Political Obligation and Political Secession

Michael Tomz
Department of Government
Harvard University
Cambridge, MA 02138
voice: (617) 495-8283
email: tomz@fas.harvard.edu

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As the twentieth century draws to a close, centrifugal forces are threatening the territorial integrity of multicultural states. From Bosnia and Chechnya to Sri Lanka and Somalia, secessionist movements are warring to achieve politically independent governments and ethnically homogenous communities. Separatist tendencies have also reached western soils; Francophones in Quebec, Basques in Escudi, and even disgruntled taxpayers on Staten Island, New York, have recently clamored for greater autonomy. According to one estimate, active campaigns for either full sovereignty or lesser degrees of political self-determination now operate in more than sixty countries, one-third of all members in the United Nations.[2] Each day the political and ethnic dissonance continues to mount.

The swelling number of secessionist movements has evoked a vigorous response from political philosophers, many offering their own reflections on the morality of secession. Ranging from the unconditionally permissive to the highly restrictive, their new theories engage such challenging topics as the nature of liberal democracy, the importance of cultural health, the concept of collective rights, and the content of distributive justice. Strangely, the emerging literature devotes scant attention to the problem of political obligations, one of the most prominent issues in nineteenth-century debates surrounding the Southern secession from the American Union. Furthermore, the few pieces mentioning political obligations conclude, almost invariably, that such obligations pose no moral hurdles for separatist movements. This article contends, on the contrary, that political obligations can subvert the legitimacy of secession.

1. Existing Theories of Secession

Before considering existing perspectives on secession, I should clarify what I mean by both political obligations and political secession. The former term denotes a set of moral obligations to support and obey certain political institutions and associated authorities in one's country of residence. Within the liberal tradition, political obligations normally enjoin people to

obey the law and provide military service.[3] I aim to demonstrate that the same obligations can also constrain budding secessionists. Secession or separation occurs when an individual or a collective gains political independence by redrawing state boundaries. To warrant the secessionist label, a breakaway movement must liberate both people and territory from an existing government; the same movement must also produce an independent country while leaving a remainder state. Without the requirement of independence, secession could overlap with irredentism, which occurs when an ethnic group in one state retrieves kindred people and physical territory from a geopolitical neighbor.[4]

Most commentators on the morality of secession make no mention of political obligations. Typifying a lenient attitude which has become prevalent in the literature, Michael Walzer advocates "democracy in international politics" by supporting secession "whenever separation is demanded by a political movement that...represents the popular will."[5] Similar views appear in the work of Lung-Chu Chen and Thomas Pogge.[6] Each of these authors qualifies his tolerant position, but none acknowledges the relevance of political obligations to separatist controversies.[7] Arguing from cultural rather than democratic values, Avishai Margalit and Joseph Raz, as well as David Miller and Yael Tamir, defend secession as instrumental to the prosperity and dignity of "encompassing groups" but overlook the possibility that political obligations might weigh against national self-determination.[8] Even the most restrictive theories, embodying a weighty presumption against secession, fail to cite the moral force of political obligations among the many reasons for curbing separatist endeavors.[9]

Although the pertinence of political obligations has not escaped every author, those addressing the subject usually insist that moral bonds between people and polities do not impair the right to secede.[10] Daniel Philpott, for instance, claims that "the right to self-determination remains intact" and undiminished, "no matter which liberal democratic basis of [political] obligation one adopts...."[11] In his sophisticated study of the ethical issues raised by secessionist movements, Allen Buchanan endorses a similar conclusion: "[R]egardless of what position we take on either the tacit consent view or the fair play view, each of which can be construed as stating either the necessary or sufficient conditions for political obligation, these views provide

no arguments for (or against) secession...."[12] The conclusion apparently holds, for Buchanan, even though breakaway movements must "sever their obligation to the political authority of the state" in order to secure completely sovereign status.[13]

Perhaps the most striking analysis of the link between political obligations and secessionist aspirations appears in the writings of Harry Beran, who contends that his "membership version" of consent theory actually *enhances* the case for secession. Beran begins with the premise that people should not remain subject to a political power to which they no longer consent. Any person may withdraw consent and escape coercion through emigration or secession. In the only world that we now know, financial and emotional costs, as well as the unsavory character of alternative regimes, often disqualify emigration as a reasonable option for quitting the state. If secession, the other method of political departure, were not permissible, then some people would remain subject to a political power of which they no longer approve. It follows, according to Beran, that individuals and groups should enjoy the right to secede *whenever* separation is both "desired and feasible."[14]

Against these authors, I contend that political obligations arising from actual consent and fair play can weaken the justification for secession. Philosophers since Plato have indicated that moral bonds connecting people to their communities can qualify the right to leave. Viewing political obligations as obstacles to flight, the Socrates of Plato's *Crito* remained in Athens and forfeited his life. I maintain that the same genre of moral obligations can challenge the legitimacy of secession, another form of political exit. Nevertheless, I regard these obligations as neither ubiquitous nor absolute. Political obligations threaten the case for secession only under certain conditions, and even when these conditions obtain, the resulting obligations provide inconclusive arguments against independence movements. Sometimes complete separation will supply the only escape from genocide or repression, wrongs weighty enough to override political obligations and re-establish the legitimacy of secession.

This article addresses one (neglected) dimension of the separatist question; a fuller normative theory would say more about political obligations and other topics germane to "the morality of political divorce."[15] Such a theory might look beyond actual consent and fair play to

consider political obligations allegedly flowing from notions of utility, gratitude, hypothetical consent, and natural duty. A more copious analysis would also develop criteria for determining the permissibility of secession when political obligations do not obtain or such obligations compete with other values. Finally, a more thorough study would confront the issue of violence: under what circumstances may breakaway movements, central governments, and third parties exercise force to influence secession? These issues lie beyond the scope of this article, which investigates how actual consent and fair play, two sources of political obligations, can affect the legitimacy of secession.

2. Actual Consent

Consent theory models political obligations on the special duties and correlative rights that arise from promise-making. An individual promises by communicating her intention to behave in a certain manner and indicating her awareness of the obligations to perform. Whenever certain conditions, such as the absence of coercion and misinformation, are satisfied, the promisor incurs moral obligations to act or forbear according to the terms of the promise. At the same time, the promisee acquires a right to demand performance from the other party.[16] The relevance of such philosophizing to political obligations should be readily apparent. Through personal promises and their conceptual relatives (agreements, consents, contracts, and oaths), people can commit themselves to a polity.[17] A pledge of allegiance to a particular state can, under appropriate circumstances, generate moral obligations to support that state and endow its authorities with correlative rights to demand obedience.

An individual can pledge allegiance to the state, and thereby assume political obligations, either expressly or tacitly. What has come to be known among political theorists as "express consent" usually involves linguistic conventions. People consent expressly to a political authority by uttering a formula such as an oath, signing a contract like a constitution, or forging an agreement through a joint declaration. "Tacit consent," on the other hand, involves silence or passivity. Possible indications of tacit consent include maintaining residence and casting votes in

a particular polity. In this section, I discuss both express and tacit consent. Deploying examples from American history, I show that at least one version of consent theory can undermine the legitimacy of secession.

2.1 Express Consent

Throughout the nineteenth century, many American politicians averred that express consent posed legal and moral obstacles to Southern secession. When South Carolina threatened to declare independence during the nullification crisis of the 1830s, President Andrew Jackson defended the Union by emphasizing "obligations among the states," which "expressly gave up the right to secede" by entering the Articles of Confederation and ratifying the new Constitution. Both documents, on Jackson's reading, forbade political divorce.[18] Three decades later, President Lincoln articulated a similar argument to justify the Civil War. According to Lincoln, the Southern states consented to a "more perfect" and "perpetual" union by acceding to the US Constitution. Consequently, the Confederate forces bore strong obligations to abide with their Northern brethren, and the federal government held correlative rights to resist the wrongful secession.[19] After the war, the Supreme Court echoed Lincoln's position, ruling that Texas had consented to an "indissoluble relation" which entailed "all the obligations of perpetual union."[20]

Of course, separatist forces saw the matter differently. Resounding a theme which Hume developed in his incisive essay on the "original contract," advocates of Southern independence denied that the dead past could impose political obligations on the living present. Either personally or through their representatives, some rebels -- particularly those from Texas and Florida, which became states in 1845 -- had sworn their allegiance to the Union before declaring for the Confederacy. Many Southerners of the Civil War period, however, had neither uttered a vow nor signed a contract fastening themselves to an unbreakable association. Instead, they emerged involuntarily into a political system which their ancestors created. Express consent did not laden these Southerners with moral requirements to eschew secession, because they never pledged themselves to an ongoing relationship.[21]

Although valid, the Humean objection does not indict the narrower thesis that consenting *can*, under appropriate empirical conditions, raise moral problems for separatist movements. Actual consent theory begins from the premise that individuals should, as much as possible, direct their own lives by their own decisions. For this reason, the choices of one generation should not bind subsequent cohorts inescapably. Nevertheless, actual consent theory does insist that individuals who personally pledge their allegiance to a political power have moral obligations to comply with its directives. Likewise, those who promise not to secede are morally bound to remain with the union. Such promises emerge most frequently during periods of nation-building, including the tumultuous phases of American history culminating in the Articles of "perpetual union" and the US Constitution. In our own era, the proliferation of states and the emergence of new constitutions is, once again, creating opportunities for citizens and their leaders to abjure or reserve the right to secede.[22]

A more ambitious Southern argument denied that express consent could *ever* obligate *any* generation, including one which had already consented, to remain with the Union. Anticipating Beran and Philpott by more than a century, some Confederate sympathizers asserted that consent theory logically sanctions (and never hinders) secession. The national organ of the Republican party, for example, hailed the "great principle embodied by Jefferson in the Declaration of American Independence, that Governments derive their just powers from the consent of the governed." From this principle, the paper deduced that, "if the slave States, the cotton States, or the gulf States only, choose to form an independent nation, they have a clear moral right to do so."[23] Adherents to this view understood an act of departure as a supreme expression of non-consent, an exhibition of dissatisfaction with the reigning authorities. Pushing a similar line, Philpott asks rhetorically: "[I]f a group wants independence or local autonomy, what is it doing if...not explicitly denying its consent to the present state?"[24]

Whatever intuitive appeal the ambitious argument musters, it ultimately fails to support independence where people have *previously* renounced the option to secede. Briefly, the argument conflates withholding consent and withdrawing it. Most exponents of consent theory would concur that each individual has a moral right to choose whether or not she will issue a

promise. Analogously, each person enjoys the option of withholding, rather than granting, consent to a particular state by refusing, in the first instance, to pledge her allegiance to the relevant authorities. But once an individual has issued a promise or declared her consent, she cannot retract the pledge without just cause. Withdrawing consent is tantamount to breaking a promise. Beran and Philpott accurately characterize a declaration of independence as a demonstration of non-consent, but that demonstration constitutes a moral wrong, a violation of the political obligations which arose from the initial expression of patriotic consent.

A reference to the moral principles underpinning international law should illustrate how consent theory can oppose secession. According to international law, each state possesses juridical personality to enter treaties with other countries and multilateral organizations. When two or more states forge an agreement and express their intent to be bound by its terms, the principle of *pact sunt servanda* enjoins the parties to honor their commitments, unless a material breach, a fundamental change in international conditions, or some other occurrence renders the treaty inoperative. It is not uncommon for states, having ratified a treaty, to wish that they could escape its requirements, and maverick leaders sometimes abrogate their agreements. The international community regards such behavior, not as a legitimate expression of non-consent, but as a grave legal and moral wrong. In treaty law, as in the consent theory of political obligation, parties must keep their agreements, including those which abjure secession.

There remains, however, at least one tactic for salvaging the thesis that consent theory always supports and never challenges the right to secede. This tactic, like Robert Paul Wolff's defense of philosophical anarchism, trades on an alleged incompatibility between moral autonomy and political authority.[25] Suppose, as seems correct, that moral autonomy is the foundational value undergirding the consent theory of political obligations. The salvagers might contend that anyone submitting to the state and forswearing the right to secede necessarily loses her moral autonomy. It follows that consent theory cannot inhibit breakaway movements without compromising the moral value at its own base. In the name of autonomy, then, consent theory must uphold the separatist option and invalidate every promise to abstain from seceding.[26]

The tactic which I have just described cannot rescue the pro-secessionist thesis, because it

does not demonstrate an inevitable incompatibility between moral autonomy and perpetual political union. Far from curtailing autonomy, promising represents a deep expression of personal independence and self-direction. A pledge to forgo secession, like a promise of enduring friendship, enables people to mature and stabilize their capricious wills. The resulting autonomy seems far richer than any conception which, by precluding binding relationships with other people and political authorities, would encourage individuals to live for the moment, with no sense of durable goods and lasting commitments.[27] Furthermore, the political obligations arising from express consent do not supply indefeasible reasons for action, excluding or outweighing all other grounds. Notwithstanding her political obligations, each person should decide autonomously whether secession is justified, after considering all the relevant arguments.

Granting that some forms of express consent can oppose secession, an apologist for the Confederacy might rejoin that the Southern states issued *open-ended* promises, incapable of tarnishing the case for independence. The apologist might found her argument on a precept which gained popularity in the nineteenth century: "[I]f a compact between the states assign no term for its continuance, then the states have a right to secede from it at pleasure." Observers held that the US Constitution, unlike the Articles of Confederation, did not contain any explicit provision for a "perpetual union," nor did it specify a date for its own expiration. An open-ended compact, the Constitution obligated Southerners only insofar as they wanted to comply. By withdrawing their consent to the American Union, the Southern states, beginning with South Carolina in December 1860, gained freedom to establish their own country and disobey the US government.[28] The central principle animating the Southern position also appears in business law: if a contract for employment neither prohibits resignation nor stipulates a period of retainer, the employee may resign after giving proper notice.

The foregoing rejoinder (which applies only to termless compacts) proceeds too quickly, because it ignores whatever legitimate expectations the Northern states may have formed when the Southern states acceded to the American Union. Setting aside any interpretive disputes about the precise language of the US Constitution, many people believed, perhaps with good reason, that all parties to the Constitution had forsworn the option to secede. President Lincoln

expounded one basis for this belief in his first inaugural address: "Perpetuity is implied, if not expressed, in the fundamental law of all national governments. [N]o government proper ever had a provision in its organic law for its own termination." Lincoln added that the original states, finding inadequacies in the Articles of "perpetual union," had ordained a new Constitution to render the union "more perfect."[29] If Southerners had fostered legitimate expectations of perpetuity by pledging allegiance to the Constitution, then they bore moral obligations to protect those expectations by remaining with the Union.

Ascertaining whether a termless compact encouraged *legitimate* expectations about a perpetual relationship is a delicate matter.[30] Here, I flag two crucial questions. First, did the promisor warn the other parties that she could escape the compact at any point, or that her obligations would not endure beyond a certain date? Clear and timely warning can discredit an expectation of perpetuity that might otherwise cause an open-ended promise to bind indefinitely. Second, did either party behave negligently -- the promisor by ignoring the reasonable expectations that she was likely to encourage, or the promisee by overlooking the character and aims of the one who promised? If a promisor negligently creates an expectation of perpetuity, then she incurs moral obligations to fulfil the expectation. Conversely, an act of negligence by the promisee does not conjure the type of expectations that gives promises their binding strength. Regardless of how one settles these vexing questions in each unique case, the overall conclusion survives: express consent, whether open-ended or termed, can spawn obligations that oppose secession.

2.2 Defeating and Terminating Conditions

The potential for any particular instance of consent to threaten the overall legitimacy of secession will depend, in part, on the presence or absence of "defeating conditions," which prevent promises from acquiring moral force. One defeating condition concerns the awareness and intention of the promisor. In his pathbreaking text on political obligations, John Simmons has asserted that an express declaration never obligates an individual, unless she "intentionally"

signals her consent "with a clear understanding of its significance."[31] The position of Simmons would entail that separatists who never intended to abjure secession have no consent-based obligations to refrain from leaving, no matter which signs they made and expectations they inspired. A more intuitive position, one I recommended in the context of open-ended promises, acknowledges that reckless or deceptive behavior can raise legitimate expectations which justify political obligations, even though the promisor intended otherwise.

A second defeating condition precludes people from acquiring obligations by making promises with the aim of generating moral warrants for breaking previous pledges.[32] More concretely, the members of a separatist movement, having sworn allegiance to a political union, cannot (without just cause) obligate themselves to strive for independence, simply by vowing to secede from the state. Historical evidence from the nineteenth century indicates that this second defeating condition can play an important role in separatist disputes. After a compromise tariff defused the nullification crisis, South Carolina adopted a "test oath" requiring military and civil officers to swear primary allegiance to the state and only conditional loyalty to the Union.[33] During the Civil War, Southern rebels similarly pledged to support the Confederacy and resist the US government.[34] These promises might have contradicted previous pledges to remain members of the United States.[35]

A third defeating condition with special relevance to separatist disputes involves the presence of coercion. Roughly, coercion exists when an individual creates unpleasant conditions, such as the threat of violent harm, to induce a promise from another party, even though the promise might have obtained under more congenial circumstances. It is important to distinguish coercion from force, a species of duress arising from unpleasant situations which the promisee did not create.[36] Forced promises often bind, but coerced ones standardly do not generate either moral obligations or correlative rights, because coercion offends the voluntaristic component of moral autonomy at the heart of consent theory. The coerced party may renege on her promise, and the coercing party enjoys no right to performance.[37]

The presence of coercion can affect the morality of secession. In the years following the Civil War, many Southern leaders, through the state constitutions which they drafted and signed,

expressly renounced the right to secede. The reconstructed constitution of Arkansas pledged the "paramount allegiance" of every citizen to the federal government and denied the people any privilege to depart from the Union. The new charter in Raleigh likewise vowed that North Carolinians would forever remain loyal members of the United States; the document explicitly waived all separatist rights. Florida, Mississippi, South Carolina, and Virginia followed suit by adopting constitutions which relinquished the right to secede.[38] These express pledges probably did not establish moral bonds between the Southern leaders and the postwar Union. Products of coercion, the pledges emerged partly because Northern states maintained occupational armies below the Mason-Dixon line until the Southern states renounced the separatist option.[39]

Whether express consent challenges the legitimacy of secession will also depend on "terminating conditions," which strip promises of whatever moral force they once exhibited. A particularly controversial terminating condition concerns violations of bilateral and multilateral agreements. During the 1850s, several Northern states nullified the fugitive slave laws by refusing to enforce national extradition statutes within their state borders. Two decades earlier, President Jackson joined nearly every state in declaring nullification both incompatible with the Union and contrary to the Constitution. If Jackson interpreted the Constitution correctly, then the Northern states violated the federal charter several years before the Civil War. Carrying the argument one step further, some Southerners claimed that the Northern breaches invalidated the US Constitution for all states, thereby releasing Confederates from their legal and moral obligations to abide with the American Union.[40]

The Confederate argument fails, because it ignores an important distinction between joint agreements and independent promises.[41] If the Southern states had forged a joint agreement with the Northern ones, then each state would have voiced its willingness to ratify the Constitution in conjunction with the others, and no state would have acquired obligations without the simultaneous and interdependent commitment of its partners. When the Northern states violated the "agreement" by nullifying national laws, the Constitution would have ceased to obligate the Southern states. On the contrary, the empirical record suggests that each state pledged its allegiance to the Constitution through a sequential and independent promise, rather than a

simultaneous and joint agreement. As Margaret Gilbert has noted, independent promises retain their moral weight, despite the behavior of other parties. Material breaches terminate joint agreements but leave independent promises fully intact.

I have drawn from American history to highlight several conditions which must obtain before express consent can undermine the legitimacy of secession. Aspiring separatists must have pledged their allegiance to a political union and raised legitimate expectations about its perpetuity, where the idea of "legitimacy" accounts for negligence and duplicity as well as intention. If their pledges did not contradict prior promises (without just cause) and were made outside a coercive context, then the separatists will have a moral reason to remain with the union, unless a material breach has terminated their consent-based obligations. The reader should recall that a moral reason differs from an all-things-considered judgement. Promise-breaking can frustrate legitimate expectations, but promise-keeping may neglect competing obligations of greater moment.

2.3 Tacit Consent

When the empirical conditions for express consent do not prevail, theorists sometimes cite tacit consent to explain political obligations. One of the earliest arguments from tacit consent appears in the *Crito*, in which the state reminds Socrates that he lived contentedly in Athens for seventy years. By remaining within Athenian jurisdiction, Socrates allegedly signaled his satisfaction with the government and tacitly promised to obey its laws.[42] John Locke suggested a similar standard for tacit consent in his *Second Treatise of Government*. According to Locke, people consent tacitly to political authority by placing themselves within the dominion of a particular government. More universal than express consent, Locke's version of tacit consent appears to obligate everyone automatically.[43]

For reasons which he never fully expounded, Locke believed that express consent obliterates the right to leave but denied that tacit consent produces the same effect. The express consenters in Locke's theory obligate themselves to remain "perpetual" subjects of the

commonwealth. These people may not recover their natural liberty, unless a calamity destroys their government or an ordinance terminates their citizenship. On the other hand, individuals offering nothing more than tacit consent may quit the commonwealth at any time, either to join a different state or to establish a new one.[44] In holding this view, Locke probably endorsed one or both of the following statements: (1) tacit consent binds less powerfully than express consent; (2) tacit consenters never forswear the right to leave, whereas express consenters always do.

Neither ground for the Lockean position seems persuasive. The first statement confuses a mode of promising with its capacity to bind. Tacit consent bears the appellation "tacit," not because it generates weaker obligations than express consent, but because individuals give such consent through silence or passivity. Whether express or tacit, a promise to refrain from leaving supports moral obligations to do just that. The second statement is false, logically if not empirically. An individual could consent expressly to a political authority while reserving the right to exit freely. Likewise, someone could make a tacit pledge to forgo secession, one form of political exit, without committing any category mistake or other logical error. Locke failed to show why tacit consent cannot function like its express counterpart in obligating people to remain with the state.

More recently, two philosophers have contended that tacit consent cannot oppose secession, because the Lockean theory suffers a foundational flaw. Liberals commonly assert that tacit consent relies on nothing more than voluntary actions. On the contrary, both Lea Brilmayer and Allen Buchanan insist that the doctrine of tacit consent depends on a prior assignment of territorial sovereignty. If residence in a territory counts as consent to authority, then the state must *already* wield legitimate sovereignty over the territory in question, such that it can demand consent as a condition for residence In the opinion of Brilmayer, tacit consent cannot explain this prior assignment of territorial jurisdiction, so it cannot "play the foundational role" in justifying state power and hindering political secession.[45]

The foundational argument contains a kernel of truth. In a penetrating article on the Lockean theory of political obligations, John Bennett identifies two conditions, at least one of which must prevail before a particular behavior signals tacit consent in *all* cases where people

display that behavior. "Either the action is not of interest to anyone for its own sake, or I have a right to prohibit people from making the sign" without assenting to my demands.[46] Locke's residential standard for tacit consent does not meet the first condition. A decision to remain in one country rather than leave for another often reflects cultural, familial, economic, and political needs existing independently of any desire to extend consent to a political power.[47] Thus, mere residence will not constitute tacit consent in all instances, unless each state possesses and utilizes prior authority to prohibit non-consenters from living in "its" territory.

Nevertheless, the foundational argument does not prevent tacit consent from blocking secession. Where a state already enjoys legitimate authority over a particular territory, such that it may require residents to abjure secession, each tacit promise to remain with the state can supply an *additional* reason to refrain from seceding, provided that the promises are not the results of coercion. Conversely, a state which lacks prior authority to prohibit secession can amass that authority through a gift of the people, who pledge themselves, either expressly or tacitly, to uphold the union. Unfortunately, the state may not infer consent from every act of residence, and no reliable method exists for determining which residents have consented tacitly. Barring the emergence of widespread conventions concerning the relationships between residing and promising, express consent will oppose secession with greater clarity than a residential standard of tacit consent.

3. Fair Play

The principle of fairness provides a second warrant for political obligations and a potential barrier to unrestrained secession. This principle, which H. L. A. Hart suggested in a seminal article, states that an individual who accepts benefits from a cooperative scheme has obligations, arising from fairness, to assume some of the scheme's burdens. The same principle also grounds correlative rights: When I appropriate the fruits of your cooperative efforts, you may legitimately demand that I lend my support. The fairness principle rests on the appealing premise that we should not gain from the labors of others without contributing our fair share.[48]

Political theorists have developed two versions of the fairness principle to explain the existence and pervasiveness of political obligations. The first version, which I label the participatory argument, characterizes liberal democracies as cooperative schemes for making collective choices about governmental policies. These democratic schemes benefit voters, who have opportunities to shape public policies through elections and referenda; the schemes also burden voters, who must uphold the results of the decision-making process. If voters accept benefits by casting ballots, then they must also assume burdens by obeying public laws. The participatory argument explains why voters may not observe laws selectively or withdraw participation unilaterally the moment legislation seems to go the wrong way.[49]

A different version of the fairness principle does not require electoral participation. This second variant, which I call the goods argument, portrays the state as a coordinating institution which directs the financial and physical contributions of citizens to provide important benefits for members of the polity. The state produces private (excludable) benefits, such as transfer payments and toll roads, which it grants to some members and denies to others. The state also produces public (non-excludable) benefits, such as civil order and national defense, which it cannot restrict to certain citizens. The goods argument obligates individuals who enjoy public and private benefits to support the schemes that make such benefits possible.[50] Both versions of the fairness principle affect the morality of secession. In this section, I consider each version in turn.

3.1 The Participatory Argument

During the American Civil War, President Lincoln and other Unionists asserted the participatory argument to denounce the Southern secession. Noting that Southerners had balloted voluntarily in the national elections of 1860, Lincoln maintained that the South should willingly accept the political outcome, even though the results disappointed many Confederates. The president protested that Southern rebels had acted unfairly by playing the electoral game and expecting Northern compliance when national laws served Confederate causes, but then

withdrawing precipitously when the political tide turned against Southern interests.[51] Given the appropriate empirical conditions, the participatory argument can raise moral hurdles for separatist groups, not only in American history but also in contemporary democracies.

A breakaway movement might attempt to escape the participatory argument by citing any number of "voiding conditions," akin to the defeating situations which prevent actual consent from generating political obligations. One voiding condition depends on the level of voter turnout. The participatory argument binds people who accept benefits by casting ballots; it does not obligate individuals who boycott elections and, therefore, bypass an important opportunity to influence public policy. It follows that aspiring separatists can liberate themselves from the participatory argument by skipping one or more political contests. Nonparticipation may not clear the moral ledger immediately, because separatists who won their way in previous elections may owe lingering debts to their co-citizens, but boycotting would eventually cancel a potent objection to political independence.

A second voiding condition involves procedural rules for converting electoral preferences into political results, such as legislative seats or public policies. Participation cannot generate political obligations unless the decision-rules operate fairly. This important qualification matches the moral intuition that people need not contribute equally to a cooperative scheme which treats them unequally. Of course, the notion of a fair procedure remains highly controversial, particularly in light of statistical research showing that all decision-rules advantage some voters over others.[52] Nevertheless, most theorists would agree that any tolerably fair procedure must allow each individual to express an opinion and influence the outcome. By contrast, a method empowering a dictator or an oligarchy to determine collective choices seems highly unjust.

Unlike the Southerners of antebellum America, the Bengalis of East Pakistan could rightly complain about flagrant bias in their decision-making procedures. When Britain partitioned India in 1947, it begot a Pakistani state composed of two wings. From that date, electoral peculiarities and elite manipulation systematically distorted the pattern of democratic influence to profit Westerners at the expense of Easterners. For several decades, the Bengalis,

who accounted for fifty-six percent of the national population, could hold only a handful of posts in the administration and the army. Problems intensified during the early 1970s, when elite minorities contrived to ignore the unambiguous results of the national election. Responding to an overwhelming victory by the Awami League, the People's Party threatened a parliamentary boycott and subsequently initiated a civil war. The participatory argument did not obligate the Bengalis, who seceded from Pakistan in 1971.[53]

Even in countries with fair and democratic procedures, a third voiding condition can prevent political participation from binding permanent minorities to remain with the state. The participatory argument assumes that all voters will secure political benefits at some point; groups who suffer in one election will garner greater influence in subsequent rounds.[54] This expectation of rotating benefits confronts a wealth of empirical evidence showing that some minorities never shape public policies, despite the procedural safeguards of free speech and unfettered association. The Moros, an Islamic minority in the overwhelmingly Christian Philippines, have registered electoral victories in the Sulu Archipelago but have never affected national legislation. Perennially powerless, the Moros endure governments they cannot form and laws they cannot influence.[55] If permanent minorities like the Moros never win electoral benefits, then the participatory argument will not endow them with political obligations.

Finally, separatist groups can escape the participatory argument by demonstrating how fair procedures have yielded substantial injustices. Philosophers have not, and probably never will, converge on an authoritative definition of unjust outcomes, yet some instances of substantial injustice seem relatively uncontroversial. Today most observers would denounce slavery in antebellum America and genocide under Adolf Hitler, even though both policies commanded the support of enfranchised majorities and the leaders they elected through nominally democratic mechanisms. When procedural and substantive justice clash, aspiring separatists should assess the gravity and depth of the unjust result.[56] In some cases, it may prove possible for the aggrieved party to repeal the heinous laws through legal mechanisms or civil disobedience. If neither balloting nor disobedience can eliminate the harm, then a sufficiently severe substantive injustice will overwhelm the procedural obligations attendant upon the

participatory argument and eliminate one objection to political secession.

3.2 The Goods Argument

The goods argument, a second interpretation of the fairness principle, obligates individuals who accept state benefits to contribute a share of their resources toward providing those benefits. Enemies of secession have sounded the goods argument to reproach breakaway movements. In the decades preceding the American Civil War, the US government spent millions of dollars to acquire southern lands from Spain. The same government also vanquished the natives of Florida, relieved the debt of Texas, improved the Mississippi River, built coastal fortifications, and established customs houses. When leaving the Union, Confederates appropriated these federal investments, provoking President Lincoln and Senator Douglas, among others, to accuse the secessionists of behaving unfairly by snatching governmental benefits without paying for them.[57] More recently, Mikhail Gorbachev criticized Lithuania's refusal to compensate the Kremlin for money it poured into the Baltic states.

It is important to note, at the outset, that the goods argument does not oppose secession *per se*; it merely indicts separatists who gain from the labor of others without contributing a fair share. If the Southern commissioners and the Lithuanian separatists had established arbitration boards to adjudicate financial matters and repay outstanding debts, then obligations of fairness would not have sullied their declarations of independence.[58] Unfortunately, the issue of fair compensation involves tremendous complexities which I can only flag here.

Initially, the appropriate level of economic compensation will depend on the *net* flow of financial resources. John Calhoun calculated that the US government extracted more revenue from Southerners than it returned in investments.[59] Separatist groups in the former Soviet Union likewise protested that Moscow exploited the Baltic states and central Asia to supply manufactures and cotton for the other republics.[60] The Basques have long resented paying thirteen percent of the taxes in Spain while securing only five percent of the state benefits, whereas the Katangans once chanted that their enclave had become the "milk cow" for the whole

Congo.[61] In these and other cases, the remainder state might owe financial compensation to the breakaway group, rather than *vice-versa*.

The precise amount of financial compensation will also depend on the moral demands of welfare rights. This article has focused primarily on the special obligations and correlative rights arising from promises and cooperation, but more general duties and moral rights inhere regardless of contingent events. For instance, welfare rights entitle everyone to a certain quantity of basic goods, such as food, clothing, shelter, education, and medicine. This is not the place to enter an extended discussion of the justification for welfare rights. Suffice it to say that, whatever their foundation, welfare rights could compel either the secessionist region or the breakaway state to transfer economic resources to needy individuals. More specifically, welfare rights might require one region to become the milk cow for its political neighbors.

In situations where the breakaway group owes financial recompense to the remainder state, separatists might attempt to escape their moral obligations by insisting that they never *accepted* state benefits, where "accepting" involves some notion of taking voluntarily. As a member of the Soviet empire, the politically weak Lithuanian republic, for example, could neither refuse nor choose investments, which the central authorities thrust upon them. If the Lithuanians never accepted benefits from the Kremlin, they might deny that the fairness principle ever obligated them to remunerate their benefactors. Allen Buchanan has exonerated Lithuania with the following analogy: If you trespass on my land and seize my house, then I owe you no compensation for the improvements you make during your unwelcome occupation. Similarly, the Lithuanian separatists owe no socio-economic debt to their Soviet oppressors, who annexed the Baltics in 1940.[62] The analogy gains its force from the attractive but (I will argue) erroneous intuition that individuals need not pay for imposed benefits.[63]

Advocates of secession might try to fortify their position by proving that people cannot "accept" public goods in an appropriately voluntary sense; the public goods are, by definition, pushed upon them. Most states can and do provide private benefits, such as special police protection and agricultural extension services, to people who request them. These individuals signal that they accept private benefits by pursuing the items actively and obtaining them

successfully. By contrast, states which supply public goods, such as national defense and civil order, must furnish those goods to all residents, who cannot choose between accepting and declining. If the imposition of benefits cannot generate obligations to repay, then a state which provides public goods to separatist hopefuls will not, by providing the goods, foster moral obligations that weaken the case for secession.

The premise in the foregoing two paragraphs is false, because people sometimes have moral obligations to pay for state goods that are imposed upon them. In his writings on fair play, George Klosko has coined the phrase "presumptive benefits" to characterize those goods which appeal to all rational people, whatever life plan each decides to pursue. Klosko counts physical security and bodily integrity as two presumptive benefits, which the state supplies by maintaining a national defense and preserving the public order. Most people do not take voluntary steps to "accept" the benefits of defense and order. Nonetheless, rational individuals *would* regard the benefits as worth having, despite the expense of the cooperative enterprise that makes the benefits possible, so the individuals are under moral obligations to pay a fair share of what the goods cost.[64]

More recently, Klosko has widened the principle of fairness to encompass what he calls "discretionary" public benefits. An abridged list of discretionary benefits might include highways, sewers, and schools, which seem desirable but not indispensable for human well-being. Klosko asserts that the state cannot adequately provide presumptive goods without first supplying discretionary benefits. For instance, satisfactory defense in the modern age requires efficient transportation, reliable communication, robust industry, and effective education. Although people do not take active measures to acquire discretionary benefits, rational individuals would recognize that discretionary benefits -- especially those necessary to support the existence of presumptive goods -- are worth the price of producing them. Consequently, the principle of fairness obligates people to contribute a share to the creation and maintenance of discretionary public benefits.[65]

If Klosko is correct, then secessionist groups of appropriate rationality and adequate knowledge would have accepted many benefits which the central authorities imposed upon them.

For instance, the Southerners of antebellum America would have welcomed national defense, debt relief, commercial support, and public works. (An appeal to counterfactuals may be unnecessary here, since Southern congressmen usually constituted a majority of the legislators voting to bestow federal funds on the slave-holding states.) The Lithuanians, for their part, might have accepted industrial aid if Moscow had afforded them any say in the matter. Regardless of the empirical reality in these particular cases, the theoretical point endures: separatists who gained from the cooperative efforts of their former co-citizens should compensate the losers according to the principle of fairness.

4. Conclusion

I conclude that political obligations arising from actual consent and fair play can undermine the legitimacy of secession. It is surprising that more philosophers have not acknowledged this possibility, since disputes over the nature and ground of political obligations commanded considerable attention during the nineteenth century, when the American South played the separatist card. Citing arguments from consent and fairness, the Northern states denounced the Confederate declaration of political independence as a breach of legal and moral obligations. Without passing a conclusive judgement on the Southern secession, I have borrowed and refined the Northern arguments to specify conditions under which two theories of political obligations can oppose separatism on moral grounds. My discussion of actual consent and fair play represents an important but overlooked component of a larger puzzle, a normative framework for determining whether or not secession is justified.

Notes

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2. Mortin H. Halperin, David J. Scheffer and Patricia L. Small, *Self-Determination in the New World Order* (Washington, DC: Carnegie Endowment for International Peace, 1992).

3. For a wider notion of political obligation, embracing duties to improve the collective life of one's community, see Bhikhu Parekh, "A Misconceived Discourse on Political Obligation," *Political Studies* 41, no. 2 (June 1993): 236-51.

4. Donald L. Horowitz, "Irredentas and Secessions: Adjacent Phenomena, Neglected Connections." *International Journal of Comparative Sociology* 33, nos. 1-2 (January-April 1992): 118-30. The independence requirement also distinguishes separatist controversies from mere boundary disputes.

5. Michael Walzer, "The New Tribalism," *Dissent* 39, no. 2 (Spring 1992): 165, 169.

6. Lung-Chu Chen, "Self-Determination and World Public Order," *Notre Dame Law Review* 66, no. 5 (1991): 1287-97; Thomas W. Pogge, "Cosmopolitanism and Sovereignty," *Ethics* 103, no. 1 (October 1992): 48-75, esp. 69-75.

7. A less nuanced view asserting an *absolute* right to secede appears in Robert W. McGee, "A Third Liberal Theory of Secession," *Liverpool Law Review* 14, no. 1 (1992): 45-66.

8. Avishai Margalit and Joseph Raz, "National Self-Determination," *Journal of Philosophy* 87, no. 9 (September 1990): 439-61; David Miller, "The Nation-State: A Modest Defence," (Unpublished manuscript, Nuffield College, Oxford, 1993): 15-21; Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993), ch. 3.

9. See, e.g., Amitai Etzioni, "The Evils of Self-Determination," *Foreign Policy* 89 (Winter 1992-93): 21-35; Alexis Heraclides, "Secession, Self-Determination and Nonintervention: In Quest of a Normative Symbiosis," *Journal of International Affairs* 45, no. 2 (Winter 1992): 399-420; and Gerald F. Powers, "Testing the Moral Limits of Self-Determination: Northern Ireland and Croatia," *Fletcher Forum of World Affairs* 16, no. 2 (Summer 1992): 29-49.

10. A possible exception is Lea Brilmayer, "Secession and Self-Determination," *Yale Journal of International Law* 16, no. 1 (Winter 1991): 177-202, esp. 184-85. In rejecting the notion that

consent theory encompasses a right to secede, Brilmayer notes that "philosophers have managed to justify state power quite nicely without actual consent." She does not explain, however, which theories justify state power and how they oppose secession.

11. Daniel Philpott, "In Defense of Self-Determination," forthcoming in *Ethics* 105, no. 2 (January 1995), 367.

12. Allen Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder: Westview Press, 1991), 73.

13. Allen Buchanan, "The Right to Self-Determination: Analytical and Moral Foundations," *Arizona Journal of International and Comparative Law* 8, no. 2 (1991): 48. See also Buchanan, "Self-Determination and the Right to Secede," *Journal of International Affairs* 45, no. 2 (Winter 1992): 353, for an admission that secession involves the "severing of a political obligation."

14. Harry Beran, *The Consent Theory of Political Obligation* (London: Croom Helm, 1987), 37, 59, 67, 125. Philpott affirms that consent theory supports secession in his forthcoming article, "In Defense of Self-Determination," 367-68. For the related view that consent theory requires the option of unimpeded exit, see James S. Fishkin, "Towards a New Social Contract," *Nous* 24, no. 2 (April 1990): 221-22.

15. The phrase belongs to Buchanan.

16. A persuasive account of why promises bind is Thomas Scanlon, "Promises and Practices," *Philosophy and Public Affairs* 19, no. 3 (Summer 1990): 195-220.

17. On the similarities and differences among promises, agreements, consents, contracts, and oaths, see Charles Fried, *Contract as Promise: A Theory of Contractual Obligation* (Cambridge, MA: Harvard University Press, 1981), chap. 1; Margaret Gilbert, "Agreements, Coercion, and Obligation," *Ethics* 103, no. 4 (July 1993): 688-96; Scanlon, "Promises and Practices," 223-26; and Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), 75-77.

18. Andrew Jackson to Nathaniel Macon, September 2, 1833, quoted in Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (Oxford: Oxford University Press, 1987), 184-85.

19. Abraham Lincoln, "First Inaugural Address -- Final Text," in *The Collected Works of Abraham Lincoln*, edited by Roy P. Basler (New Brunswick, NJ: Rutgers University Press, 1953), 4: 265-66. For a nearly identical perspective by an erstwhile Unionist who later served as vice-president of the Southern Confederacy, see the speech by Alexander Stephens in *Secession*

Debated: Georgia's Showdown in 1860, edited by William W. Freehling and Craig M. Simpson (Oxford: Oxford University Press, 1992), esp. 55-56.

20. Texas v. White, 74 US 700 (1869): 724-26.

21. Albert Taylor Bledsoe expresses this view with considerable force in *Is Davis a Traitor, Or Was Secession a Constitutional Right Previous to the War of 1861?* (Baltimore: Innes and Co., 1866), 135. Critiques of the doctrine that one generation can bind the next include Hume, "Of the Original Contract," in *Essays Moral, Political, and Literary*, rev. ed., edited by Eugene F. Miller (Indianapolis: Liberty Classics, 1987), esp. 471; and Thomas Jefferson, "Letter to Samuel Kercheval, July 12, 1816," in *The Portable Thomas Jefferson*, edited by Merrill D. Peterson (New York: Viking Press, 1975), 552-61.

22. For a persuasive argument that the new constitutions should prohibit secession, see Cass R. Sunstein, "Constitutionalism and Secession," *University of Chicago Law Review* 58, no. 2 (Spring 1991): 633-70.

23. *Tribune* of the Republican Party, February 23, 1861, quoted in Bledsoe, *Is Davis a Traitor?*, 146.

24. Philpott, "In Defense of Self-Determination," 367. Joseph Tussman also regards withdrawal as an "express refusal to consent." See Pitkin's review of Tussman in "Obligation and Consent," in *Philosophy, Politics, and Society*, edited by Peter Laslett and W. G. Runciman, and Quentin Skinner, 4th Ser. (Oxford: Basil Blackwell, 1972), 58.

25. Robert Paul Wolff, *In Defense of Anarchism*, rev. ed. (New York: Harper and Row, 1976).

26. Philpott has suggested something close to this argument: "...if autonomy lies behind consent, and if autonomy implies self-determination, then Locke's [consent] theory ought to support...our right to choose under which government [we want] to live." Philpott, "In Defense of Self-Determination," 368.

27. The conception of autonomy which I am advocating is essentially Hegelian and pervades *Elements of the Philosophy of Right*, edited by Allen W. Wood (Cambridge: Cambridge University Press, 1991). For a similar notion of autonomy, see Jeremy Waldron, *The Right to Private Property* (Oxford: Clarendon Press, 1988), chap. 10.

28. Bledsoe, *Is Davis a Traitor?*, 101 and *passim*.

29. Lincoln, "First Inaugural Address -- Final Text," 264-65.

30. In reflecting on this matter, I have learned much from Scanlon, "Promises and Practices," esp. 205-13, 219-20.

31. Simmons, *Moral Principles*, 64. See also Flathman, *Political Obligation* (London: Croom Helm, 1972), 220.

32. Beran, *Consent Theory*, 142.

33. Ellis, *Union at Risk*, 180.

34. Bledsoe, *Was Davis a Traitor?*, 167-71.

35. At any rate, the new promises did not bind, all things considered, because they required Southerners to uphold an the unjust institution chattel slavery. For a discussion of promises to uphold or perpetrate evil, see Simmons, *Moral Principles*, 78-79, 84-88.

36. For more detailed analysis, see Robert Nozick, "Coercion," in *Philosophy, Science and Method: Essays in Honor of Ernest Nagel*, edited by Sidney Morgenbesser, Patrick Suppes, and Morton White (New York: St. Martin's Press, 1969), 440-72; and A. Wertheimer, *Coercion* (Princeton, NJ: Princeton University Press, 1987).

37. John Horton, *Political Obligation* (London: MacMillan, 1992), 30-32. For an argument that coerced agreements bind weakly, see Gilbert, "Agreements, Coercion, and Obligation," 701-5.

38. Arkansas Constitution of 1868, I.1; North Carolina Constitution of 1868, I.4-5; Florida Constitution of 1868, I.2-3; Constitution of Mississippi 1868, I.20; Constitution of South Carolina 1868, I.4-5; and Constitution of Virginia 1870, I.2-3. The texts are reprinted in William F. Swindler, ed., *Sources and Documents of the United States Constitutions* (Dobbs Ferry, NY: Oceana Publications, 1973).

39. H. Newcomb Morse, "The Foundations and Meaning of Secession," *Stetson Law Review* 15, no. 2 (Spring 1989): 431-33.

40. See, e.g., the secessionist speeches of Thomas Cobb, Robert Toombs, and Benjamin Hill in Freehling, *Secession Debated*, esp. 7-15, 48, 83-86. An excellent account of the nullification controversy is William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (New York: Harper and Row, 1965).

41. Gilbert draws the distinction in "Agreements, Coercion, and Obligation," 688-96.

42. Plato, "Crito," in *Euthyphro, Apology, Crito, Phaedo, Phaedrus*, (Loeb Classical Library:

1917), 51d-53a.

43. John Locke, *Two Treatises of Government*, edited by Peter Laslett (Cambridge: Cambridge University Press, 1988), 2.119-20.

44. Locke, *Two Treatises*, 2.121. Although Locke allowed tacit consenters to leave the state, he did not understand secession as a legitimate form of political exit, because secession, unlike emigration, involved the taking of land. See *Two Treatises*, 2.117. I cannot query here whether Locke's theory of property should acknowledge the right to secede. For a brief discussion, see Hillel Steiner, "Libertarianism and the Transnational Migration of People," in *Free Movement: Ethical Issues in the Transnational Migration of People and Money*, edited by Brian Barry and Robert E. Goodin (University Park, PA: Pennsylvania State University Press, 1992), 92-93.

45. Lea Brilmayer, "Consent, Contract, and Territory," *Minnesota Law Review* 74, no. 1 (October 1989), 4 and *passim*; Buchanan, *Secession*, 71-72.

46. John G. Bennett, "A Note on Locke's Theory of Tacit Consent," *The Philosophical Review* 88, no. 2 (April 1979): 227-29.

47. Hume perceptively asked: "Can we seriously say that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners and lives from day to day by the small wages he acquires? We may as well assert that a man, by remaining in a vessel, freely consents to the dominion of the master, though he was carried on board while asleep, and must leap into the ocean and perish the moment he leaves her." Hume, "Of the Original Contract," 475 [punctuation modified slightly].

48. Early discussions of fair play appear in H. L. A. Hart, "Are There Any Natural Rights?" *Philosophical Review* 64, no. 2 (April 1955): 185; and David Lyons, *Forms and Limits of Utilitarianism* (Oxford: Clarendon Press, 1965), 161-77. Richard Arneson illuminates the underlying premises in "The Principle of Fairness and Free-Rider Problems," *Ethics* 92, no. 4 (July 1982): 616-33.

49. John Rawls, "Legal Obligation and the Duty of Fair Play," in *Law and Philosophy*, edited by Sidney Hook (New York: New York University Press, 1964), 3-18; Peter Singer, *Democracy and Disobedience* (Oxford: Clarendon Press, 1973).

50. George Klosko has advanced the goods argument most comprehensively in *The Principle of Fairness and Political Obligation* (Lanham, MD: Rowman and Littlefield, 1992).

51. Lincoln, "First Inaugural Address -- Final Text," 267.

52. On the essential contestability of fairness, see William Connolly, *The Terms of Political Discourse*, 3d ed. (Oxford: Blackwell, 1993), chap. 1. For the findings of public choice theorists, see David Miller, "Deliberative Democracy and Social Choice," *Political Studies* 40 (Special Issue 1990): 54-67; and William H. Riker, *Liberalism Against Populism: A Confrontation between the Theory of Democracy and the Theory of Social Choice* (San Francisco: W.H. Freeman, 1982).

53. James Heitzman and Robert L. Worden, *Bangladesh: A Country Study*, 2d ed. (Washington, DC: Library of Congress, 1989), 25-26, 29-30; Alexis Heraclides, *The Self-Determination of Minorities in International Politics* (London: Frank Cass, 1991), 150-52.

54. Anthony Harold Birch assumes rotating benefits in "Another Liberal Theory of Secession," *Political Studies* 32, no. 4 (December 1984): 598.

55. Heraclides, *Self-Determination of Minorities*, 165-73.

56. Anthony Harold Birch, *Nationalism and National Integration* (London: Unwin Hyman, 1989), 64; Rawls, "Legal Obligation and the Duty of Fair Play," 14-15.

57. Carl Sandburg, *Abraham Lincoln: The War Years* (New York: Harcourt Brace, 1939), 1:7-8, 15, 297-98.

58. Southern commissioners actually proposed such a compensatory scheme. See Sandburg, *Abraham Lincoln*, 1:298.

59. Calhoun's estimates included the effects of federal tariffs that protected Northern industries but crippled the Southern economy, which depended on imports. Peter H. Aranson, "Calhoun's Constitutional Economics," *Constitutional Political Economy* 2, no. 1 (Winter 1991): 31-52. See also the views of Robert Toombs and Henry Benning, two Georgian separatists who complained that complained that the federal treasury had become a "suction pump" to drain subsistence from the South to the North. Speeches by Benning and Toombs are reprinted in Freehling, *Secession Debated*, esp. 36-38, 134-42.

60. Izidors Joseph Vizulis, *The Molotov-Ribbentrop Pact of 1939: The Baltic Case* (New York: Praeger, 1990), 70-73; Murray Feshbach and Alfred Friendly, Jr., *Ecocide in the USSR* (New York: Basic Books, 1992).

61. Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985), 250, 257.

62. Buchanan, *Secession*, 107.

63. See Robert Nozick's book-thrusting and street-sweeping examples in *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 90-95. See also Simmons, *Moral Principles*, chap. 5.

64. George Klosko, "Presumptive Benefit, Fairness, and Political Obligation," *Philosophy and Public Affairs* 16, no. 3 (Summer 1987): 241-59; and Klosko, *Principle of Fairness*, 35-42, 48-57. Gregory Kavka anticipated Klosko in "Review of Simmons," *Topoi* 2, no. 2 (December 1983): 228.

65. George Klosko, "The Obligation to Contribute to Discretionary Public Goods," *Political Studies* 37, no. 2 (June 1990): 196-214; and Klosko, *Principle of Fairness*, chap. 4. Klosko's extended argument cannot justify public charity, which might require some appeal to natural duty.