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## **Liberalism and Nationalism**

*Abstract:* Historically, liberal political philosophy has had much to say about who is entitled to nationhood. But it has had rather less to say about how to determine the legitimate territorial boundaries of nations and even less to say about what some such nations, so situated, might owe to others. The object of this paper is to show that the foundational principles of liberalism can generate reasonably determinate solutions to these problems. That is, the very same set of basic rights that liberalism ascribes to all persons is itself sufficient to determine which nations they are members of, where those nations' legitimate legal jurisdictions are located, and what amounts of wealth they each owe or are owed by other nations.

It's a commonplace of political history that, at some times in some places, liberalism and nationalism have *not* been incompatible. More than that, they've been good friends – lending each other vital support, rejoicing in one another's triumphs, holding a shared view of who is the enemy and so forth. Nor, according to Onora O'Neill, has this affinity been merely coincidental.

"In a pre-liberal world, [a person's] social identity might be given by tribe or kin, it might not depend on those who share a sense of identity being collected in a single or an exclusive territory. Because liberal principles undercut reliance on pedigree and origin as the basis for recognizing who count as our own, and who as outsiders, liberalism had to find some alternative basis for identifying who counts. Pre-eminent among these ways are the differential rights with respect to a given state that citizenship confers." (O'Neill 1992, 118)

Liberalism, she seems to be suggesting, has actually *needed* nationalism.

Why? Well, because its hallowed subjects – namely individual persons, each of whom it lavishly adorns with all manner of rights and liberties – find themselves badly in need of some salient form of social identity when they emerge from their various imperial subjugations, ancient and modern. For whatever severe oppression and disempowerment they for so long endured under those subjugations, one thing they did *not* thereby lack was a strong sense of social identity: a sense of identity underwritten by their being officially and principally regarded as members of this family or that clan. That particular form of strong social identity being lost to them in the emancipatory world of liberalism, its only plausible replacement is said to consist in their recognition as citizens, as persons possess-

ing significant and fully-fledged membership in a national group. And nationalism is the celebration of that membership.

So what we have here is essentially a psychological hypothesis with strong political implications. People are said to have a vital need to be socially identified – to be thought of as members of groups – and, moreover, groups whose membership is neither open-endedly inclusive nor primarily elective. Marx (Groucho, that is) once famously remarked that he wouldn't want to be a member of any club that would have him in it. On the present hypothesis, while I might *want* to be a member of a club that would have me in it, what I *need* is to be a member of one that has no choice in the matter.

Now it's certainly beyond my competence to assess either the authenticity of that need or its weight or the grounds for claiming that its incidence has been as widespread as O'Neill suggests. Nor do I intend to dwell on the quite serious degree of practical indeterminacy attending the suggestion that significant membership in a national group is the favoured, perhaps now the *only*, way of satisfying it. That indeterminacy is, these days, the unmistakable message of virtually every headline and news story emerging out of the former Yugoslavia, the former Soviet Union and countless other places around the globe. Just which national membership will bestow on a person the social identity he or she needs is a matter currently being decided, in those places, by repeated resort to distinctly illiberal means.

And this, of course, is the problem about the relationship between liberalism and nationalism. For whatever historical affinities they have shared, whatever services they may have rendered to each other along the way to the modern world, the tensions between them are, and arguably always have been, transparently obvious. Neil MacCormick, the liberal legal philosopher, speaks for many when he rather despondently records that

"Whether 'nation' and 'nationalism' are antithetical to or compatible with 'individual' and 'individualism' is a question of acute personal concern for me. I have been for a good many years a member of the Scottish National Party, and yet remain in some perplexity about the justiciability of any nationalistic case within the terms set for me by the other principles to which I adhere." (MacCormick 1981, 247f.)

More trenchantly, Ernest Gellner describes these tensions as "a tug of war between reason and passion" (Gellner 1971, 149). Why? What's the problem here? Wasn't Hume surely correct to insist that reason is the slave of the passions and that conflict between them is therefore impossible?

We don't, I think, need to disagree with Hume in order to see what Gellner and MacCormick are getting at. Nationalism is associated with passion because its imperatives are inherently particularistic. "This measure is necessary", the nationalist will say, "because it best serves the interests of *my* nation. My nation (or as in earlier times, my tribe or my family) is what matters most. Its wellbeing is far more intimately connected to my own wellbeing and to my sense of who I am than are the sundry other considerations with which it may, and often does, conflict."

Liberalism, in contrast, is associated with reason because its imperatives are universalistic. It indiscriminately assigns rights to everyone. And it adamantly rejects any proposed differentiation of these assignments that invokes bottom-line premises which unavoidably include terms like "me" and "mine".<sup>1</sup> "That this policy would be good for me and mine" cuts no *moral* ice with liberals, because moral judgements – judgements about what *should* be done – have to be drawn from bottom-line premises devoid of any proper name or particular reference. Premises containing such terms may well furnish reasons for *my* doing or having certain things, but they can't – logically can't – furnish reasons for *others* to let me do or have them. They can't serve those others as justifications for measures which require their (passive or active) cooperation: cooperation which would therefore be non-rational.

Not, of course, that liberalism forbids the pursuit of self-interest, whether by individuals or groups. Indeed, the very wide scope it allows for such pursuits has, historically, been the main target of its fiercest critics, among whom nationalists of one stripe or another have figured quite prominently. But what liberalism does forbid are those pursuits of self-interest that cross the boundaries demarcating other persons' moral rights. And the liberal's problem with many nationalisms, past and present, is that they've engaged in just such boundary-crossings on a truly massive scale, especially though not exclusively in relation to members of other nations.

Is this at all avoidable? Can nationalisms be reconciled? And can they be reconciled in such a way as to render the many diverse values, which they severally embody, compatible with one another's and, ultimately, with individuals' moral rights? To ask these questions is to ask whether those rights are sufficient to yield a set of national and international norms which at once allow scope for nations to enact their respective value-sets *and* entail clear limits on how far those enactments may extend. And to answer this question we need first to take a look at what those rights are.

In a recent book on rights, I've argued that at least a necessary condition for any set of rights to be a *possible* set – that is, to be realisable – is that all the rights in it are mutually consistent, or what I there call *compossible* (Steiner 1994, especially ch. 3). The duties corresponding to those rights have to be ones which are jointly fulfillable and not mutually obstructive. By means of a rather extended chain of reasoning, which I certainly won't bore you with here, I try to show that this condition is satisfied only by a set of rights, each of which is (or is reducible to) a discrete property right – one which can be fully differentiated from every other right in that set and which therefore does not (in the language of set theory) *intersect* with any of them.<sup>2</sup> I further argue that, for a set of rights to be like this,

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<sup>1</sup> "Unavoidably", in the sense that the only unconditional objection that the nationalist can offer to any counter-proposal (for a reversed differentiation, or none at all) is that it is contrary to *his/her* particular nation's interest.

<sup>2</sup> That is, the set of physical components (spatio-temporal locations, material objects) involved in performing the obligatory action correlatively entailed by any right does not

it has to have a certain historical structure whereby each current right is one derived from the exercise of an antecedent right. The upshot of all this is that sets of mutually consistent rights are jointly and exhaustively constituted by a subset of ultimately antecedent or *foundational* rights and by the subset consisting of all the rights successively derived from those foundational rights.

Now let's apply these conceptual truths about rights in general to the specific case of liberalism. At the core of liberalism are three normative claims – claims which are not always as carefully distinguished from each other as they should be. The first and, in a way, least exceptionable of these is that foundational or non-derivative moral rights are held by *all* individuals. The second claim, hardly more controversial, is that these rights are the *same* for everyone. Of course, there are several liberalisms and, correspondingly, several competing conceptions of what these rights are. What I've tried to show in that book is that only one foundational right, the right to equal negative freedom, can generate a set of rights that satisfies the compossibility condition I've just described.

It's liberalism's third claim that expresses what is most distinctive about it and that brings it into sharpest contrast with many other moral and political doctrines. And this is that no moral right may be permissibly overridden, regardless of how much social benefit might be achieved by doing so. There are numerous ways of characterising this inviolable status which liberalism assigns to rights: Ronald Dworkin says that *rights are trumps* (Dworkin 1981); Robert Nozick sees them as *side-constraints*, that is, as restrictions on how we may permissibly go about pursuing our other values (Nozick 1974, 28-33); John Rawls assigns them *lexical primacy*, by which he means that all their demands, even otherwise trivial ones, must be satisfied prior to the satisfaction of any other demands, however weighty these others might be (Rawls 1972, 42ff.). Yet another way of characterising the liberal status of rights is to see them simply as *personal vetoes*. Whichever characterisation we prefer, they all point to the same thing: namely, that each person has a set of claims on the conduct of other persons – a set of claims that must not be traded off by political decision-makers and must therefore be honoured irrespective of the cost of doing so.<sup>3</sup>

I suggested, just before, that the foundation of these claims, the basic moral right from which all our other moral rights are derived, is a right to equal freedom. In my book, I argue that this right immediately entails two other near-foundational rights which are construed, in a quasi-Lockean way, as rights to self-ownership and to an equal share of the value of natural resources. In effect, it is exercises of these two rights that then serially generate all the various other moral rights we can have or, more precisely, all the mutually consistent moral rights we do have.

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intersect with corresponding set entailed by any other right. I describe this compossibility requirement as implying that all rights are *funded*.

<sup>3</sup> These claims may, of course, be traded off by the persons vested with them: right-holders can *wave* their rights, thereby extinguishing the duties correlatively entailed by them.

And it's not hard to see that many of the types of right implied by these two have a pretty direct bearing on some of the more salient aspects of nationalism. For it's from the right of self-ownership that liberalism infers such more familiar rights as those against murder and assault as well as rights to freedom of contract and association. And it's the right to natural resources that not only forms part of the basis of legitimate territorial claims but also, and interestingly, generates related requirements for international distributive justice, about which I'll have more to say presently.

Because our main focus here is on territorial claims, I'm not going to dwell for long on the ways in which the liberal right of self-ownership constrains the permissible pursuit of national interests. Most of these ways are well enough known already. Rights against murder and assault have immediate restrictive implications for the conduct of nations' military activities, many of which implications have long been enshrined in various international conventions. Rights to freedom of contract pretty straightforwardly underwrite free trade and proscribe all manner of restrictions on it. Rights to freedom of association crucially entail rights to freedom of *dissociation*: that is, they prohibit the kind of conscription implicit in Berlin Walls. And just as they allow free emigration, they symmetrically prohibit national restrictions on immigration since, whatever social benefits are thought to be secured by such restrictions, they amount to violations of the rights of those citizens who are willing to take outsiders in. So in all these cases, political decision-makers – even *democratic* ones – are morally disempowered from enacting such measures by virtue of the fundamental rights liberalism assigns to each person: rights which it construes as enjoying constitutional status in any legitimate legal system.

Which brings us to territorial claims. I think it's fair to say that territorial claims, though not the *sole* objects of nationalist preoccupation, have probably excited more of its passion than any other type of issue. To be sure, even if nations' territorial claims had everywhere and always been compossible, there would still be lots of other things for nationalists to be exercised about: the preservation of their language and culture, the prosperity of their economy, and so forth. And many kinds of measure designed to advance these concerns are, as I've just indicated, not permitted under liberal principles. But perhaps the simplest and most encompassing measure deployed in behalf of these and other national concerns is, and always has been, the assertion of exclusive claims to territory, to portions of the earth's surface along with the supra- and subterranean spaces adjacent to them. Indeed, the assertion of such claims, if not always their recognition by others, is one of the essential criteria for distinguishing nations from other types of social group. And liberal principles have a very direct bearing on these claims.

The first and most important feature of this bearing is that, for liberalism, all legitimate group claims must be aggregations of – must be reducible without remainder to – the legitimate claims of individual persons. This means that a group's legitimate territorial claims can extend no further than the legitimate territorial holdings of its members or their agents. How do persons acquire legiti-

mate titles to territory? Basically, there are two ways. First, by those titles being transferred to them voluntarily by the previous legitimate title-holders. But second and more fundamentally, by their staking claims to land which is not already claimed by others.

Now, readers of Locke and the voluminous literature exploring these Lockean arguments will be intimately acquainted with all the complexities implicit in that second stipulation. Locke himself explores the possibility of deriving claim-stakers' entitlements *solely* from their rights of self-ownership, suggesting that claim-staking consists in their investing some of their self-owned labour in portions of as-yet-unowned land. But even he acknowledges that this 'first come, first served rule' cannot be the whole story on establishing legitimate land titles. (I'll return to this problem presently.)

Yet for him, for liberals generally and perhaps for many others as well, it remains an important *part* of that story. So any piece of land currently rightfully belongs to whomever it has been transmitted by an unbroken series of voluntary transfers originating in the person who first staked a claim to it. Any interruption of that pedigree, say by unredressed acts of conquest or expropriation, invalidates that current title no matter how innocently its current holder may have acquired it. And needless to say, in our slowly liberalising world of today, much applied philosophy literature and much litigation in American, East European, Australasian and other courts are deeply immersed in trying to figure out which current persons or groups are and are not in possession of legitimate titles to the land they claim on this basis. But however complex many of these enquiries have already proven to be – requiring, as they often do, massive amounts of historically remote data – those liberal principles do yield two rather concrete and highly topical inferences concerning nations' territorial entitlements.

The first of these is the endorsement of a right of *secession*. For although Locke himself (for reasons which remain mysterious) balked at embracing this conclusion (Locke 1967, 364), it is very clearly implied by his principles. That is, precisely because a nation's territory is legitimately composed of the real estate of its members, the decision of any of them to resign that membership and, as it were, to take their real estate with them, is a decision which must be respected. Emigrants are not, under liberal principles, necessarily condemned to leave with only the shirts on their backs and whatever they can cram into their suitcases. Of course, nations may, if they choose, expel members, engage in certain forms of 'ethnic cleansing', etc. But what they may not do is expropriate legitimate land-owners or evict their tenants. Jurisdiction over land, like jurisdiction over persons, is a purely voluntary affair for liberals and it is thus predicated on the agreement of all the parties concerned.

The second inference about national territorial entitlements, and the one which I personally find the more interesting of the two, engages issues of *international distributive justice*. More interesting because, historically at least, liberalism has had conspicuously little to offer by way of a systematic account – one firmly anchored in its own basic premises – of what wealth transfers some nations owe to others. Indeed it's a notorious feature of political theorising in general that the

questions it tends to address are posed at the level of polities taken separately, as if these were hermetically sealed units, with only occasional genuflections in the international direction when it comes to matters of trade and migration and war and peace. But the logical reach of basic liberal rights, although it certainly encompasses these matters as we've just seen, also extends well beyond them. Why? How?

I said previously that, even for Locke, the 'first come, first served rule' is not the whole story on persons acquiring legitimate titles to as-yet-unowned land. This rule, you'll recall, is derived by him from our near-foundational right of self-ownership. But that right is itself only one of the two types of right immediately implied by our most fundamental right, the right to equal freedom. The other one is a right to an equal share of natural resource values. Rights to equal freedom imply *both* of these rights, rather than only the first, in order to prohibit claim-stakers from engrossing too much and thereby leaving others with little or no freedom at all. Locke himself says that claim-stakers, in appropriating a piece of land, must leave 'enough and as good' land for others.<sup>4</sup> But as many writers in the Lockean tradition have long appreciated, this 'enough and as good' restriction is badly in need of some amplification if it is to sustain the freedom entitlements of countless persons who are generationally differentiated.

Accordingly, and again for reasons which would take too long to detail here, some of these writers have interpreted this restriction as a requirement that each person's entitlement, rather than being one in kind – an entitlement to literally an equal portion of land – is one to cash: that is, to an equal share of the *value* of land. This interpretation neatly accommodates the problem of generational differentiation and also takes account of the fact that, for a host of reasons, land values vary over time. The idea, then, is that landowners thereby owe, to each other person, an equal slice of the current site value of their property: that is, the gross value of that property *minus* the value of whatever labour-embodied improvements they and their predecessors may have made to it.<sup>5</sup> Hence the validity of their titles to that land vitally depends upon their payment of that debt.

This has immediate implications for what some nations justly owe to others. Liberalism's basic individual rights being ones of universal incidence, the equality of each person's land-value entitlement is necessarily *global* in scope. Everyone everywhere has a right to an equal share of the value of all land. To respect people's basic liberal rights, whether here or abroad, not only do we have to refrain from murdering or assaulting them, but also we must not withhold payment of their land-value entitlements.

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<sup>4</sup> Locke 1967, 306, 309, 310. That is, the individual right involved is the *negative* one, that no one else appropriate more than an equal portion of natural resources. Waldron 1988, 209-218, however denies that Locke actually intended this 'enough and as good' formula as a restriction on just appropriation.

<sup>5</sup> These values are conceived as periodised ones, that is, as the current *rental* value of the assets involved. The value of labour-embodied improvements is excluded from the calculation of this liability because persons' rights of self-ownership imply unencumbered rights to the fruits of their labour, i.e. provided landowners' liabilities have been met.

Just what those entitlements amount to is obviously going to depend on how many people there are and what the current aggregate global value of land is. Neither of these magnitudes poses insuperable computational problems. We pretty much know, or can do, how numerous various populations are. And people who own or purchase pieces of real estate usually have a fairly shrewd idea of what those sites are worth. Evidently the ownership of an acre in the Sahara Desert is of a different value, and consequently attracts a different payment liability, than the ownership of an acre in downtown Manhattan or the heart of Tokyo. Similar things can be said about real estate in the Saudi oilfields, the Amazon rainforests, the Arctic tundra, the Iowa cornbelt, the Bangladeshi coast and the City of London. No doubt the values of these sites tend to vary with such factors as technological change, population shifts and changing consumption patterns, as well as depletions of extractable resources and discoveries of new ones. But whatever relative variation there might be among these values, there's every good reason to suppose that their aggregate secular trend is unlikely to be downwards. Mark Twain was not giving his nephew unsound advice when he said: "Buy land, son; they're not making it any more."

Since nations' territories are aggregations of their members' real estate holdings, the validity of their territorial claims rests on the validity of those land titles. So nations wishing to sustain the legitimacy of their jurisdiction over these bits of real estate have to ensure that those titles retain their validity. And since states claim exclusive entitlement to the use of force in their societies, including the enforcement of debt-payments, it falls to them to ensure that those land-value payment liabilities are met. To put it in a nutshell, liberal principles demand that *states pay rates*.

In my book, I describe the total revenue yielded by such payments as a *global fund*.<sup>6</sup> Each nation therefore has an equal *per capita* claim on this global fund. And its operation, we might reasonably speculate, would serve to establish a variety of benign incentive structures informing relations both within and between nations.<sup>7</sup> So I'll conclude by briefly mentioning three of them.

First, the global impact of such a fund is bound to be strongly redistributive since the differential incidence of its levies, in conjunction with the *per capita* parity of its disbursements, pretty much guarantee a substantial reduction in international (as well as national) economic inequalities. These international inequalities have always played a not unimportant role in generating high levels of demand for emigration. Under the regime of the global fund, poorer nations, being its net beneficiaries, would find fewer of their members leaving to seek their fortunes abroad. Second, the operation of such a fund might be expected to foster greater willingness to compromise in international boundary disputes (over land whose legitimate title-holders are difficult to identify) by attaching a price-tag to

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<sup>6</sup> For reasons not germane to the concerns of this paper, the sources of the revenues constituting this global fund consist of *more* factors than only land values; cf. Steiner 1994, ch. 8.

<sup>7</sup> Cf. Tideman 1991, for a more extended discussion of some of these incentive structures.



any instance of territorial acquisition or retention. And third, the existence of such a fund would give nations stronger *disincentives* to engage in such odious practices as ethnic cleansing and forced expatriation, since their receipts from the fund would thereby decline with their loss of those members. Indeed, nations might well come to cherish each of their members all the more – to provide them each with a strong sense of social identity – for being sources of guaranteed income!

In short, the whole world might become a bit more liberal, both domestically and internationally. Now, wouldn't that be a Good Thing?<sup>8</sup>

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<sup>8</sup> This paper has benefited from the comments of Simon Caney and Tim Gray.