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## National Self-Determination and Ethnic Minorities

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# NATIONAL SELF-DETERMINATION AND ETHNIC MINORITIES

Olli Lagerspetz\*

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## INTRODUCTION

### A. *The State, the Nation, and the Ethnic Group*

The concept of a nation *explicitly* has only a minor role in the law. The reason is that the nation, unlike the state, is not, for the most part, a 'legal person.' In other words, typically states rather than nations pass laws, conclude treaties and violate them.<sup>1</sup> The nation, therefore, is a community defined by culture and political life rather than by law.<sup>2</sup>

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1. In the late 18th century, treaties were concluded between the U.S. government and Indian nations (I owe this point to Prof. Jordan Paust). Rather than signifying a doctrine about nations as legal persons, however, this might reflect the unwillingness of the U.S. to recognize the other contracting party as a *government*—at a time when the meaning of the word 'nation' was (even) less clearly defined than it is now. In more recent legal discourse, nations have typically been treated as cultural or regional entities with a potential right to self-determination, i.e., to statehood. Nations exist independently of state boundaries, but "it should be recalled . . . that in the legal discourse the only claim that a nation can have is that of right to self-determination, whose implications, especially in multi-ethnic states, have a rather weak if not non-existent status." Kaj-Henrik Impola, *Destiny or Choice? A Study on the Concept of Nation* 19 (1997) (unpublished LL. Lic. thesis, on file with the University of Turku) (citing Richard T. De George, *The Myth of the Right of Collective Self-Determination*, in *ISSUES OF SELF-DETERMINATION* 3 (William Twining ed., 1991).

2. Typically, in legal reasoning notions not originally invented by lawyers are translated into legal concepts. For instance, the law will define the family in certain ways. Legal

However, this is not the whole story. The concept of a nation has been a central part of the dynamics of ideas that, particularly during the last two centuries, paved the way for the creation of the modern state and its legal institutions. Even today, the legitimacy of modern states is closely related to the fact that they are seen as embodiments of particular nations.

The crucial link between the nation and the state is the idea of popular sovereignty. The sovereign, the ultimate *source* of the laws, is neither God nor a monarch but rather the nation, a community whose members are united horizontally by cultural and political ties. With this idea, earlier political units such as *empires* and *dynastic states* lost their legitimacy. They were broken up, absorbed into emerging nation-states, or reconstituted as nation-states.<sup>3</sup>

The generalization of the principle of popular sovereignty entails that each individual people, or nation, should at least be accorded the *right* to create a state of its own—even if this does not rule out multinational, autonomous, or federal states. However, it invokes the often controversial question of exactly who belongs to the same nation. In particular, there is the question of what role ethnic distinctions should have.

Ethnicity, nationality, and statehood are closely linked in their present form. This is due to their common roots in the idea of popular sovereignty, as it has been understood in the Western world for the last two-hundred years. One consequence of this is that the distinction in principle between ethnic and civic nationalism, or between political and cultural nationalism, may to some degree be a red herring. Even ethnicity is in part politically constituted. On the other hand, this means that there is a risk of misunderstanding when these concepts are applied outside their original context of European modernity.

The paper will include three parts. In the first part, the relation between nationality and popular sovereignty is explored. In the second part, there is a somewhat analogous discussion of the concept of ethnicity. In the last part, the conclusions are applied in a discussion of ethnic nationalism.

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and social definitions of the family may in fact pick out different groups of people. Yet the definitions are sufficiently close for us to say that the one is an approximation of the other.

The typical role of the concept of a nation might then be described in two ways. Either we can say that the sovereign state, or 'nation-state,' is a legal approximation of the cultural and political concept of a nation. Or we might also say that the place that a concept of the nation might occupy in the law is, for most purposes, already 'filled up' by the concept of a state.

3. Examples: Austria-Hungary (an empire that was broken up); Prussia, Naples (dynastic states absorbed into the German and Italian nations); China, Luxembourg (an empire and a dynastic state reconstituted as nation-states).

## I. THE RELATIONSHIP BETWEEN NATIONALITY AND POPULAR SOVEREIGNTY

### A. *Popular Sovereignty and Political Culture*

Jean-Jacques Rousseau is considered a founding father of modern nationalism. The actual word 'nation' does not have a prominent place in his writings, but he formulated some of the key issues to which the concept of national belonging purports to provide the answer.<sup>4</sup>

Rousseau's analysis of the ideal society in his *Social Contract* implies that the citizens of a society must have a certain mindset, or political culture, in order for popular sovereignty to be possible.<sup>5</sup> They must engage in political life, not because they expect personal gain, but because they care deeply about the good of their society as a whole.<sup>6</sup> Rousseau also expressed this point with the apparent paradox that the citizen in his ideal society consents to *all* the laws, including those that are passed in spite of his opposition. If I end up on the losing side in a vote, the result "proves nothing more than that I made a mistake and that what I took to be the general will was not."<sup>7</sup> This sounds outrageous—and Rousseau was surely aware of this.

In order to understand Rousseau one needs to consider his key concept, the general will.<sup>8</sup> By distinguishing between "the general will" and "the will of all," Rousseau makes a conceptual point that can be put in the following way: One can raise meaningful questions about what a group wants, *as a group*, only if the deliberation that takes place within the group has a certain character. The individual members must address the issues at hand from the perspective that they think is that of the group as a whole.<sup>9</sup> Otherwise, it will be misleading to say that *the group*, rather than some of its individual members, wants this or that.<sup>10</sup> A vote becomes

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4. I have argued more fully elsewhere for the thesis that representative legitimacy and nationhood are internally related. Ollie Lagerspetz, *On National Belonging, in NATIONALISM AND ETHNIC CONFLICT* 57 (Nenad Miscevic ed., 2000) [hereinafter Lagerspetz].

5. See JEAN JACQUES ROUSSEAU, *THE SOCIAL CONTRACT AND OTHER LATER POLITICAL WRITINGS* 112–16, 142–52 (Victor Gourevitch ed. & trans., Cambridge Univ. Press 1997) [hereinafter ROUSSEAU 1997]; see also ROUSSEAU, *Discourse on Political Economy, in BASIC POLITICAL WRITINGS* 119–127 (Hackett ed., 1987).

6. ROUSSEAU 1997, *supra* note 5, at 113–16, 121–22.

7. *Id.* bk. IV, ch. 2, at 122–25.

8. *Id.* bk. II, ch.2, at 58–59.

9. *Id.* bk. I, ch. 4, at 44–48.

10. *Id.* bk. IV, ch. I, at 121–22. Rousseau is not entirely clear here, however. He says two things: (1) The general will "considers only the general interest" while the will of all, which is "merely" the sum of private wills, "considers private interests." On the other hand, (2) "But remove from these same [private] wills the pluses and minuses that cancel each other out, and what remains as the sum of the differences is the general will." This might be read as implying that the general will after all *is* the sum of private wills. It is the common element

an expression of the general will when the voters “express their opinions *as citizens*” about what is “advantageous to the state,” i.e., to society.<sup>11</sup>

“The general will” is currently not part of our standard political vocabulary; but the idea itself is deeply embedded in the practices of modern democracies. In a modern democracy, a citizen is expected to agree that his or her tax money *may* be used for education, health care, or defense, even if he does not count among the immediate beneficiaries. He may have voted against it, but he recognizes that the collective decision is legitimate.

Now one can see why the idea of national belonging is a natural answer to demands inherent in democratic decision-making. It is important, in order for the constraints that democracy imposes on individual choice to be justifiable, that the political community should strike its members as *natural*. Citizens should see it as a normally unquestioned framework of their action.<sup>12</sup>

### B. *The Nation as Shared Space*

Alasdair MacIntyre quotes the Australian philosopher John Anderson as urging us “not to ask of a social institution: ‘What end or purpose does it serve?’ but rather, ‘Of what conflicts is it the scene?’”<sup>13</sup> This remark (originally made in a different context) is illuminating here. It is profitable to think of the nation as a scene of conflict and interaction, a shared space in which political, cultural and economic activities take place.

Even from an avowedly nationalistic point of view, the great achievement of the nation-builders of the last few centuries was not that of inculcating love of country in us. Rather it consisted of making the nation so well entrenched in our thinking that it is often invisible. The nation has become the *self-evident* scene of much of our thinking. When we speak of health care, or education, or foreign policies, there may be

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that remains when conflicting interests in a society have ‘cancelled each other out.’ However, see again in bk. IV, ch. II at 124: “When a law is proposed in the People’s assembly, what they are being asked is not exactly whether they approve the proposal or reject it, but whether it does or does not conform to the general will, which is theirs.” Finally in bk. IV, ch. I, at 122: “[T]he general will grows mute” when “everyone . . . no more states opinions as a Citizen than if the State had never existed, and iniquitous decrees with no other goal than particular interest are falsely passed under the name of Laws.”

11. *Id.* bk. IV, ch. I, at 122 (emphasis added). Rousseau does not clearly distinguish between state and society. The ‘state’ is, in Rousseau’s terminology, the body politic (the nation) as a whole while ‘government’ includes the administrative apparatus only. *Id.* bk. III, ch. I, at 87–88.

12. See Lagerspetz, *supra* note 4, at 57–74.

13. ALASDAIR MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* 163 (2d. ed. 1984).

deep disagreements. But we will not be disagreeing about *which country's* health care, education, and foreign policies are at issue. It is assumed that "we" must settle these questions collectively, as a nation, for the nation.

It would indeed be unrealistic to describe my relation to most of my co-nationals as one of mutual love. Indeed, if I were required to name persons whom I *hate*, the chances are that most of them would be members of my *own* nation (the Finns). Moreover, if a Finnish politician is included on my list of hate objects, the fact that he is *Finnish* will not be a mitigating circumstance. One reason for my adverse feelings would be exactly the fact that he has something to do with me. As Philippa Foot points out, you cannot intelligibly profess that you are proud of the sky or the sea unless a very special explanation is produced.<sup>14</sup> Similarly, I am proud, or ashamed, or embarrassed, by what Finnish politicians do because I am Finnish.

Thus my national belonging does not imply *specific* attitudes towards my co-nationals. It involves a shared space *within which* my agreement and disagreement with them take place.

It is well known that 'the shared spaces' of modern nations are to a large extent a result of conscious nation-building. The message of nation-building was that the shared space that mattered politically was neither, for instance, the socially exclusive but geographically extended space of the aristocracy, nor just one's particular region, town, or street. The main function of the nation, thus, is not to furnish an object for someone's love or hatred, but to provide a shared space for political and cultural life.

### C. The Creation of Symbolic Place

The bottom line is that a political space remains shared as long as there are people who in fact treat it as shared; that is, as long as there are important issues that we address as shared concerns. But the statement, "there is shared political space if there are people who treat it as shared," runs the risk of circularity.<sup>15</sup> Exactly what do the members of the group share? And who are the members? These questions are interdependent, because the group consists of those who share the same political space; and political space is defined as space that is shared by all group members. A political debate, unless it is frightfully thin, will presuppose

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14. Philippa Foot, *Moral Beliefs*, in THEORIES OF ETHICS 83, 86 (Philippa Foot ed., 1967).

15. A similar circularity is involved in the definition, 'a nation is a collection of people who think they are a nation.' It does not answer the original question: What does it *mean* to think that something is a nation?

independent answers to questions about *who* “we” are. This calls for a political culture generally rooted in the language(s), symbols, and ways of life of a community; life in work and play, friendship, and family.

As Benedict Anderson argued, nation-building was made possible, and perhaps inevitable, by the emergence of mass media and a public who read it.<sup>16</sup> Up until the late eighteenth century, it was usually agreed that the republican form of government was only possible in city states and other small-scale societies.<sup>17</sup> According to Aristotle, popular participation in government was only possible if the citizens could know each others’ characters; in a city where one herald could be heard by all.<sup>18</sup> The emergence of mass media extended radically the range of those whom “the same herald” *could* reach. Readers of the same novels and newspapers were, as Anderson famously remarked, forged into “imagined communities.” They did not personally know each other but they could relate to the same written material, conscious of the fact that there would be others reading the same thing at the same time.

Mass media thus created an imaginatively shared space of places, people, and ideas. Once this imagined space was in place it could be engineered by nation-builders. Music, works of art, school textbooks, and depictions of historical events have provided emerging national lives with such ‘imaginary commons.’<sup>19</sup>

One very striking example is the use of *physical places* as symbols of the nation as a whole.<sup>20</sup> It was brought home to the reading public that the place they were from was a nation or a country<sup>21</sup>—not strictly a place but a more or less abstract entity.

16. See BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* *passim* (1983).

17. CHARLES DE SECONDAT, BARON DE MONTESQUIEU, *CONSIDERATIONS ON THE CAUSES OF THE GREATNESS OF THE ROMANS AND THEIR DECLINE* 91–96 (David Lowenthal trans., The Free Press 1965) (1734); ROUSSEAU 1997, *supra* note 5, bk. III, ch. III at 89–90.

18. ARISTOTLE, *POLITICS* 199 (C.D.C. Reeve trans., Hackett Publ’g Co. 1998).

19. See, e.g., STEN DAHLSTEDT & SVEN-ERIC LIEDMAN, *NATIONALISMENS LOGIK* (1996); Etienne François & Hagen Schulze, *Das emotionale Fundament der Nation, in MYTHEN DER NATIONEN: EIN EUROPÄISCHES PANORAMA* 17–32 (Monika Flacke ed., 1998); Stefan Germer, *Retrovision: Die rückblickende Entfindung der Nationen durch Kunst, in MYTHEN DER NATIONEN: EIN EUROPÄISCHES PANORAMA* 33–52 (Monika Flacke ed., 1998).

20. Etienne François & Hagen Schulze, *Einleitung, in DEUTSCHE ERINNERUNGSORTE* 9, 9–24 (François & Schulze ed., 2001); Pyrs Gruffudd, *Heritage as National Identity: Histories and Prospects of the National Past, in HERITAGE, TOURISM, AND SOCIETY* 49, 49–67 (David Herbert ed., 1995); Pierre Nora, *General Introduction: Between Memory and History, in REALMS OF MEMORY: THE CONSTRUCTION OF THE FRENCH PAST* 1–23 (Lawrence Kritzman ed., 1996); Petri Raivo, *Historialliset maisemat ja maantieteellinen muisti. Näkökulmia sota-historian sijainnilliseen representaatioon, in PAIKAN HEIJASTUKSIA* 141–63 (Raine Mäntysalo ed., 2004).

21. For Jane Austen, “country” still just means *county*. Hence, for the gentry that Austen writes about, to live in the country is to live in one’s estate in some rural county.

“Patriotism” meant originally love of one’s “patria,” i.e., of one’s place of origin.<sup>22</sup> In antiquity, it would not be a sentiment associated with the Roman Empire as a whole but only with some city within it. This is no doubt connected to the difficulty in comprehending a large and variegated stretch of inhabited land as *one* place. Even if there is actually no definition of what constitutes a *place*, there is obviously an upper limit to its size.

Yi-Fu Tuan points out in his work on topophilia, or love of place, that we cannot actually *visualize* the U.S. except as a shape on a map.<sup>23</sup> He suggests, on the other hand (perhaps implausibly), that Shakespeare’s England was still sufficiently small to count as a “patria” in the classical sense.

This happy breed of men, this little world,  
 This precious stone set in the silver sea,  
 Which serves it in the office of a wall  
 Or a moat defensive to a house  
 Against the envy of less happier lands,  
 This blessed plot, this earth, this realm, this England . . .<sup>24</sup>

The connection of patriotism to physical place obviously presented a problem to modern nation-builders. The solution was to set apart (and sometimes actually build) particular sites that were to stand proxy for the whole nation.<sup>25</sup> Student societies and school classes would arrange trips.<sup>26</sup> Others would see pictures in illustrated magazines. A common experience of place would give the nation a tangible reality. Thus Americans supposedly “come from” the Statue of Liberty (and now also from Ground Zero), Serbs from the battlefield of Kosovo Polje, and Swedes from the outdoor museum of Skansen.

It is important that we should be skeptical of this kind of cultural engineering. However, the very existence of imagined communities makes it inevitable that the members will think of their community in terms of *some* shared points of reference. Even in general, the media

22. YI-FU TUAN, *TOPOPHILIA: A STUDY OF ENVIRONMENTAL PERCEPTION, ATTITUDES, AND VALUES* 100 (1990) [hereinafter TUAN].

23. *Id.* at 15.

24. WILLIAM SHAKESPEARE, *RICHARD II*, act 2, sc. 1., quoted in TUAN at 101. One may ask what difference it makes that one would, in Shakespeare’s time, almost invariably approach England from the sea. At first sight England would present itself as a tangible ‘place’ in the horizon. (This suggestion was made by Lars Hertzberg.)

25. See generally DEUTSCHE ERINNERUNGSRORTE (François & Schulze ed., 2001). BILLY EHN, JONAS FRYKMAN, & ORVAR LÖFGREN, *FÖRSVENSKNINGEN AV SVERIGE: DET NATIONELLAS FÖRVANDLINGAR* (1993).

26. Georg Kreis, *Nationalpädagogik in Wort und Bild, in MYTHEN DER NATIONEN: EIN EUROPÄISCHES PANORAMA* 446, 448–49 (Monika Flacke ed., 1998).



tend to create communities of users. MTV, traditional "High Culture," and other forms of cultural communication address themselves to selected audiences to the exclusion of others. We should, however, be conscious of the processes through which unifying symbols are selected and what they imply about the relation between members and non-members.

If Kosovo Polje is singled out as the birth place of the Serbian nation, and if the battle that occurred in 1389 is (inaccurately) described as a clash between Islam and Orthodox Christianity, there will be the additional message that Muslims are not fully acceptable as members of a Serbian nation. The Statue of Liberty is, in comparison, a benign symbol. It stands for a country that welcomes immigrants and outsiders. Yet as a symbol it excludes Native Americans who never arrived in the country as immigrants.<sup>27</sup> On the other hand, Mexico has capitalized on the memories of its pre-Columbian civilizations. But this interest tends to focus on their achievements as builders of cities and empires.<sup>28</sup> Thus the cult of the indigenous serves to highlight the distance between official Mexico and its present, rural indigenous population.<sup>29</sup>

In sum, nation building involves creating a code of symbols that tries to address every member of the nation, plus an education that makes everyone conversant with its symbols. One complication is that ethnic, indigenous, regional or other minorities may find it difficult to identify with the official nationalisms of their countries.

In its present form the nation is a necessary corollary to the idea of popular sovereignty. But the nation is not merely a political (as opposed to cultural) entity. This is because, in the context of a civil society, a shared *cultural* space will also be the prerequisite of a meaningful political life.

## II. THE CONCEPT OF ETHNICITY

### A. *Ethnicity as a Political Concept*

Ethnicity, too, is a political phenomenon in a broad sense of the word. In other words, ethnicity concerns ways in which human groups are organized. At the same time, ethnicity is not political *as opposed to*

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27. People were moving back and forth on the North American continent already before the arrival of Europeans. My description thus tacitly assumes a qualitative difference between these and later population movements.

28. See Katri Pirttijärvi, *Intiaani käsitteenä in KENEN AMERIKKA? 500 VUOTTA LATINALAISEN AMERIKAN VALLOITUSTA* 115 (Jussi Pakkasvirta & Teivo Teivainen eds., 1992).

29. JUDITH FRIEDLANDER, *BEING INDIAN IN HUEYAPAN: A STUDY OF FORCED IDENTITY IN CONTEMPORARY MEXICO* 130(1975); Pirttijärvi, *supra* note 28, at 113-27.

cultural. This is because of the close conceptual links between the notions of culture and group membership.

This relation between culture and group membership cuts both ways. People whose culture is similar will easily associate in groups. But more interestingly, definitions of what counts as similar, or as one culture as opposed to many, or as sharing a culture—these definitions themselves express ideas about who are counted as members of the *same group*.

The Norwegian social scientist Thomas Hylland Eriksen points out that the nobles of the *ancien régime* would have found it absurd to suggest that they shared a culture with peasants.<sup>30</sup> A generation later, that idea would come to some of them as a revelation. But the question whether aristocrats and peasants *actually* participated in the same culture involves the normative question of the relative value and “naturalness” of different kinds of association between people.

Contemporary research on ethnicity treats ethnicity primarily as a principle of social organization.<sup>31</sup> Eriksen defines ethnicity in the following way:

Ethnicity is an aspect of social relationship between agents who consider themselves as culturally distinctive from members of other groups with whom they have a minimum of regular interaction. It can thus also be defined as a social identity (based on contrast vis-à-vis others) characterised by metaphoric or fictive kinship [. . .]. When cultural differences regularly make a difference in interaction between members of groups, the social relationship has an ethnic element. In this way it has a political, organisational aspect as well as a symbolic one.<sup>32</sup>

Thus if someone speaks of an ‘ethnic’ cultural feature he means something that is (1) an ‘inherited’ part of someone’s way of life (hence Eriksen’s reference to metaphoric kinship) and which, above all, (2) is supposed to furnish a basis for distinctions between groups of people.

The introduction of a third criterion, however, is necessary in order to distinguish between ethnic groups and social classes or castes.<sup>33</sup> By

30. THOMAS HYLLAND ERIKSEN, *ETHNICITY AND NATIONALISM* 101 (1993).

31. MARCUS BANKS, *ETHNICITY: ANTHROPOLOGICAL CONSTRUCTIONS* (1996); Eriksen, *supra* note 30; *ROOTS AND RITUALS: THE CONSTRUCTION OF ETHNIC IDENTITIES* (T. Dekker, J. Helsloot & C. Wijlers eds., 2000) [hereinafter *ROOTS AND RITUALS*].

32. ERIKSEN, *supra* note 30, at 12–13.

33. Class differences in general tend to breed cultural distinctions and they are to some extent inherited. On the other hand, some ethnic classifications also imply social class and may indeed come close to a caste system (e.g., ‘indio’ in Latin America; ‘gypsies’ and ‘immigrants’ in Europe). On the other hand, there are historical examples of how a caste distinction turns into an ethnic distinction. See BANKS, *supra* note 31, at 164–65 (discussing the case of Rwanda).

definition, classes constitute parts of a more complex society. One may imagine a classless society but not a society with just one class. In contrast, it is not difficult to imagine a complete society that is ethnically homogeneous.<sup>34</sup> Thus we should add: (3) To call a group “ethnic” is to imply that, in the right conditions, it might imaginably turn itself into a complete society, i.e., a nation. This is not to suggest that most ethnic groups in fact will, or ought to, constitute themselves as nations. This point, however, highlights the tension between nation building and ethnic mobilization.

The definition of ethnicity suggested here implies in fact that some cultural feature of a group may become ethnic or lose its ethnic character. Ethnic divisions emerge and they may even be consciously created (or revitalized) when a cultural feature is invested with political significance.<sup>35</sup> In addition to nation building, one may speak of minority building. This means the striving to consolidate a cultural group as a political force and a potential partner in negotiations with the state. These remarks, however, do not imply that ethnic identities are arbitrarily chosen or faked even if it is true that in a given case they may become matters of debate.

Such debates may centre on two issues.<sup>36</sup> These questions are distinct; at the same time, however, the success of an assumed ethnic group in securing an affirmative answer to either one will provide arguments in favor of a similar answer to the other. The first question is: Is the envisaged social identity a viable one? Put differently, is it able to assert itself and gain legitimacy as the basis of a community, or as a genuine minority, in its own right? The other question is whether the relevant group is justified in its claim to distinctness.

The former is to some extent a factual question because it concerns the amount of available resources. The latter question can neither be answered on purely factual grounds nor *a priori*. It means asking whether a supposedly ethnic division in a given case is ethnic. In other words, one needs to ask whether a division described as ethnic makes sufficient difference in the real life of a society. How often, and on what kinds of occasions, does it influence group relations? But the answer may also

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34. However, as Eriksen points out, in order for the word ‘ethnicity’ to be applicable there must still be a contrast between *this* society and a neighbouring one with which it has regular contacts. ERIKSEN, *supra* note 30, at 12.

35. Marjut Anttonen, *Ethnic Revitalization and the Politics of Identity among Finnish and Kven Minorities in Northern Norway*, in *ROOTS AND RITUALS* 37–52 (2000). The author describes the emergence of ‘ethnopolitics’ in northern Norway. Also see other contributions to the same volume.

36. This was pointed out to the present author by Prof. Lars Hertzberg.

imply a political stand about what kinds of difference one holds as sufficiently important.

One's Protestant or Catholic faith defines one's ethnic identity in Northern Ireland<sup>37</sup> but not in other parts of the U.K. Why is Catholicism, then, ethnic in Northern Ireland but not elsewhere in Britain? Clearly this has to do with the political role of the religious division, especially the differential treatment of the two groups in the past by the English state. For this reason denominations have as a matter of fact become a main organizing principle across a large spectrum of the social life of Northern Ireland.<sup>38</sup>

Maps are now published where the territory of Iraq is divided into three parts defined as Kurd, Sunni Muslim, and Shia Muslim. Will it be realistic to see each of these divisions as ethnic, as in Northern Ireland? While Kurds have actually fought for self-determination, demands for territorial autonomy by either the Shia or the Sunni are seemingly non-existent. Might it be more correct to draw the distinction between the two Muslim denominations as an analogy of, say, that between Protestants and Catholics in Germany? To find the answer one would need to study exactly on what kinds of occasions the inhabitants perceive themselves as belonging to separate groups.

### B. *Objective and Subjective Ethnicity*

The definition of ethnicity that I have described contrasts with some practices of earlier generations of ethnologists. In what was the dominant approach well into the twentieth century, ethnicity was considered a combination of objective traits of individuals—attributes that would infallibly pigeonhole their bearers into peoples, tribes, or races. Indeed it seems that many recent philosophical discussions of ethnic nationalism still tacitly assume exactly this.<sup>39</sup>

The identification of ethnicity with common individual attributes or shared descent frequently created difficulties. It was often hard to find a distinctive trait common to *all* the group members. Not all Basques of Spain and France really speak Euskara (the Basque language) and not all Catholics of Northern Ireland believe in Transubstantiation, the Assumption, and the infallibility of the Pope. Facts like this sometimes motivate skepticism about how genuine these, or other, group identities really are. Sometimes anthropologists would circumvent difficulties by claiming

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37. BANKS, *supra* note 31, at 42.

38. Rosanne Cecil, *The Marching Season in Northern Ireland: An Expression of Political-Religious Identity*, in *INSIDE EUROPEAN IDENTITIES* 146–66 (Sharon McDonald ed., 1993).

39. LIAH GREENFELD, *NATIONALISM: FIVE ROADS TO MODERNITY* 11 (1992); PER BAUHN, *NATIONALISM AND MORALITY* 16 (1995).

that some members of the groups they were studying had lost their genuine identity due to mixed marriages or external influences. Then they would simply describe the presumed characteristics of the unadulterated racial type.<sup>40</sup>

If ethnicity concerns patterns of social organization—and not the possession of cultural traits by individuals—such complexities will be less disquieting. On this view language, religion, etc. rather constitute centres of gravity for the members' cultural orientation.

This highlights the fact that 'culture' is never, in any case, something into which you are just born. Just as a Christian believer would not call herself Christian merely because she is born of Christian parents, culture is not passively owned. It literally means the *cultivation* of one's skills, knowledge, judgment, and other faculties.<sup>41</sup> A human being receives a culture as his inheritance but will never actually come into the active possession of it all. Perhaps someone (say, a Finn) wants to know how to iron shirts, repair a window frame, or read Latin. He must learn these things, but they are also in some sense part of the Finnish-cum-European culture to which he already belongs. Here to say that it is his culture means that he accepts it as a *standard* by which he judges his own achievements.

Similarly, to be part of the Basque culture involves treating Euskara, and the cultural life that goes with it, as a centre of one's cultural gravity. The survival of Euskara as a spoken language will be a natural concern even for Basques who do not speak it as their first language.

It is illuminating now to think once more about the analogy that is frequently drawn between ethnicity and kinship. In the present article, ethnicity has been described as a quasi-political, and thus in some sense voluntary, form of association. One may feel that such an emphasis will weaken the hold of the kinship analogy. It would be easier to see the connection between ethnicity and kinship if one held onto the nineteenth century association between ethnicity and race as a biological category.

It can be argued, however, that the traditional view misrepresents not only ethnicity but kinship as well. Kinship is not a biological, but a social category. Rousseau captures this when he notes that you can meaningfully say that ancient men lived in families only if you are refer-

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40. See, e.g. III THE ENCYCLOPAEDIA BRITANNICA 487 (11th ed., 1910) (definition of 'Basques'); XIX THE ENCYCLOPAEDIA BRITANNICA 344 (11th ed., 1910) (definition of 'Negro'); see also JAMES G. FRAZER, THE GOLDEN BOUGH 177 (MacMillan Company 1923) (distinguishing between 'the true negro culture' and 'the disturbed negro form of society').

41. See, II OXFORD ENGLISH DICTIONARY 1248 (1933) (defining 'culture' as 'cultivating or development (of the mind, faculties, manners, etc.); improvement by education and training.')

ring to the period *after* social relations were established *between* families.<sup>42</sup>

Consider the family as a primordial unit. Biologically, one remains the child of one's parents whatever happens. However, the family itself is a social institution. Families break up and recombine. Family ties—for instance, the status of in-laws, stepchildren, boyfriends, and cousins—will be understood differently in different societies and in the minds of different individuals.

Traditional views on ethnicity among scholars were no doubt influenced by the particular situation on the European continent. European ethnic units often later developed into nations. This created a need to determine the ethnic character of contested regions and individuals.<sup>43</sup> Scholarly classifications were fed back into popular thought and then back again into academia—or perhaps rather, the people concerned *made use of* them in their search for political identity.<sup>44</sup> What ethnic identity now in fact means, is a result of this interaction between scholars and popular political consciousness.

In many areas outside Europe, the situation is different. Classifications by scholars do not necessarily match the actual experiences of those concerned. Many ethnic groups only exist in the minds of ethnologists.<sup>45</sup> There is nothing to guarantee that the classifying features that ethnologists would select as crucial are so perceived by the population.

For instance, a map of the languages of Mexico does not necessarily say much about what the people of a particular locality in Mexico think about themselves.

The Tzotzil are described as one of the many ethnic groups of Southern Mexico. In their relations with outsiders, however, the persons concerned would typically identify themselves not as Tzotzil but as people of a particular locality (such as the municipality of San Pedro). In other cases they would classify themselves as farmers (*campesinos*). Outsiders might call them “Indians” (*indios*), but then typically with the intention of marking them off as backward and uneducated. The Tzotzil anthropologist Jacinto Arias describes himself first of all as an inhabitant of San Pedro, but also as a “Highlander,” belonging to a larger humanity

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42. Jean-Jacques Rousseau, *Discourse on the Origin of Inequality*, in BASIC POLITICAL WRITINGS 25, 49 n. 12 (Hackett ed., 1987).

43. Thus ethnicity was supposed to be a guiding principle for the Versailles, St. Germain, Trianon, and Sèvres treaties in 1919–20. It was also invoked in subsequent demands of revision.

44. The role of scholars was particularly conspicuous in the ‘national awakenings’ taking place in nineteenth-century Eastern and Central Europe. See ANDERSON, *supra* note 16, at 66–79.

45. ERIKSEN, *supra* note 30, at 87–88.

of Highlanders.<sup>46</sup> On the other hand, the situation might change for various reasons. For example, if indigenous communities are granted collective ownership of particular lands, there may be a need for new definitions of membership.

### III. ETHNIC NATIONALISM

#### A. *Ethnicity vs. Consent*

There are close similarities between the concepts, or logic, of nationality on the one hand and ethnicity on the other. These similarities shed some light on an issue that has been central in scholarly discussions of nationality and nationalism. This is the contrast between voluntaristic and deterministic definitions of the nation, or between civic and ethnic criteria of membership. The debate has both a semantic and a normative aspect. It concerns either what the word "nation" means, or what ways of defining the nation are morally preferable.

In an 1882 lecture at Sorbonne on the subject "*What is a Nation?*," Ernest Renan, the famous French scholar, minimized the role of ethnicity in his definition of the nation.<sup>47</sup> To Renan, the nation is "a continuous plebiscite."<sup>48</sup>

A large collection of men, sound in spirit and warm in their hearts, create a moral self-consciousness [*une conscience morale*] which is called a nation. As long as this moral consciousness shows its effectiveness through sacrifices involved in individual self-denial for the sake of the good of the community, it will be legitimate, it will have the right to exist.<sup>49</sup>

Renan takes his voluntaristic stance to imply that ethnicity could not be an intelligible basis for claims about nationhood. One reason is that he, like many other thinkers in his time, assumes that ethnic groups are something like racial categories. According to Renan, the irrelevance of "ethnographic categories" is shown by the fact that all the major European nations are of "mixed . . . blood"; for instance, Italians are made up of "Gauls, Etruscans, Pelasgians, Greeks, not to mention other elements . . . in an undecipherable mixture."<sup>50</sup> Having dismissed race as a classify-

46. Pirttijärvi, *supra* note 28. The author is quoting Jacinto Arias, *The "Numinous" World of the Maya* 7 (1970) (unpublished Ph.D. dissertation, Princeton University).

47. ERNEST RENAN, *Qu'est-ce Qu'Une Nation?* (1882), in *OEUVRES COMPLÈTES DE ERNEST RENAN* 887 (1947).

48. In French, "un plébiscite de tous les jours." *Id.* at 904.

49. *Id.* at 906 (author's translation).

50. *Id.* at 896 (author's translation).

ing principle, Renan argues in the following section for the irrelevance of language—*because* language does not coincide with race.<sup>51</sup> This puzzling argument is, perhaps, a symptom of the hold that ideas of race had on academics at the time.

Contemporary anthropologists used the length of the skulls of individuals as a central—and supposedly scientific—basis for their classification into races.<sup>52</sup> Renan toys with the consciously absurd idea of establishing separate states for the long-headed and broad-headed elements in Europe. He also imagines an anthropologist measuring the skull of a war veteran (presumably an Alsatian from the Franco-Prussian war of 1870–71), and then telling him: “You have made a mistake; you have shed your blood for this cause. You were thinking that you were a Celt; but actually, you are Germanic.”<sup>53</sup> Further, he suggests that research might show ten years later that the man was racially neither a German nor a Celt but a Slav.<sup>54</sup>

The absurdity of Renan’s thought experiment is due to its implicit suggestion that a person’s loyalties—a matter of active commitment—could be dictated by something to which he is completely indifferent.<sup>55</sup> The general lesson is that any attribute of individuals—such as descent, language, or religion—will be relevant for their national affiliation only if the individuals themselves *think* it is relevant; in other words, if this relevance is somehow shown in their ways of life. The final court of appeal is “man, his desires, his needs.”<sup>56</sup>

It is important that Renan was writing in the wake of the Franco-Prussian war of 1870–71. France had lost the region of Alsace-Lorraine/Elsass-Lothringen, an area whose inhabitants spoke forms of German (today increasingly classified as independent Germanic languages rather than dialects) but were politically loyal to France. His listeners would know he was referring to this conflict when he suggested that populations of contested areas should decide which country they should belong to for themselves.

Similar arguments may apply today when territories are carved along supposedly ethnic lines. Many of us are skeptical of the sudden

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51. *Id.* at 899–900.

52. *Id.* at 887. *See, e.g.* II THE ENCYCLOPAEDIA BRITANNICA 113 (11th ed., 1910) (definition of ‘Anthropology’).

53. RENAN, *supra* note 47, at 899.

54. *Id.* at 887.

55. Renan might of course have discussed the role of some more conspicuous racial characteristic such as skin color. But even if racism is influential in many walks of life, I imagine few racists would actually be enthusiastic about creating a nation where skin color is the *only* criterion of membership. Biological characteristics are used to *exclude* someone from an existing community, but on their own they do not *create* communities.

56. RENAN, *supra* note 47, at 905.



“discovery,” after years of peaceful coexistence and intermarriage—if you can speak of intermarriage where neither of the parties *think* they are marrying outside their own group—that the Muslims, Catholics, and Orthodox Christians of Bosnia belonged to three self-contained cultural spheres “traditionally” engaged in mortal combat.

On the other hand, neither the fact that language and religion are unimportant in *many* situations of political relevance, nor the fact that manipulative politicians *sometimes* exploit them, can be taken to show that language and religion can *never* be relevant for the definition of nationhood. If the final appeal is “man, his wishes, his needs”—then you must simply ask them what they think is important—and thus the question of the relative importance of religion or language cannot be solved *a priori*.

Renan’s argument shows, rather, that the individuals’ actual practices of treating certain issues as something they share with a particular group of others are what settle the question. The actual role of ethnicity in the formation of such practices must, then, be an empirical issue.

Renan’s skepticism about ethnic criteria of nationality would be justified if ethnicity were *only* attributed to individuals from the outside, as a supposedly objective discovery by ethnologists. But I have already argued that it is more fruitful to define ethnicity as an umbrella term for cultural features and patterns of association that in fact establish social affiliations and divisions. In other words, if we agree that there are different ethnic groups in a society, then we have already agreed that there will be divisions in some contexts. These may or may not be pervasive enough to be justly called national divisions.

Renan is in fact sufficiently nuanced at least in part to concede this possibility, despite his official adherence to the principle of political rather than ethnic nationhood. The nation is constituted, he claims, by two circumstances that actually amount to the same thing.

The one lies in the past, the other in the present. The one is the common inheritance of rich memories; the other is the consent of the present generation, its wish to live together, its wish for all future to uphold the undivided inheritance that it has received.<sup>57</sup>

This quote shows two things. Renan thinks of the nation as in some sense a voluntary creation. But he realizes that individual choice is not exercised in a vacuum: “Man, Messieurs, does not improvise.”<sup>58</sup> We are born into a historical situation with already defined, shared cultural and political spaces at our disposal. In a given historical situation language

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57. *Id.* at 903–04.

58. *Id.* at 904.

may be of importance: "language invites union; it does not force union."<sup>59</sup>

The crucial question about the role of ethnicity is, then, not whether there are divisions, because that question is already settled. Rather, one should investigate whether these divisions in a given society imply significant differences in the citizens' relation to the state.

### B. *Ethnic Minorities and the State*

The existing connections between ethnicity and nationality are due to the requirement that the political space of a nation must be shared. Each member of the community should in some relevant sense (a sense agreed to be relevant) have the same kind of access to what is shared. As Rousseau puts it, in order for the general will to be general, unanimity is not required, but every vote must count.<sup>60</sup> If the voice of some group in society is systematically silenced, then that group will in certain ways cease to be part of the society.

This may happen in at least two ways. Perhaps a group or a region financially receives less than its fair share of the common resources. Or perhaps political debate on the whole tends to look at things from the point of view of just *one* group or region while the experiences of others are marginalized. One obvious reaction is for those excluded to press for recognition as full-fledged parts of the nation. Civil rights movements have this aim. But even avowedly secessionist movements may in fact result from already existing exclusive practices by the majority. The activists typically claim that the group they represent has in effect already been excluded from the shared space of the nation.

Conflicting tendencies among ethnic minorities and majorities need consideration. Members of minorities may accuse the state of deliberately suppressing their distinctiveness. In other cases, on the contrary, members of a culturally distinct group who wish to be part of the main body of the nation feel they are discriminated against. Members of the majority, on the other hand, frequently accuse the minority of being free riders, of refusing to assimilate into the mainstream while still wanting to enjoy the benefits of full membership. To some extent these points apply both to ethnic and other (for instance, sexual) minorities. One should recognize, however, that ethnic minorities may face issues that cannot simply be absorbed into a general wave of identity politics.

First of all, ethnic differences are often language differences. But language is essential in more or less every social activity. For this reason, a large number of otherwise unconnected issues may have an ethnic

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59. *Id.* at 899.

60. Rousseau 1997, *supra* note 5, bk. II, ch. II, at 58 n.1.

aspect. The recommended class size at schools, urban sprawl, roads, reservoirs and power plants, administrative boundaries, real estate prices—all may have radical effects on one's chances to use and make oneself understood in one's own language. The fear that the living space of one's language might disappear because of immigration is not simply a version of the narrow-minded wish not to live in a mixed neighborhood. Rather, it concerns the very survival of a language as a natural medium of social life. In contrast, immigration does not typically affect one's chances to be gay or lesbian. These considerations apply to regional ethnic minorities. Such minorities may demand regional autonomy or secession. An ethnic group with a territory of its own can try to constitute itself as a nation.

Many of the points raised in this article apply mainly to historical (autochthonous) regional minorities. The case of diasporas or minorities with an immigrant background is somewhat different. Most immigrant minorities cannot realistically opt for secession as a solution. But a condition all ethnic minorities share is their potentially troubled relation to the predominant nation in the state where they live.

For reasons already given, it will not be possible, in conclusion, to say very much *a priori* about exactly which groups should count as ethnic minorities. The central point is rather that the question is answered by looking into actual patterns of interaction between groups in a given society. These patterns, rather than objective attributes of individuals, settle the question.

It is also clear that some groups will have more well-grounded claims than others to cultural distinctiveness. Similarly, some may advance better cases than others for compensations for past injustices. Again, such issues must be addressed on a case-by-case basis rather than *a priori*. It will also not be possible to give definite guidelines about when secession will be justified. But there is at least a minimum requirement, the role of which Elizabeth Anscombe once compared to the role of absolute zero in physics.<sup>61</sup> A government that declares a group of people as its enemies, to be exterminated like vermin, cannot, by definition, at the same time *represent* the very same people. If the group in question inhabits a distinct territory there will be a clear case for secession. Specifically, one may consider repeated statements by the present Russian administration, including President Putin, on the subject of Chechnya.<sup>62</sup> There is also a strong case, but perhaps not an equally com-

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61. G.E.M. Anscombe, *On the Source of the Authority of the State*, 20 *RATIO* 1 (1978), reprinted in *ETHICS, RELIGION AND POLITICS* 130, 155 (1981).

62. MATTHEW EVANGELISTA, *THE CHECHEN WARS: WILL RUSSIA GO THE WAY OF THE SOVIET UNION?* 70, 74–75 (2002).

elling one, when a government merely singles out a minority culture as alien and detrimental to the nation as a whole.

### CONCLUSION

Neither nationality nor ethnicity can be understood in terms of objective attributes of individuals only. Rather, they are forms of human association. Thus they are dependent on the fact that the group members themselves understand their relations to each other in a certain way. Like civic association, national and ethnic belonging concern the ways in which human beings share something with each other. In all three cases, a common language of symbols must be involved in the creation of a political and cultural shared space.

For this reason, questions about cultural unity and diversity belong to the very fabric of political life in a democratic society. They arise naturally from the requirement that the political space of a nation must be shared. The situation of ethnic, national, and indigenous minorities cannot be properly understood without considering their (sometimes troubled) relation to the nation state. Exactly how to settle such issues (i.e. how to respond to demands for autonomy or secession), however, must be determined on a case-by-case basis.