledgement and disclosure, and this has important consequences for internal self-determination. Here the insistence is on the *negotiating* process. Finally, patriotic democracy is an even less influential approach but with

stronger historical roots that go back to Aristotle and Machiavelli. It is a position that Charles Blattberg (2003) has advocated. It is an approach based on patriotism. Here the insistence is on the process of a *conversation* taking place within a political community.

In spite of their very diverse theoretical sources and the important foundational disagreements taking place between them, these authors all seem to agree on important political issues and they all favour a new account of internal self-determination. For instance, Simone Chambers thinks that ‘engaging in a civilising politics does involve a commitment to fundamentals. But it represents acceptance of certain procedural rules regulating the practice rather than agreement about substantive political visions’. (Chambers 2000b : 66) As long as peoples are equal participants in constitutional debates, they may be described as exercising self-determination even if this does not lead to a constitutional amendment. Charles Blattberg (2003) also argues that by engaging into a true conversation this process could eventually lead, although this is not sure, to the formal recognition of the minority. Even if the end result is not always happy, we should be happy because the conversation keeps on going.

Similarly, James Tully argues that ‘the intersubjectivity of striving for and responding to forms of mutual recognition is an intrinsic public good of modern politics which contributes to legitimacy and stability whether or not the form of recognition demanded is achieved.’ (Tully 2000 : 5) For him, ‘struggles for recognition are struggles of disclosure and acknowledgement’. Even if the end result is not obtained, it does not necessarily matter because what’s important is that the state acknowledges the demand of the people, as well as the people that makes this demand. In order to achieve self-determination, a people only has to be able to challenge, if necessary, the constitutional rules of recognition and association, and try to introduce a constitutional amendment, whether or not the amendment does pass. So peoples belonging to a multinational democracy should have a right to internal self-determination, but this last notion is to be partly understood in a purely procedural fashion, as

part of a negotiating ethics, and not necessarily in the more substantial sense of allowing for a provision concerning internal self-determination in the constitution. Substantial self-determination, for Tully, is perhaps not an essential right, in the crucial sense that conditions the legitimacy of the constitutional order. For him, the ‘formal and definitive recognition is not a necessary condition of self-respect and self-esteem’. (Tully 2000 : 22, footnote 4) The true form of internal self-determination happens to be first and foremost a procedural right : ‘When this kind of disclosure is not recognized constitutionally by the other members, it is still acknowledged by others in the very act of accepting it with public displays of their own’ (Tully, 2000: 21-22).’

### *A Major Malfunction*

The most important problem affecting all three versions of what could be called the procedural concept of self-determination is that it is not involving a symmetric form of recognition. These approaches presuppose the existence of a single community to which all citizens belong. They are asking both parties to engage in a dialogue within this community, and this presupposes that the unrecognized minority has to recognize an encompassing community of deliberation, negotiation or conversation, and must do so as an *a priori* of communication. But since this community of dialogue is an encompassing people, accepting the invitation to engage in a deliberation, negotiation or conversation for a minority people amounts to recognize the existence of the encompassing people.<sup>4</sup> But we are at the same time told that the fundamental constitutional provisions are perhaps not as important as the

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<sup>4</sup> Chambers makes this point in a candid way when she writes : ‘In giving up a unitary vision, we should not give up the goal of unity. Constitutional negotiation and dialogue is still about speaking as “We the people”.

This can be achieved in a conversation in which participants simply try to understand each other before they try to negotiate with each other or conclude a contract with each other. The sincere attempt to understand what one’s interlocutor is saying, and why, can initiate a process that builds the bonds necessary to live together as a ‘people’ without requiring that we give up our differences and unique identities’. Chambers, (2000b), 69.

deliberation, negotiation or conversation. Therefore, the formal recognition of the minority and its right to self-determination is relegated to an uncertain future, while the encompassing community is to be recognized at the outset. The minority people cannot ask to be recognized as an *a priori* of communication, but the encompassing community appears to be entitled to make this requirement. And so it appears that recognition is not reciprocal or mutual. The minority people must recognize the encompassing people by accepting to be part of it in a community of dialogue, and this amounts to accept its right to external self-determination. But on the other hand, this last people, more powerful and encompassing, may decide at the end of the dialogue not to recognize the minority people. We do not know what's the end result of the dialogue and we are told that it does not really matter as long as the deliberation, negotiation or conversation keeps on going. This asymmetry is an unjust arrangement for the minority people.

My own account of internal self-determination turns it into a primary right that must be accepted as an *a priori* of communication because, as we saw, it is closely tied to the recognition of the very existence of the people, and this recognition is prescribed by a principle of respect for all agents present in the political realm. Respect for the internal self-determination of their constitutive peoples is thus an unescapable requirement that must be met before deliberation even takes place. And so, in order to be acceptable, the norms of deliberation, negotiation and conversation should be subordinated to the norm of recognition. The idea is that recognition is a two way street : it involves both the minority people and the encompassing people. If recognition is not mutual and reciprocal, it is just the expression of domination. And the ideal of an unrestricted and unconstrained deliberation, negotiation or conversation, presented as the solution to ethnic, cultural and national conflicts, is not acceptable if it serves to conceal and maintain relations of domination between majority and minority within society (see also Chapter 24). The only way to avoid this consequence is to

treat internal self-determination as a primary right and as something that follows from recognition. We must also accept that peoples must recognize each other even before they begin to deliberate, negotiate or converse.

***Primary Right Theories and Remedial Right Only Theories***

Following Allen Buchanan (1998, 2003, 2007), we could distinguish between primary right theories of secession and remedial right only theories to secession. A primary right to secede is a right that a people would have even in the absence of past injustice that they would have suffered. There are according to Buchanan **associative** and **ascriptive** versions of the theory. According to the associative version, a majority vote within the population would be sufficient to justify secession. According to the ascriptive version of the theory, there are features belonging to the people as such that justify for their protection the exercise of a full right to external self-determination. A remedial right to secede, on the other hand, is a right that could not be granted unless injustices would have been committed to the seceding people. More generally, external self-determination understood as a remedial right is conditioned by the satisfaction of certain norms. When external determination takes the form of the violation of the territorial integrity of a given state, it can become legitimate only if some kind of injustice has been perpetrated on the seceding people. In the case of peoples that already have a sovereign state, they will have the right to maintain that state and thus exercise external self-determination if they have been able to accommodate their internal minorities.

It is important to notice that we are here talking about **general rights** as opposed to **special rights**, and about **unilateral** secession as opposed to **negotiated** secession. Once again, we owe these distinctions to Buchanan. It is of course possible to grant special rights to a people if the population of the encompassing state wishes to do so in its constitution. Understood as a

special right, the right to secede does not follow from an obligation to do so and it does not concern us here. Similarly, when the right is the result of negotiations with representatives of the encompassing state, we should also allow a people to secede even in the absence of past injustices. What's troublesome is when, in the absence of a special right, we are considering a people engaged in a seceding process in the absence of a negotiated process.

It is here that we may want to impose important remedial conditions. It could be argued that external self-determination is conditioned by the satisfaction of remedial conditions. But notice that this applies not only to seceding peoples but also to peoples that already have a sovereign state. The peoples who already own a state do not have a primary right to external self-determination. They must comply with various conditions just like peoples who do not own a state. Granting a primary right to secede may sound like a generous idea, but since it means that the right to own a state is a primary right, it will be true also of those peoples who already own a state. And so with the notion of a primary right to external self-determination, we have nothing to say against a people which refuses secession to a group that lives within its own frontiers, because this group happens to be violating the primary right of the population as a whole to external self-determination. So defending a remedial right only theory of secession should not be seen as the expression of a bias in favor of already existing states. For they too must behave in accordance with certain norms of conduct. If they don't comply with these conditions, then they lose the right to have a sovereign state. Remedial theories of secession, under this interpretation, do not necessarily reveal a prejudice against seceding groups, because peoples organized into sovereign states are also targeted by a remedial account of external self-determination. Indeed, external self-determination is not a primary right, not even for peoples that do already have a state.



### ***Remedial Conditions on Secession***

It is of course not the place to discuss in detail the different sorts of injustices that would legitimate a people to secede. Let me just point out three main justifications that are generally accepted. We generally accept that unilateral secession is warranted if a people is a colony, if it is oppressed by a foreign power or if its internal right to self-determination has not been respected. Allen Buchanan gives also three reasons for accepting unilateral secession : systematic violations of human rights, unjust annexation of territory and systematic violations of intrastate autonomy agreements. But he refuses the justification based on the violation of the right to internal self-determination, because he believes that there is no such primary right. According to him, individuals have a primary right to the protection of their cultural affiliation, but peoples do not have a general right to self-determination, not even to internal self-determination. Peoples may be granted special rights to various intrastate autonomy arrangements or be granted a remedial rights to intrastate autonomy arrangements, if the cultural rights of the individuals have not been respected. But for him, peoples do not have a primary right to self-determination, not even one to internal self-determination. On this question, Buchanan disagrees with UN documents and I side with the UN against Buchanan on these issues. (Seymour 2007)

My disagreement with Buchanan is threefold. (i) I accept that peoples are subjects of collective rights and that they have a right to internal self-determination just as persons have the right to be free. There is no need to abandon this general right and replace it by more specific rights. After all, even if persons enjoy freedom of expression, association, conscience, etc., it is because they have the right to be free. Similarly, the right to representation, self-government and special status are different ways of exemplifying a general right to self-determination. (ii) I also accept that peoples have a primary right to

internal self-determination. They have the right to develop themselves economically, socially and culturally and the right to determine their political status within the state. They do have this right even in the absence of past injustice. (iii) And I also accept that if the state violates the right to internal self-determination, this justifies unilateral secession. If the encompassing state is not willing to grant internal self-determination to its component nations, this for the UN can count as an injustice and seems to justify a unilateral remedial right to secede. So in general, UN documents assert that peoples have a primary right to internal self-determination and have a remedial right to secession or external self-determination. And unilateral secession can be justified in the case of colonies, oppressed peoples and when the state does not secure internal self-determination for its internal minorities.

### *Conclusion*

In this paper, I have examined the concept of internal self-determination and noticed that it could be interpreted in many different ways. I have also defined the concept of people, since peoples are the entities that are entitled to exercise the right to internal self-determination. I came up with an institutional definition of peoples that is perfectly well adapted to a political and not a metaphysical version of liberalism. In the course of using this definition, it appeared that among all the interests of peoples, those that relate to the development of the institutions of peoples must have a special place among all their interests, because they relate to their identity as peoples. So it should not be surprising if the interest to develop oneself economically, socially and culturally and to determine one's own political status within the encompassing state appears to be the expression of a fundamental right. Indeed, the international community has been led to recognize that internal self-determination is a primary right and that the state has an obligation to comply with that right. The reason is that it concerns the very existence of peoples understood in the institutional sense. This also

explains why the obligation to comply with internal self-determination is not just an obligation to symbolically recognize the existence of a people. It is at the same time an obligation to allow national minorities to flourish in their institutional identity. I finally looked at a fairly new account that defines internal self-determination as a right to initiate a process leading to a constitutional amendment, and I have explained that in many instances, it could violate the idea that recognition must be reciprocal.

Finally, I briefly examined external determination or the right to own a state. My position on this issue is that there is no primary right to own a state. This is not a bias against stateless peoples because the remark also applies to those who already own a state. No people can claim that the right to own a state is its god given right, not even those who already own a state. There must be good moral grounds for justifying the act of secession, and states must also behave in a correct manner toward their internal minorities if they want to justify a right to maintain their territorial integrity. We already accept that peoples have a remedial right to unilateral secession when they are colonies, when they suffer violent military oppression or when they are subject to an unjust annexation of their territories. But as I have argued elsewhere (Seymour 2007), the international community also accepts that the failure of the state to respect the right to internal self-determination of its constituent peoples also induces a right to unilateral secession (for a discussion of this question see Chapter 17). But it should be clear why it is so important to define in precise terms the concept of internal self-determination. The fact of the matter is that the notion has enormous normative political implications for the issues of secession and for the preservation of territorial integrity.

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