

Nations as Justified Sub-State Authorities

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Many nations desire or possess sub-state authority, understood as final (viz., not subject to substitutions, fines, etc.) decision-making powers over discrete subjects (e.g., language, healthcare) within encompassing states. Philosophical analyses of sub-state national authority claims often build in/on assumptions from other debates. For example, many scholars in this area import assumptions from longstanding secession and national partiality debates about the need for distinct features of nations that distinguish them from other (e.g., religious) groups or associations (e.g., guilds) and require “special” moral treatment of nations.¹ This creates philosophical path dependencies that underplay the import and distort analyses of valid sub-state national authority claims. Those results could lead to unwarranted dismissals of valid real-world claims. The consequences would not be merely philosophical where real-world decisions about how to allocate authority have demonstrable effects on the well-being of those subject to it.

This work offers a corrective to these dominant trends in the philosophy of nationalism. It highlights why sub-state national authority claims are important in their own right and argues that they need not be resolved by appeals to pre-institutional facts about nations distinguishing them from all other groups. Nations can, in short justifiably possess some sub-state authority absent features *requiring* such possession. After preliminaries, Part I explains why nations could justifiably possess sub-state authority *qua nations* (not provinces, subjects of injustice, etc.) absent unique features that require providing nations alone with powers over particular subjects, let alone their own countries. Catalonians, e.g., can thus be morally “special” because they can justifiably possess sub-state decision-making powers that other groups do not absent pre-

¹ I use “special” like Buchanan (1997a) who discusses it in terms of grounds for distinct moral status and, thus, particular forms of treatment not provided to other groups. I support this paragraph’s empirical claims below.

institutional facts requiring a Catalanian nation-state. This raises questions about whether and when a nation can have powers over particular subjects in liberal-democratic states. Part II defends five conditions that jointly provide a non-ad hoc explanation of why and when nations can possess sub-state powers even if other groups do not. Part III outlines how my approach to these concerns could further three traditional philosophy of nationalism debates.

The (perhaps weak) claim that nations can justifiably possess some sub-state powers establishes a unique moral role for nations, which should also alter ongoing debates. My analysis suggests nations are at least morally important where they can justifiably wield sub-state powers when at most few others can. Establishing that and when nations have defeasible claims that must be addressed discursively should impact real-world disputes. Demonstrating that nations can justifiably possess sub-state authority in liberal states need not entail that nations without territory should have powers or ‘national’ provinces should possess powers other provinces lack. Yet the case for sub-state national authority requires attending to these possibilities, challenging common philosophical and political presumptions. For example, while some take sub-state national authority’s permissibility for granted, many question whether and when nationalism can be liberal (Gustavsson/Miller 2020). Others are skeptical about sub-state national powers since legitimate claims thereto are grounded in factors only contingently connected to nationhood, like some nations’ status as provinces.² Non-territorial national authority claims are more controversial still.³ The following challenges these claims. Those who take sub-state national authority’s permissibility for granted should, in turn, be interested in new argumentative paths for establishing that *their* assumption is warranted. Further implications are discussed below.

Preliminaries

² This is a variant of Buchanan (1997a).

³ Compare Bauböck (2001); De Schutter (2015).

‘Nations’ here is a ‘cluster’ concept defined by traditional sociological indicia.⁴ ‘Cluster concept’ too has several meanings (Pyne Parsons 1973) but refers here to concepts characterized by a combination of features that are individually neither necessary nor sufficient to the concepts’ essence. The search for nations’ necessary and sufficient features may prove quixotic.⁵ Stipulated definitions risk sociological error and accusations that they predispose outcomes. My approach avoids that by holding that multiple indicia must be present for a nation to exist and have *prima facie* moral value *qua* nation. Common sociological indicia include shared ethnicity, language, culture, values, myths, and national bonds.⁶ Absent a combination of features, ‘nations’ become ethnic groups, linguistic groups, etc. Many persons sharing the sociologically-relevant features must then view themselves as co-nationals. Absent self-understanding of shared features as a basis of nationhood, another common indicator, there may not be a politically-salient group to analyze. Some combinations of indicia more plausibly support special treatment below, but the arguments generalize. I make no other definitional claims about nations.

‘Sub-state authority,’ in turn, consists in possessing powers to make decisions unfettered by direct encompassing state interference. This use of ‘authority’ does not perfectly track technical uses but fits uses in federalism and policy fields. The ‘state’ is the entity controlling the larger, encompassing polis. It is equivalent with ‘country.’ I treat the ‘encompassing state government’ as a central or federal one, but other encompassing state governments are possible.

This philosophical work builds on a tradition of liberal nationalism (e.g., Tamir 1993; Kymlicka 1995; etc.) examining whether/when liberalism and nationalism are reconcilable but distinctly focuses on narrow questions about sub-state national authority. It adopts liberal

⁴ See also e.g., Brennan et al. (2013: 29) (on rule acceptance). See also discussion of radial concepts (including a critique thereof) in Møller/Skaaning (2010).

⁵ E.g., Hobsbawm (1990/1992: 8); Tamir (1993); McMahan (1997: 107); Seymour (1999: 423).

⁶ See note 8-10 sources for discussion of these common indicia.

assumptions that *any* authority faces human rights-based constraints on how its powers can be exercised, which should entail some protections for minorities-within-a-minority national group.⁷

I. Refocusing Analysis

Nations are morally important if they can justifiably possess sub-state authority. They can be more important still if at most a few other groups share the basis for justification. Yet the justification for sub-state national control need not rest on a unique feature of nations alone. Features that make nations reasonable sites of sub-state authority suffice. This highlights an under-appreciated issue in many past debates about nations that explains their intractability, namely their undue focus on nations only as potentially *necessary* foci of special treatment.

Many classic philosophical works on nationalism examine whether unique features of nations required providing nations with their own countries where the national group forms a majority; even those focused on sub-state authority often began by examining features that would justify secession and view sub-state authority as a ‘second-best alternative.’⁸ Others focus on whether unique features ground partiality towards co-nationals in decision-making.⁹ Many texts addressing the ‘return’ of nationalism or national self-determination now focus on majority nations or examine whether and when some (usually pre-institutional) fact that requires providing nations alone with unique moral powers (e.g., to run a state or favour co-nationals).¹⁰

⁷ While some group rights justifying sub-state national control could conflict with individual rights, I elsewhere suggest that no national group rights are so powerful that they always trump individual claims (Da Silva 2021). On minority-within-a-minority problems, see e.g., Eisenberg/Spinner-Halev (2005).

⁸ This trend appears in philosophical debates distinguished by classic works like Margalit/Raz (1993), Tamir (1993), Miller (1997ab), McKim/McMahan (1997), Moore (1997), and Seymour (1999) and in discussions of classic theoretical works with empirical bases like Smith (1986), Anderson (1984/2006), and Hobsbawm (1990/1992). See Norman (2006) for an excellent summary and analysis of these arguments. See also analyses of the moral foundations of minority cultural rights, including Tierney (2000). On secession, see e.g., Buchanan (1991, 1997b). Buchanan himself rightly suggests treating distinct kinds of national claims on their own terms (2006) but also analyzes each through a rights-based lens and suggests that some pre-institutional fact must justify each right.

⁹ E.g., Goodin (1988); McMahan (1997); Hurka (1997); Brighouse (1997).

¹⁰ E.g., Orgad (2015); Hazony (2018); Eatwell/Goodwin (2018); Tamir (2019). Of course, as with texts in the previous notes, these works adopt the assumptions to different degrees.

Even those alive to sub-state national authority's potential import often analyze minority groups as such with nations as just one example (Kymlicka 1995; Patten 2014; etc.).¹¹ Some (e.g., Kymlicka 1998) also view sub-state nationalist questions as a matter of right best understood through secession-filtered lenses. Few recognize that sub-state *national* authority claims are important in their own right (e.g., Buchanan 2006), that they need not be assessed in terms of set pre-institutional facts (e.g., Kymlicka 1995), *and* moral options for authority allocation.

I propose examining if and when nations can justifiably possess distinct final decision-making powers. Justifiability provides a moral permission to allocate authority over subjects (or specific issues) to a group where moral permissibility only requires good moral reasons for such apportionments (and does not preclude other groups possessing authority for other reasons). Scholars using a 'requirement' burden for special treatment may not find features uniquely selecting nations but nations need not possess distinct characteristics to justifiably receive special treatment under a different 'justification' burden. Other groups being strong candidates for *some* sub-state authority too will be unsurprising after we distinguish apportionment-related questions below. Part II helps identify which entities should actually possess which powers when.

Justification and requirement are simply different moral burdens. An inability to meet one burden does not entail an inability to meet another. Many non-arbitrary but permissible, and even good, actions are not morally required. Whether nations must possess sub-state authority is distinct from whether they can permissibly do so. We should, accordingly, separate whether anything about nations *necessarily* makes them the right entity to possess authority from whether anything about nations *permits* them to non-arbitrarily possess it. These slippery terms can mislead, so working definitions are useful. Authority allocation is *required* if and only if an

¹¹ Miller (2020) also explores the possibility of sub-state authority but is skeptical about forms discussed here.

intrinsic feature of nationhood provides reasons to apportion authority to nations and *justified* if there are sufficient (non-defeated) reasons to apportion authority to nations qua nations.

Justification analyses, then, ask if those apportioning powers at a moment are permitted to provide a power to a nation qua nation and if moral reasons favour exercising that permission. For instance, those at a constituent assembly trying to decide who will possess authority over whether and how to implement a public healthcare system might have multiple options that are morally acceptable. If nations are one option and good moral reasons favour that option—e.g., if national control is justified by distinct national views on health and practices and those views and practices are morally weighty—the justification burden is met. Anyone apportioning powers can and likely should seriously entertain the option. However, nations are not wronged when they lack a power; morality does not demand that unique allocation. Requirement analyses, by contrast, ask whether strong moral reasons necessitate nations possessing particular powers. On a strong reading, this asks whether providing the nation with a power over, e.g., healthcare, should be done all-things-considered. On a weak reading, it asks whether very strong moral reasons create a defeasible presumption to allocate a power to a nation whereby failure to do so is a wrong-making feature even of an all-things-considered just decision to provide it elsewhere. On this weaker reading, that wrong-making feature arguably triggers second-order duties of explanation, if not redress. On both readings, morality strongly favours of national control of some kind and holds that the nation is wronged in some way when they do not receive it.

In sub-state national authority debates, both burdens require that something tied to nations' status as nations provide moral reasons that explain why nations must or should be treated differently from other groups (or at least be one of a few groups warranting same) in some cases. We should be able to explain why Quebec receives treatment not afforded to

Catholics, linguistic minorities, or the New Orleans Saints-supporting ‘Who Dat Nation.’ If differentiating reasons are unrelated to nations’ status as nations, arbitrariness concerns arise (Buchanan 1997a). But justification, unlike requirement, does not demand that nations possess distinct features that will identify nations as having uniquely strong claims to sub-state authority.

While most works on candidate principles for apportioning authority assume that principles for identifying features that could justify providing groups with *some* authority in a state also identify which entities should possess which decision-making powers,¹² candidate allocative principles no longer clearly explain who can possess powers or which ones they should possess, let alone both. Most notably, traditional criteria used to justify provincial authority (e.g., unique interests/challenges; epistemic benefits; democratic concerns) now equally justify municipal authority (Weinstock 2014; Hirschl 2020). If a province and city each have self-determination-based claims to control language policy, another principle must allocate authority between them. Traditional principles may also justify sub-state national control.¹³ Whether and when such apportionment can be justifiable *due to national characteristics* is debatable, but recognizing moral options for apportioning sub-state powers need not make any candidate authorities any less ‘special’ if the number of options is suitably limited. Stating that provinces, cities, etc. are not special simply because the same principles that apply to them also apply to other entities would be curious. The same should be true of nations in this context.

We should address each apportionment-related question on its own terms and re-examine whether anything about nations can simply justify sub-state national authority. Three other considerations further support refocusing philosophical analysis of nations on whether they can justifiably possess sub-state authority. First, focusing on unique ‘national’ features helped

¹² See e.g., Barber (2018). Many also implicitly assume that the strongest candidates have *rights* to specific powers.

¹³ Per de Schutter (2015), this could even be so for those who lack a territory in which they are a majority.

forestall movement in past philosophical debates. The lack of unqualified success in the search for unique features that require special treatment of nations or co-nationals partly explains why nations' moral status remains unclear. Allen Buchanan (1997a)'s charge that there is no non-arbitrary reason to give *any* special status to nations is representative. Per Buchanan, special treatment for nations constitutes discriminatory state imposition of nationality as the morally primary basis for self-definition. Attempts to avoid this critique could not identify *unique* features of nations that require unique special treatment thereof. While each sociological indicator could be morally important, each also belongs to other groups and may not justify unique powers on its own. Other attempts do not conform to nations' sociology or build in normative content, begging moral questions. Even agnostics about nations' value focus on specific cases (e.g., Seymour 1999; Moltchanova 2007). Grounding nations' distinct moral status in unique features requiring special authority or co-national partiality remains difficult. Yet nations that meet the justification burden can play an important authority-based political role. This makes them special in one respect. While one may argue that this sets the bar for special status *too* low, I disagree: *prima facie* claims to specific moral treatment minimally provide nations with a discursive status in debates on subjects over which they could have authority.

Second, refocusing can help resolve questions about how to allocate governmental decision-making powers that all countries must answer. A province (Louisiana), city (New Orleans), or supporters' group (Saints fans) could perform government functions, but nations are classic candidate authorities. Beliefs that authority should track nationality partly explain nation-states (e.g., Hobsbawm 1990/1992). While nations are not always coextensive with states, *sub-state* nations too posit connections between nationality and some powers (Seymour 1999; Tierney 2000; Norman 2006; etc.). Moreover, several sub-state nations already possess unique

social policy powers (Lecours 2001; McEwan 2002; Béland/Lecours 2006, 2008; Cantillon et al. 2011; Popelier/Cantillon 2013; etc.). If nations cannot justifiably possess some powers other groups lack, that break between theory and practice warrants reevaluating theory or practice. Complete accounts of power apportionment in (at least multinational) states must accordingly determine if and when nations can possess decision-making powers within encompassing states.

Finally, refocusing analysis can address ontological issues. Sub-state nations exist, sometimes uncontroversially (Keating 2001; Miller 2001), but their status in political morality remains unclear. Real-world politics provide little insight into what recognition of sub-state nations should entail. For example, the normative implications of legislative recognition of Quebec as a ‘nation-within-a-nation’ remains uncertain sixteen years later. Many relevant parties suggested recognition was non-normative.¹⁴ A clear moral role for sub-state nations in authority allocation could identify one plausible corollary that should follow from future recognition.

II. Justifying Sub-State National Authority

The above still leaves questions about whether and when nations can justifiably possess sub-state powers open. I contend that they can do so (at least) where (a) a substantial majority of persons who share multiple characteristics that track the sociology of nations decide to exercise their self-determination rights through a nation but (b) the relevant group identity is non-comprehensive and (c) the group as a whole recognizes broader state authority over some subjects. These features can make nations *prima facie* justifiable holders of some sub-state authority. Further conditions complete the picture by identifying when nations can justifiably possess sub-state powers and powers they may possess. Specifically, the domain of decision-making authority should (d) help constitute sub-state national political identity and (e) be

¹⁴ *House of Commons Debates*, 39-1, 87 (27 November 2006).

unnecessary for the development of a statewide identity. (a)-(e) are merely conditions for when sub-state national authority can be justified. Those conditions will bar many forms of sub-state national authority that would wrong non-nationals, but other wrongs exercising that authority could defeat the case therefor. Nations nonetheless remain ‘special’ where few other groups share their role in moral ontology as strong candidates for forms of sub-state authority.¹⁵

(a) Substantial Majority Decision to Exercise Self-Determination Through the Nation

The self-determination condition, (a), initially grounds justification of apportioning some powers (specified below) to nations. Its requirement that exercising self-determination rights only count as nation-based when focused on distinctive characteristics of nations grounds authority in nations’ specific features. Features shared by at most few other groups make nations reasonable choices for exercising self-determination rights and distinguish them from at worst many other groups. Where (a) also grounds sub-state national authority in reasonably uncontroversial moral principles, it provides non-ad hoc justification for that authority.

Individual self-determination rights can ground all potential sub-state national powers under specifications below (even if group rights exist, which I bracket here). Power allocations are justifiable where a substantial majority of persons sharing nations’ characteristics distinctive choose a nation as the vehicle for exercising those rights. The basic motivating idea is that many moral goods presuppose some sort of interpersonal activities and even group identities, pursuing those goods through a nation is a reasonable choice, and that choice can and likely should (subject to other conditions) ground valid claims to sub-state national control where it has a likely prospect of protecting that good. (a) does not specify the goods one should seek to protect

¹⁵ Nations may *also* justifiably possess authority based on factors that select provinces or cities as authorities. I will not address those cases directly; appeals to factors clearly shared by other entities risks Buchanan (1997a)’s charge.

but they should have some connection to nationality that explains *why* nations are reasonable choices for means of exercising self-determination rights.

At least three related arguments support (a). First, groups are necessary to protect particular moral goods and nations are useful groups for protecting them. Will Kymlicka (1995)'s autonomy-based argument that minority groups, including some national minority groups, provide contexts of choice in which individuals can pursue their conception of the good is a classic example. Groups may also be necessary to protect goods. For instance, Helder de Schutter (2021) argues that individual dignity is tied to a group dignity: group membership is key to many individuals' self-identity and denigration of the group undermines individuals' ability to view that self-identity as a basis for self-respect. Where national characteristics are viewed as central to many personal identities, this dignity-based approach too likely makes nations a reasonable vehicle for political action. Given the ways in which traditional sociological indicia of nations interact with a variety of moral values, this argument for (a) can likely be run using several values that co-nationals identify as important and seek to protect together.

Second, many activities are fundamentally interpersonal and it is reasonable to seek to protect important interpersonal activities in a coalition devoted to same. National characteristics track things that are important to individuals and their identities. Nations then provide readymade communities through which interests that require collective endeavours can (and historically have) be(en) protected and exercised with minimal costs. Many view use of, e.g., their preferred language and engaging in cultural activities as key to good lives. Even Buchanan (1997a) only contests the normative significance of these self-identities and whether they distinguish nations, not their commonality. These interpersonal practices face frequent threats (Van Parijs 2011). Those who share languages or cultures, two common indicia of nationhood, are natural allies in

political attempts to protect their shared goods. Nations historically protected such shared goods.¹⁶ Even national groups that define themselves in terms of shared *values* also usually coalesce around nations' other sociological indicia of nationhood. Such national groups are easier sites for political engagement than seeking non-co-nationals who happen to share characteristics: time spent forming new political alliances may hinder attempts at protection.

Third, nations provide a reasonable means of exercising basic association rights. Individual rights to pursue conceptions of the good are central to liberal-democracy (Rawls 1971). Rights to jointly pursue shared goods are only slightly more controversial.¹⁷ Most liberal-democratic theorists recognize rights to associate. It is reasonable to associate with those who share characteristics that track nationality even if the characteristics lack inherent moral value absent such a choice. This could require sub-state authority at least where the bases upon which people have chosen to associate are consistently politically salient for the population and have reasonable concerns that the ability to associate may be undermined absent distinct control.

Sub-state national control may, in other words, partially constitute some association and self-determination rights. Whether sub-state national control will also protect other rights is an empirical matter. Yet the way in which exercising other individual rights through a group is often practically necessary arguably supports (a). Some basic liberties, like voting, presuppose joint agency, like the creation of an electoral system. Others, like controversial uses of speech and assembly, are unlikely to receive protection absent joint action. These facts at least underline why individuals can reasonably seek to control over particular policy areas for their group in hopes that the group will better protect their rights. Calling sub-state authority arbitrary in such

¹⁶ See sources above, including in note 8. Nation-states traditionally protect majority cultures. Federations with diffuse powers may best protect *minority* identities (Levy 2007).

¹⁷ See e.g., Rawls (1971: 61, 272-273) (on association rights). Note nuances therein.

circumstances risks denying the individual rights that groups are necessary to instantiate independently plausible association rights. Nationality claims can undermine individual self-determination (Brighouse 1997: 391-392), but their success as tools for exercising individual political wills is notable.¹⁸ Where nations can be tools for exercising individual self-determination rights, they have a non-arbitrary case for the authority to realize the rights.

These arguments provide a *prima facie* case for sub-state national control over some topics (specified by conditions below). Each recognizes the importance of individual self-determination and necessity of group identities for exercising same and argues that the conjunction thereof makes exercising self-determination rights through a nation acceptable. The multi-characteristic basis of national claims distinguishes them from some groups (like linguistic minorities). (b) will distinguish them from others (like many religions). Where, e.g., views on the importance of language connect to beliefs about its role in a shared history and culture, that should strengthen claims for sub-state national control over at least aspects of language policy. In such cases, the group qualifies as a nation and desires a distinct form sub-state *national* authority qua nation. French can and should be seen as part of a broader Quebecois national identity. Requiring that characteristics track nations' sociological indicia then avoids groups possessing authority based on factors lacking political value. One indicator may not justify special treatment but most indicia are politically-salient bases for joint action. Sub-state nations are partly *constituted* by politically-salient ends (also grounding (d) below). By contrast, even sports supporters groups who seek public stadium funding exist absent political desires.

Appealing to self-determination to initially ground sub-state national authority need not require a voluntarism under which an entity should have authority if and only if its members

¹⁸ Mixed empirical results above notwithstanding, nations provide opportunities to (and often do) protect shared interests. See also Newman (2011).

agree to be bound by its decisions. Such voluntarism could pick out many entities as candidate authorities and yet only give them control over a subset of members who consent to be bound. Nothing would be special about nations. A substantial majoritarian political choice in a liberal-democracy instead initially grounds sub-state national authority here. ‘Reasonableness’ in this context concerns the protection of the fundamental interests that themselves ground self-determination rights. This limits justified sub-state authority to at least *prima facie* morally valuable groups who can protect non-idiosyncratic fundamental interests. It permits justifiable authority short of agreement by *all* members who would be bound by it but blocks unreasonable or illiberal entities from possessing it. While some think any decision lacking subjects’ consent is problematic, perfectly aligning authority with would-be subjects’ preferences is impossible.

Voluntarism thus proves too much here. It seemingly bars *any* justified authority.¹⁹ If one worries about people being subject to authorities they would not desire, the present proposal is preferable to views seeking unique candidate authorities who must possess particular powers. Those focused on justified, rather than required, sub-state authority can recognize *more* options for authority, maximizing the opportunities for people to be bound by decisions by their preferred groups. Where, moreover, even justified authority can only be exercised consistent with other human rights norms, those subject to sub-state national authority will have equal protections of their rights as they would against any other form of authority. This, again, should limit objections grounded in concerns about minorities-within-a-minority sub-state authority.

One may then argue that emphasizing a substantial majority of persons who share paradigmatically national characteristics as a means of grounding authority is self-defeating: it unduly constrains people who share national characteristics but do not wish to exercise their self-

¹⁹ See also Keating (2001: 3) (on voluntarism’s commonality and implausibility).

determination rights through a nation. But sub-state national authority need not be exercisable in ways that undermine co-nationals' abilities to pursue their ends through other means. Where (b) states national identities must be non-comprehensive to secure authority, nations who would wholly constrain minority self-determination rights again cannot possess sub-state powers. But nothing in (a) requires that nationality be the sole or decisive moral good. Many people have multiple identities, national or otherwise (Keating 2001). Other identity-based claims can still weigh against *prima facie* cases for recognizing sub-state national authority.

(a) alone cannot distinguish nations from all other groups, yet other entities also serving as reasonable sites for exercising self-determination is unproblematic. Buchanan (1997a) may, e.g., view (a)'s consistency with forms of religious authority as a *reductio* of my argument. If one avoids that outcome, self-determination-based arguments for recognizing provinces and cities as candidate authorities remain (Weinstock 2014; Hirschl 2020). Yet multiple entities being candidate authorities is unsurprising once we distinguish justifiable and necessary wielders of sub-state authority. The relatively small number of candidates suggests each is important. We can attend to national features non-national cities or provinces do not share when answering questions about which powers nations can justifiably possess (through, e.g., (d)-(e)).²⁰

(a)'s reliance on nations being a reasonable choice for exercising self-determination rights alone might still distinguish them from other groups seeking sub-state authority. Arguments for (a) do not make substantive claims about moral goods one may desire. Yet each points to nations' ability to protect some chosen moral goods tied to politically-salient national characteristics to explain why nations can be reasonably chosen. Any group capable of serving a

²⁰ Overlapping arguments could justify exercising sub-state national authority via majority-national provinces or cities. This is the most likely form of real sub-state national authority. Viewing 'nations' and 'provinces' as potentially competing candidate authorities is still helpful for exploring the national case.

similar function must maintain its status as a chosen site of political determination over time and show some indication that it can protect the interests in question. One might even consider this a condition of justified authority. To have sub-state authority is to have final decision-making over a subject or issue. It is hard to see how a group without a stable political identity could justifiably possess it. One must not constrain valid claims with a high potential efficacy requirement; one reason to desire sub-state national control is to develop a stable identity centred on national characteristics. Yet considerations above already suggest that a group should demonstrate some indication that they are a stable force with stable political aims to validly claim sub-state authority. The Who Dat Nation is unlikely to meet even this low(er) bar.

The same thing that justifies statewide authority, self-determination, thus begins to justify some sub-state national authority.²¹ Combinations of political identity-salient characteristics of nations distinguish them from other groups and make them strong candidates for any powers apportioned using uncontroversial self-determination rights. Other conditions remain necessary.

(b) Non-Comprehensive National Identities

Individuals choose to exercise self-determination rights through other groups but (b) states that one cannot base valid self-determination-based claims to justified sub-state authority on morally comprehensive identities. Recall the classic Rawlsian (1993) distinction between comprehensive doctrines that promote a particular worldview centred around substantive moral commitments and political doctrines that seek to identify a means of structuring societies in which those with competing comprehensive doctrines can co-exist and make decisions together.²² Liberal-democracy as a political doctrine requires a pluralism in which no comprehensive doctrine can form a basis for governmental action. Treating groups that do not

²¹ Compare Goodin (1988) on grounding positive treatment of all persons and partiality.

²² See also commentary in e.g., Abbey/Spinner-Halev (2013) or Jones (2004) (responding to Tan (2000)).

centre their politics around comprehensive doctrines differently than those who do just respects liberal pluralism, which should require freedom protection from all would-be moral monoliths.²³ People should be able to pursue their chosen ends without having others forced upon them.

Decisions to coalesce around an identity for self-determination purposes, then, can only ground valid sub-state authority claims when the identity is consistent with moral pluralism in the political sphere. A group seeking valid sub-state authority may seek ‘comprehensive’ control over a subject and allow pluralist debate about the good within its sphere of control. This is what it means to have authority in a liberal-democratic state. It cannot claim that a comprehensive vision could or should resolve political controversies in the sphere. (b) precludes sub-state national authority where a nation would give national values categorical priority over others in all political matters or give members categorically preferential treatment. This does not require neutrality on all culturally-relevant ends, which could negate the point of sub-state authority. Rather, groups must permit a minimalist pluralism recognizing other political identities’ value and providing opportunities for others to raise them in sub-state decision-making processes.

(b) bars theocracy and conditions in which all authority is marshalled for a monolithic national group, like ethnic Hungarians. It could bar control by groups who promote a comprehensive view as the preferred basis for political decision-making. It is one thing to say that the Scottish place a higher value on solidarity that justifies stronger social policy powers in Scotland than in Wales. It is another to state that a ‘Book of Scottish Nationalism’ can answer any political question that may arise and everyone should view policies contrary to that vision less favourably. Providing powers to a nation claiming the latter appears problematic even where it allows elections within its sphere and does not impose its will on others through force.

²³ The discussion of religion in Rawls (1993) (the ‘proviso’ notwithstanding) should have this broader implication.

(b) also constrains how sub-state authority might be exercised, which could further distinguish candidate authorities. Its basic commitment to pluralism precludes decision-making based only on conceptions of value concepts dependent on broader, group-specific worldviews. While self-determination is grounded in different value judgments, some commensurability is necessary. Decisions about ‘education’ or ‘healthcare’ cannot be uniformly indexed to group-specific understandings of ‘knowledge’ or ‘health’ even if promoting the understandings is a value sub-state national authority should otherwise further. Authority is limited to different judgments on conceptions of each. These requirements maintain consistency with liberal pluralism and reflect the nature of nations/national commitments: Where even many nationalists have multiple identities, those who choose nations as primary vehicles for political action should seek to maintain a space for other moral values that may take priority in some decision contexts.

Comparison with Buchanan (1997a)’s central contrasting case of a self-determination vehicle, religious groups, clarifies matters. While religious commitments partly constitute some nations, treating nations and religions separately is helpful for clarifying if and when this is an issue. Focusing on even explicitly political self-determination alone (viz., (a)) cannot fully differentiate even paradigmatic nations and religious groups. While some religious groups (e.g., the Amish) do not have political ends, others (e.g., some Evangelicals) seek to organize political life around religion. Buchanan’s charge that prioritizing national identities over religious ones violates liberal anti-discrimination norms lingers. Yet where many religions are morally comprehensive and most nationalisms are not, treating paradigms differently is non-arbitrary.

(b), in other words, permits paradigmatic nations to possess sub-state authority but merely establishes a presumption that paradigmatic nations can justifiably possess sub-state authority of some kind. Paradigmatic nations are, I submit, likely to be less morally

comprehensive than paradigmatic cases of other candidate authorities, like religious groups, so there is a presumptive difference between them. Yet where the bases of distinction fall away, so too does the case for special treatment of nations.²⁴ Any national groups who do promote comprehensive conceptions of the good cannot receive special treatment qua nations. Some nations also have religious elements. Authority then remains limited by considerations of non-group members' interests. Nations with religious elements must make decisions free from comprehensive religious views to be candidate authorities. Some religious groups may, in turn, conceivably fulfill (b)-(e) and be candidates for special treatment. But this is unproblematic where a justification burden operates and the reasons do not select too many other groups.

If my claims about paradigm cases prove inaccurate, national authority claims are still distinct due to the bases for the choice and further conditions on respecting that choice in (a) and ways in which (d)-(e) specify particular powers to which they should plausibly have a claim. Religions being part of the few groups with enough power to protect relevant moral interest would not fully undermine my arguments. Where one still worries about religious authority, the permissibility of religious groups receiving special treatment need not entail that they receive it on the view on offer here. Church and State can remain separate if, for just two examples, other moral reasons swamp the *prima facie* case for the permissibility of religious sub-state authority or such authority cannot be exercised consistent with liberal-democratic norms.

If some nations devoted to more comprehensive doctrines (e.g., some Indigenous groups) should, intuitively, possess sub-state authority, (b) will admittedly have counterintuitive results.

²⁴ Some may argue that I fail to recognize nations' territorial nature. But diaspora nations exist and can be political agents. Even Stilz (2019: 116, 232) allows some justified non-territorial powers. Imperfect Indigenous programs highlight how non-territorial groups could possess them (Lavoie et al. 2015). If diaspora groups with national characteristics desire power over a population, rather than a territory, we should call them 'nations.' Whether that (potential) authority-addressee relationship is justified is an important question those who focus solely on territory-possessing or -seeking nations too often overlook.

That is simply the price of a justifiable *liberal* theory of sub-state national authority. One may plausibly argue that liberalism is the comprehensive doctrine one should avoid and liberal starting points are bound to have these counterintuitive results.²⁵ But this is no place to fully defend liberal-democracy. Those critics can read this work as internal to a comprehensive view of liberalism. I nonetheless doubt that the cases at issue actually undermine (b): the groups at issue appear more sociologically ‘religion’-like anyway and other (e.g., remedial) considerations could be motivating our intuitions (and might still justify authority qua subject of injustice).

(c) Group Recognition of State Authority Over Some Subjects

Groups must accept the possibility of other sources of authority to fulfill (b) but need not recognize other actual authorities. Stable *sub-state* authority requires recognition of a broader state authority. (c) makes sub-state nationalism conceptually possible by requiring that nations view sub-state powers as part of a larger matrix of powers that also foster a broader civic identity. This cannot fulfill all sub-state national desires. Sub-state nations may still desire control over an entire jurisdiction and accept sub-state national authority as second-best. But whether and when broader desires can or must be realized is distinct from when and if any *sub-state* national authority is justified. Justifiable sub-states authorities must recognize that the broader encompassing state can also (and does) possess authority over other subjects.

(c), in other words, requires that any group possessing sub-state authority must be willing to exercise it in a manner consistent with at least one other entity, the central/federal government, exercising its powers. This is what it means to have *sub-state* authority. It need not require coordination between the nation and other groups. It does require respecting other groups’ jurisdiction, which may functionally require submitting to fora that resolve jurisdictional

²⁵ E.g., Parekh (2000). See also Uberoi (2018, 2021).

disputes. (c) alone places no further substantive limits on the exercise of sub-state authority. Liberal-democratic norms, like respect for human rights, must provide necessary limitations.

This may leave the ‘paradox of federalism’ (Erk/Anderson 2011) in place: providing powers to national groups in this way will accommodate national desires for self-governance within a stable state at the cost of entrenching divisions that could undermine state stability and even promote secession. Yet paradox risks remain in any theoretical exercise examining when sub-state powers can be justified and do not require more substantive limits. Recognizing another authority should secure some state stability. Whether further substantive limits on sub-state powers will better secure stability (viz., they could backfire) is, however, less clear and being able to act freely within one’s competence is just what it means to have authority here.

Others, particularly those concerned with the minority-within-a-minority problem, may desire (c)* requiring that nations recognize other entities within their confines as other authorities. Any justified authority, sub-state national or otherwise, must respect the institutional mechanism through which it received its authority. So, a sub-state nation must respect the jurisdiction of any other entity provided with justified authority under the decision procedure in question. This may, e.g., include respecting a minority-within-a-minority’s constitutionally-entrenched power to run its own schools. However, minorities-within-a-minority need not have their own domain(s) of authority to have their rights respected. This discussion concerns which forms of authority are required when. Nothing in the preceding entails that all minority groups or cultures must have particular forms of authority. The need for a certain level of effectiveness to even be a candidate for authority will undermine many claims.²⁶ So too will the need for state

²⁶ Per Levy (2007), too many groups having powers can undermine the ability of each to serve its roles.

stability operating in the background of this discussion. Minorities rights constrain all authority exercises here. They need not entail that all minorities have unique authority.

Questions remain about which powers can belong to the nation, which must remain with the state, and why nations are plausible candidates for sub-state powers. (d) and (e) provide means of assessing when nations can justifiably possess sub-state powers grounded in self-determination rights and nations' sociologically-distinct features. They combine with (a)-(c) to form a theoretically compelling, action-guiding account of justified sub-state national authority.

(d) A Jurisdiction That Helps Form National Political Identities

(d) states that nations can justifiably possess powers tied to basic existence. (d)'s method for identifying justifiable sub-state national powers also rests on reasonably uncontroversial principles and is tied to nations' fundamental characteristics on multiple accounts thereof. This distinguishes nations from other candidate authorities (e.g., provinces, cities). Even if, e.g., people coalesce around their non-national province, the province may exist absent particular powers. Any required powers are likely non-identical with those required for a 'nation.' (d)'s limits on justified sub-state national powers guarantee broader state powers and, thus, stability.

Individual self-determination rights also ground (d). Final sub-state decision-making powers are justified by the relevant authority being necessary for a group to function as vehicles for exercising the rights. (d) notes that control over certain subjects is necessary to develop national identities and create politically-salient groups that can be sociologically distinct, practically effective means of exercising self-determination rights. It is, again, reasonable to pursue one's good with others, especially where some goods are only jointly realizable. Some social goods nations protect to foster members' self-determination did not *exist* prior to nation-building. While speaking French is crucial to many self-identities, French nationalist claims

predate the uniform French language (Hobsbawm 1990/1992). Contrary to claims that people lack interests in languages absent political claims so those interests cannot justify such claims (e.g., *id.*), people can reasonably coalesce around developing shared goods. Mutual interactions can then refine co-nationals' shared bases of political self-determination, creating shared identities that can have long-term political salience (Bauer 1996; Lecours 2001: 59; etc.).²⁷

If individuals can pursue goods in tandem and doing so is necessary to develop the joint identity required for pursuit, there is a case for providing their group with authority over areas necessary for developing that identity. The right to self-determination and (plausibly derivative) right to a context in which that fundamental right is exercisable ground sub-state authority here. Everyone should be able to choose a context for exercising other rights and hone it into something that keeps that choice open over time.²⁸ Everyone should be able to choose to pursue her conception of the good in the political realm via a nation and be free to form that nation and its basic characteristics to make exercising that choice possible. Self-determination remains the moral prior. Members of a group with shared characteristics may, e.g., have self-determination rights they can exercise to build their family of languages into one national language, strengthening their claim absent some 'true' language. The longer-term need for, e.g., a common language to even have those nations (as in the classic Quebecois case) can justify sub-state authority. This also distinguishes nations from groups who can be merely accommodated in set contexts, including many minority and religious ones. Mere accommodation cannot protect paradigmatic national identities where self-determination is necessary for the group to exist.

²⁷ Groups should, again, show some evidence that they can protect the relevant interests. This reasonably low standard should not preclude providing groups with powers that would strengthen that ability.

²⁸ Again, while I use Kymlicka (1995)'s language here, autonomy is not the only relevant value for this argument.

(d) presents at least three ways of specifying justifiable sub-state national authority. Each reflects a distinct understanding of what makes something a ‘nation.’ One’s specification will impact public acceptance of this condition. Yet each specification plausibly identifies when sub-state national powers are appropriate in a way that avoids overly expansive powers inconsistent with encompassing state stability. Per (d), nations can possess constitutive powers that make them vehicles for exercising individual self-determination rights. Distinct understandings of constitutive powers identifies when nations can justifiably possess sub-state authority and the subject of that authority. (e) further limits the powers sub-state nations may possess, avoiding the most implausible potential implications of constitutive-element-based apportionments.

The ‘narrow constitutive’ specification of (d) notes that this account requires defining nations on shared characteristics and argues that the powers that should belong to the group are those necessary to develop and maintain such characteristics. This ties special treatment to national characteristics without strong substantive commitments and limits the class of powers nations can possess, avoiding stability concerns. Nations can clearly possess powers related to language and culture. Language and culture are sociological indicia of nationhood and control over them is necessary to protect the constitutive features and political coalitions that surround them. Other important social policy areas, like healthcare and social insurance, do not relate to fundamental characteristics of the nation and remain with the state (absent ethnicity-specific health issues (Tang 2006)). This cannot explain existing sub-state national healthcare and social insurance powers but explains why nations more commonly possess language- and culture-related powers and distinguishes appropriate powers in a principled, circumscribed manner.

The ‘wider constitutive’ specification may justify more sub-state national powers, but the class of even potentially available powers remains limited on at least one interpretation.

Proponents view the narrow constitutive account as reductionist and misguided: nations are not only about shared biographical characteristics, but about shared values (e.g., Seymour 1999; Miller 2001). They should be able to possess the powers necessary to realize those values. For instance, Quebec and Scotland point to purportedly stronger commitments to solidarity when arguing for social policy powers (e.g., Henderson/McEwan 2005; Banting/Kymlicka 2017). Other national values, theoretically including free-market ones, may also be relevant.

This specification suggests at least two ways for apportioning powers. It could, for one, entail that nations can (at least *prima facie*) justifiably control all fundamentally ‘value-laden’ policy domains. For instance, all social policy domains would easily fall under potential national authority. Yet this may not further national, statewide, or transnational solidarity. Free-market national values could matter here. Moreover, strong enforcement of (e) will be necessary to avoid apportioning all powers to nations and violating stability norms. Alternatively, this specification could entail that powers should be apportioned to nations when doing so reflects fundamental commitments to a value all nations *should* further. This would only give nations powers *a la carte* if and where powers would promote, e.g., solidarity. It would also rest on a contestable substantive claim about nations and solidarity. Yet both wider constitutive specifications plausibly identify and circumscribe possible powers. (e) limits them further.

Finally, the ‘empirically constitutive’ specification identifies powers nations used to create national identities in the past and states that past effectiveness warrants apportioning control to sub-state nations. This explains and helps justify existing sub-state nationalist practices. It allows sub-state nations to secure powers over language, culture, social insurance, and healthcare, fitting past practice and common intuitions about which sub-state powers are plausible (Béland/Lecours 2008). The proposal requires some threshold of past success. Too low

of a threshold may unduly expand sub-state powers. For instance, hydroelectricity-related powers were key to Quebecois identity formation (Leclair 1998). Even nationalists should question whether such a historical contingency should be able to ground strong claims to control such an important policy debate. Yet (e) again avoids the worst expansiveness concerns.

I take no determinative stand on which specification of (d) is best: each imperfect proposal provides non-ad hoc ways of identifying justifiable sub-state national powers and thus meets the desiderata for an account of justified sub-state national control. They also help distinguish nations from other groups. For instance, even groups that may have features that can be closely tied to their constitutive elements, like some religious groups, arguably only track constitutive elements in ways that would select *different* domains of sub-state authority.

(d) is also plausibly circumscribed. No specification expands all powers to nations. Only one wider constitutive view could. Even if the best specification of (d) supports too many sub-state national powers, in turn, (d) still only justifiable power allocations. Constitutive considerations can weigh against others when assessing sub-state authority claims. The need for a state undergirding (c) and (e) is a countervailing concern: justifiable sub-state national authority need not be realized where it will foster comprehensive, secessionist nationalism(s).²⁹

(e) A Jurisdiction Unnecessary to Form State Political Identities

(e) requires that the jurisdiction at issue is unnecessary for the development of a common statewide national identity. Given liberal pluralism, (at least sub-state) nationalism must be consistent with non-national political identities and keep powers necessary for state identity formation to remain with the non-national authority. The conceptual point undergirding (c) then

²⁹ Justifying sub-state national powers accordingly need not justify state dissolution, even if increased sub-state authority contributions to some collapses (e.g., the U.S.S.R.). See also Kymlicka (1998).

further supports (e): If *sub-state* nationalism is to remain possible, states too must possess exclusive powers. The existence of state identity is necessary to justify and realize these powers.

At worst, (e) provides a method for evaluating claims about which powers nations may possess. (e) cannot perfectly divide all powers in the abstract. Arguments about whether a policy domain is key to identity formation are unavoidable. Sub-state nations and states will disagree on which powers are key for each. Moreover, conclusions about what powers must belong to a state may depend on how we understand identity formation. Yet (c) helps forestall nations over-claiming powers. (e) serves a similar function by identifying a corresponding standard for evaluating claims about what is necessary for the state to exist. Good faith argumentation must centre on whether control over the subject is necessary for statewide identity. While the contours of necessity are debatable, parties must evaluate claims using circumscribed criteria. This minimizes states' ability to unduly claim that most powers are necessary for state identity and sub-state nations' ability to unduly claim the opposite.

Paradigmatic examples of powers necessary for a statewide identity further specify (e) and available arguments in discussions about its scope. Powers to run statewide elections and provide basic civic education are clearly necessary to have a state and build a community that can share a statewide political identity. Such paradigmatic examples further limit sub-state national powers, avoiding undue expansion. For example, (e) alone need not prohibit sub-state national education-related powers but applying (e) will limit any such powers since justified sub-state national curricula will need to make room for some state-based civic education.

Sub-state nations may still foster secessionist impulses and otherwise undermine state stability just by acting within their own areas of jurisdiction, but we are, again, only discussing justifiable powers here. Where (a)-(e) do not limit the domain of areas in which national groups

could use their powers to undermine the state, secession risks without valid secession claims could justify not exercising permissions to grant sub-state national authority.

III. Furthering Other Debates

Nations, then, can have a distinct self-determination-based role in political morality absent unique features that require providing them with special treatment. Considerations supporting this conclusion can also help further debates about majority nationalism, secession, and partiality. Space constraints limit me to suggestive comments on possible paths forward.

First, the preceding explains why many find majority nationalism problematic: familiarity with majority nationalism as a comprehensive doctrine rightly problematizes it. (a)-(e) help answer an important question: How can we recognize minority nations as morally valuable while denigrating majority nationalism (Orgad 2015)? Making sense of modern sub-state nationalism requires explaining why Scotland can be the beneficiary of social policy powers over those living in Scotland that disproportionately expand Scots' social benefits beyond those available to other Brits, most of whom live in other parts of the United Kingdom, while Hungary seeking to prioritize social goods for ethnic Hungarians is suspect. (a)-(e) explains these competing intuitions: We often treat majority and minority nationalisms differently due to familiarity with majority nationalism as a problematically comprehensive doctrine equating nations and states and violating liberal non-discrimination. More comprehensive nationality claims are less morally acceptable. This distinguishes contemporary Scotland and Hungary and explains why we would treat their cases identically if ethnic Scots alone qualified for social benefits in Scotland.³⁰

Not all forms of majority nationalism are equally problematic. The forgoing allows potentially less problematic national endeavours. For instance, protecting reasonably justly-

³⁰ This also explains why secession must involve minority rights protections (Miller 2001, Norman 2006, etc.). Equating 'state' and 'nation' violates liberal pluralism. Non-protection violates nationalism's ground principles.

formed majority cultures (e.g., Estonian, Latvian) may be valuable (Weinstock 2015). States that protect such majority goods at the expense of minority ones where a minority also seeks to protect important national interests require greater justification as they threaten to undermine the minority's pursuit of interpersonal goods. Majority nationalism is more likely to be comprehensive in problematic senses above and violate norms that could justify national powers. But comprehensiveness, not 'nationalism,' is the problem. Not all majority nationalist groups problematically posit national identity as the sole or primary criterion for political consideration. Considerations above helpfully permits protections for valuable majority national cultures.

Second, the preceding could help reframe secession-related debates. If my view on moral burdens for self-determination rights is correct, secession rights claims are not necessarily tied to (other) self-determination rights.³¹ But considerations that could justify special authority for nations suggest a means of re-evaluating claims about the moral value of nations in contexts where the requirement burden operates, plausibly including the standard context for secession claims. Secessionist demands often hold that states are *required* to recognize nations as autonomous political entities with the full authority granted to states. Attempts to identify when/how requirements for special treatment, including secession rights, arise raised arbitrariness concerns when no feature of nations could require providing nations alone with special treatment (Buchanan 1997a). Treating self-determination rights as a continuum in which the requirement burden operated at each point left us unable to identify a way in which *national* self-determination rights could be non-arbitrarily recognized when others could not. But if different moral burdens explain differences between self-determination claims, this not only provides insight into the nature of self-determination rights (viz., they differ). It lets us treat them

³¹ Other (plebiscitary, just-cause, etc.) theories of secession may avoid it but also may not sufficiently 'uncouple' the 'rights' (Buchanan 2006) (e.g., many read 'just-cause' as 'failure to respect internal self-determination rights.')

independently. This is a pleasant result: severing self-determination questions is not only necessary because of the different moral burdens operating in them but also because the burdens speak to other differences that should also impact analysis of rights facing each burden.

Treating all claims the same or prioritizing secession rights misunderstands the sociology of nations, kinds of self-determination rights that exist, and related moral burdens. Sub-state nationalists claim that being a ‘national’ group requires unfettered decision-making authority in some areas. Their desires for sub-state governmental decision-making powers can and should be treated independently from their place on a ‘line’ of options from assimilation to secession. Sociologically, states do not always secede due to failures to fulfill other self-determination rights and appear to hold justified powers over social policy absent strong claims to secession. Theoretically, the claims simply trigger different moral burdens in their paradigmatic cases. Strong secession rights can *require* states to provide powers and territory to a nation. Yet Catalonia, to return to an earlier example, is unlikely to secede because it lacks powers over an area of social policy but could justifiably possess power over the area even if it lacks secession rights. Treating issues in tandem or prioritizing secession risks sociological and moral confusion.

Part II nonetheless hints at potentially important moral considerations for discussions of claims that nationhood *requires* forms of special treatment, including secession. Considerations grounding special treatment there provide measures for testing other claims. The moral goods (e.g., self-determination) in Part II are, plausibly, also part of what makes nations worth discussing as potential rights-bearers where the requirement burden operates. If so, we can begin reassessing other nationalist claims by testing the strength of the individual goods that nations realize against the burden for *required* special treatment. If nations’ moral value is tied to

individual self-determination, circumstances where nations are the preferred means of exercising individual self-determination rights are good entry points for assessing other nationality claims.

Stronger nationalist claims are more persuasive where a nation is the sole means of protecting the moral goods grounding valid self-determination arguments. If, e.g., national authority is necessary for the protection of individual autonomy, dignity, or rights, the case for sub-state national control will be more compelling. Where the encompassing state cannot/will not protect those high-value goods, the case for sub-state authority as a mere second-best alternative to secession will be more persuasive still. This may explain why secession appears most compelling when a minority is unable to exercise basic political self-determination in a state, as in the complicated case of South Sudan. The Quebecois' internal political self-determination, for example, explains why they may eventually secede but secession is not required absent negotiation with Canada.³² Concerns limiting claims in the sub-state authority context may similarly limit secession claims. For instance, the above suggests comprehensive national majorities who equate 'nation' and 'state' are objectionable. (a)-(e) are thus consistent with the standard liberal-democratic view that secession should only be possible where minorities are protected. While we should distinguish self-determination 'rights' claims facing different burdens, then, moral considerations that can justify sub-state authority can be relevant for assessing other nationalist claims. But if secession is ultimately only morally required to remedy injustice (Buchanan 1997a), that would not undermine any 'specialness' above.

Finally, my approach is less directly explanatory of the partiality literature but at least suggests nations' moral importance is severable from co-national partiality concerns. Non-ad hoc justifications for special treatment of nations appear possible on partiality-supporting approaches

³² *Reference Re Secession of Quebec*, [1998] 2 SCR 217.

(e.g., (d)’s wider constitutive specification) and cosmopolitan-friendly approaches (e.g., narrow and empirically constitutive specifications that allow groups to treat co-nationals as mere political allies demanding no special moral treatment). The forgoing also offers a test for analyzing national partiality claims: Do they further other moral goods justifying sub-state national authority? If, e.g., individual self-determination is the primary good, freedom to choose to exercise it in concert with others is the secondary good. Partiality that furthers those ends is more likely to be justified. Whether nations produce goods that *could* justify partiality is an empirical question. Data is mixed (Johnston 2017: 155). Future results may be heterogenous. Yet even that explains why national partiality debates are so vexing: ‘Nations’ likely cannot *uniformly* ground partiality. Luckily for nationalists, they need not do so to be morally valuable.

References

- Abbey, R. & Spinner-Halev, J. 2013. ‘Rawls, Mill, and the Puzzle of Political Liberalism’, *The journal of politics* 75, 1: 124-36.
- Anderson, B. 1983/2006. *Imagined Communities*. London: Verso.
- Banting, K. & Kymlicka, W. (eds.). 2017. *The Strains of Commitment*. Oxford: Oxford University Press.
- Barber, N.W. 2018. *The Principles of Constitutionalism*. Oxford: Oxford University Press.
- Bauböck, R. 2001. ‘Multinational Federalism: Territorial or Cultural Autonomy?’, *International migration and ethnic relations*, Willy Brandt Series of Working Papers.
- Bauer, O. 1996. ‘The Nation’, in G. Balakrishnan (ed.), *Mapping the Nation*. London: Verso.
- Béland, D. & Lecours, A. 2006. ‘Sub-State Nationalism and the Welfare State’, *Nations and nationalism* 12, 1: 77
- Béland, D. & Lecours, A. 2008. *Nationalism and Social Policy*. Oxford: Oxford University Press.
- Brennan, G. et al. 2013. *Explaining Norms*. New York: Oxford University Press.
- Brighouse, H. 1997. ‘Against Nationalism’, *Canadian journal of philosophy* 26: 365-405.

- Buchanan, A. 1991. *Secession*. Boulder, Colorado: Westview Press.
- Buchanan, A. 1997a. 'What's So Special About Nations?', *Canadian journal of philosophy* 26: 283-309.
- Buchanan, A. 1997b. 'Theories of Secession', *Philosophy and public affairs* 26, 1: 31-61.
- Buchanan, A. 2006. 'Uncoupling Secession from Nationalism and Intrastate Autonomy from Secession' in H. Hannum & E.F. Babbitt (eds.), *Negotiating Self-Determination*. New York: Lexington.
- Cantillon, B. et al. (eds.) 2011. *Social Federalism*. Cambridge: Intersentia.
- Da Silva, M. 2021. 'Individual and 'National' Healthcare Rights: Analysing the Potential Conflicts', *Bioethics* 35, 8: 734-743.
- De Schutter, H. 2015. 'Territoriality and Personality: Concepts and Normative Considerations' in J-F. Grégoire & M. Jewkes, (eds.), *Recognition and Redistribution in Multinational Federations*. Leuven: Leuven University Press.
- De Schutter, H. 2021. 'Taming Dignity for Multiculturalism', Critical review of international social and political philosophy, online first.
- Eatwell, R. & Goodwin, M. 2018. *National Populism*. London: Pelican.
- Eisenberg, A. & Spinner-Halev, J. (eds). 2005. *Minorities Within Minorities: Equality, Rights and Diversity*. Cambridge: Cambridge University Press.
- Erk, J. & Anderson, L. 2011. *The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?* London: Routledge.
- Goodin, R. 1988. 'What is So Special about Our Fellow Countrymen?', *Ethics* 98, 4: 663-86.
- Gustavsson, G. & Miller, D. (eds.). 2020. *Liberal Nationalism and Its Critics*. Oxford: Oxford University Press.
- Hazon, Y. 2018. *The Virtue of Nationalism*. New York: Basic Books.
- Henderson, A. & McEwan, N. 2005. 'Do Shared Values Underpin National Identity?', 7(2) *National identities* 7, 2: 173-91.
- Hirschl, R. 2020. *City, State: Constitutionalism and the Megacity*. Oxford: Oxford University Press.

- Hobsbawm, E.J. 1990/1992. *Nations and Nationalism Since 1780*. Cambridge: Cambridge University Press.
- Hurka, T. 1997. 'The Justification of National Partiality' in R. McKim & J. McMahan (eds.), *The Morality of Nationalism*. Oxford: Oxford University Press.
- Johnston, R., et al. 2017. 'Diversity and Solidarity' in K. Banting & W. Kymlicka (eds.), *The Strains of Commitment: The Political Sources of Solidarity in Diverse Societies*. Oxford: Oxford University Press.
- Jones, C. 2004. 'Global Liberalism: Political or Comprehensive?', *University of Toronto Law Journal* 54, 2: 227-48.
- Keating, M. 2001. *Plurinational Democracy*. Oxford: Oxford University Press.
- Kymlicka, W. 1995. *Multicultural Citizenship*. Oxford: Oxford University Press.
- Kymlicka, W. 1998. 'Is Federalism an Alternative to Secession?' in P. Lehning (ed.), *Theories of Secession*. London: Routledge.
- Lavoie, J.G., et al. 2015. 'Missing Pathways to Self-Governance', *International indigenous policy journal* 6: 1-21.
- Leclair, J. 1998. 'The Supreme Court, the Environment, and the Construction of a National Identity', *Review of constitutional studies* 4, 2: 372-78.
- Lecours, A. 2001. 'Political Institutions, Elites, and Territorial Identity Formation in Belgium', *National identities* 3, 1: 51.
- Levy, J. 2007. 'Federalism, Liberalism, and the Separation of Loyalties', *American political science review* 101, 3: 459-77.
- Margalit, A. & Raz, J. 1990. 'National Self-Determination', *Journal of philosophy* 87: 439-461.
- McEwan, N. 2002. 'State Welfare Nationalism', *Regional and federal studies* 12: 66-90.
- McKim, R. & McMahan, J. (eds). 1997. *The Morality of Nationalism*. Oxford: Oxford University Press.
- McMahan, J. 1997. 'The Limits of National Partiality' in R. McKim & J. McMahan (eds.), *The Morality of Nationalism*. Oxford: Oxford University Press.
- Miller, D. 1997a. *On Nationality*. Oxford: Oxford University Press.
- Miller, D. 1997b. 'Secession and the Principle of Nationality', *Canadian journal of philosophy* 26: 261-82.

- Miller, D. 2001. 'Nationality in Divided Societies' in A.-G. Gagnon & J. Tully (eds.), *Multinational Democracies*. Cambridge: Cambridge University Press.
- Miller, D. 2020. *Is Self-Determination a Dangerous Illusion*. Cambridge: Polity Press.
- Møller J. & Skaaning, S. 2010. 'Beyond the Radial Delusion', *International political science review* 31, 3: 261–83.
- Moltchanova, A. 2007. 'Nationhood and Political Culture', *Journal of social philosophy* 38, 2: 255-73.
- Moore, M. 1997. 'On National Self-Determination', *Political studies* 45, 5: 900-913.
- Newman, D. 2011. *Community and Collective Rights*. Portland, Oregon: Hart/Bloomsbury Publishing.
- Norman, W. 2006 *Negotiating Nationalism*. Oxford, Oxford University Press.
- Orgad, L. 2015. *The Cultural Defense of Nations*. Oxford: Oxford University Press.
- Parekh, B. 2000. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. Cambridge: Harvard University Press.
- Patten, A. 2014. *Equal Recognition*. Princeton: Princeton University Press.
- Popelier, P. & Cantillon, B. 2013. 'Bipolar Federalism and the Social Welfare State', *Publius* 43, 4: 626-47.
- Pyne Parsons, K. 1973. 'Three Concepts of Clusters', *Philosophy and phenomenological research* 33, 4: 514-23.
- Rawls, J. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.
- Rawls, J. 1993. *Political Liberalism*. Cambridge: Harvard University Press.
- Seymour, M. 1999. 'On Redefining the Nation', *The Monist* 82, 3: 411-45.
- Smith, A. 1986. *The Ethnic Origins of Nations*. Oxford: Basil Blackwell.
- Stilz, A. 2019. *Territorial Sovereignty*. Oxford: Oxford University Press.
- Tamir, Y. 1993. *Liberal Nationalism*. Princeton: Princeton University Press.
- Tamir, Y. 2019. *Why Nationalism*. Princeton: Princeton University Press.

Tan, K. 2000. *Toleration, Diversity, and Global Justice*. University Park: Pennsylvania State University Press.

Tang, H. 2006. 'Confronting Ethnicity-Specific Disease Risks', *Nature Genetics* 38, 1: 13-15.

Tierney, S. (ed). 2000. *Accommodating National Identity*. New York: Kluwer Law International.

Uberoi, V. 2018. 'National Identity-A Multiculturalist's Approach', *Critical review of international social and political philosophy* 21, 1: 46-64.

Uberoi, V. 2021. 'Oakeshott and Parekh: The Influence of British Idealism on British Multiculturalism', *History of political thought* 42, 4: 730-54.

Van Parijs, P. 2011. *Linguistic Justice for Europe and for the World*. Oxford: Oxford University Press.

Weinstock, D. 2014. 'Cities in Federalism' in J. Fleming & J. Levy (eds.), *Federalism and Subsidiarity*. New York: New York University Press.

Weinstock, D. 2015. 'Can Parity of Self-Esteem Serve as the Basis of the Principle of Linguistic Territoriality?', *Critical review of international social and political philosophy* 18, 2: 199-211.