In 1893, a group of American plantation owners—backed by a shipload of US marines—overthrew the Hawaiian monarchy, and imprisoned its queen. Their coup d’État was precipitated by a proposed Constitution that would have strengthened the monarchy and weakened the power of American business elites. In the face of this armed threat, Queen Liliuokalani yielded her throne in favor of a new government staffed by US-aligned interests.¹ Five years after the coup, Hawaiian territory was legally annexed to the United States. Similar stories might be told about Britain’s conquest of Ireland or India, about French Algeria or Indochina, or about the Scramble for Africa.

It is a fixed point of contemporary thinking that this sort of colonialism is unjust. We can define “colonialism” as the involuntary rule of a dominant political society (the metropole) over a distinct and subordinate society (the colony), across some significant portion of its domestic and external affairs.² These convictions are codified in the principal postwar documents of international law. Article 1 of the International Covenant on Civil and Political Rights states: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status.”³ Self-determination undergirds a political community’s right to govern its own affairs free from outside interference. Unless a people chooses through its own processes to integrate or associate with another political unit, its independence ought to be respected by foreigners.

But why is colonial rule unjust? Though most people consider colonialism a great wrong, it is not clear exactly what reasons ground their judgment. This paper examines three competing accounts of colonialism’s wrongness, and by extension, of the self-determination rights of former subject peoples. Though colonialism is no longer publicly advocated, it is still worth our moral examination. If we can get clear about the reasons why self-determination was warranted in decolonization cases—cases where our intuitions are likely strongest—then we may be able to make progress in thinking about self-determination in areas of greater contemporary controversy, like humanitarian intervention, secession, federalism or devolution. The discussion here helps to lay some groundwork for that larger project.

Consider three explanations of colonialism’s wrongness:

¹ For a brief overview of this history, including the Queen’s statement of abdication, see www.hawaiination.org-soa.html.
(1) The Instrumentalist View: Colonialism was wrong because it led to unjust governance. What gave colonized peoples self-determination rights was the fact that colonial states failed to achieve sufficiently just rule.

(2) The Democratic View: Colonialism was wrong because it denied subject peoples representative government. What gave colonized peoples self-determination rights was their right to be democratically enfranchised. National liberation movements were justified in declaring independence to establish representative institutions.

(3) The Associative View: Colonialism was wrong because colonial rulers were unable to bring their colonized subjects to affirm the political institutions they imposed, and to willingly cooperate in upholding these institutions. What gave colonized peoples self-determination rights was their claim to be cooperative partners in a political institution they could reasonably affirm.

Each of these views argues for a link between the moral value of self-determination and the importance that a political community possesses for its members. The instrumentalist view holds that I have an interest in my community’s independence when my basic rights are protected by it. The democratic account claims that I have an interest in my community’s independence if I have a voice in its laws and policies. And the associative view holds that I have an interest in my community’s independence when I am a partner in a shared enterprise with my fellow-citizens that I can reasonably affirm. This individualist approach contrasts with a collectivist view, which holds that the independence of a political community is impersonally or irreducibly valuable in itself.

The individualist approach is both plausible and consistent with liberal democratic values. Though on this view only the interests of individuals matter fundamentally, the freedom of a collective can have moral significance if it can be shown to have the right sort of value for its individual members. In such cases, we can say that in respecting the political community’s independence, we are also showing respect to its members. Of course, we must explain exactly what the connection is between the individual and the group that makes it the case that in respecting the political community, we are respectful to the individuals within it. Each of the accounts considered here tries to do just that.

I believe that the first two accounts of self-determination I consider (the instrumentalist and the democratic accounts) capture a part, but not the whole, of the proper connection between the individual and her political community. These accounts take an overly one-sided approach to understanding the value that political institutions have for their members. For this reason, neither the instrumentalist nor the democrat can fully explain why self-determination was warranted in the case of subject peoples. Their failure, I believe, springs from the fact that the instrumentalist and the democrat see individuals’ interests in their political institutions solely from the perspective of a beneficiary, an institutional “taker.” But individuals have equally important interests in their political institutions as agents or “makers.” Political institutions can be valuable for individuals, not just because they receive rights and benefits from them, but also because
they created these institutions together with others. Once we include this additional “agential” perspective, a path is opened for a more successful, but still value-individualist, account of collective self-determination. Ultimately, I argue that the associative view accommodates the truths contained in the preceding views while also improving on them, by better incorporating this “maker” perspective.

Though I cannot elaborate the point, I believe central issues in global justice turn on whether or not collective self-determination can be shown to be an important value, and whether an account of its value can be given in broadly individualist terms. At stake is whether we should be social or cosmopolitan liberals, to use Charles Beitz’s apt phrase. Social liberals hold that the aim of a just international society is to ensure that domestic political communities flourish, and can function to ensure the well-being of their members. Cosmopolitan liberals, on the other hand, hold that domestic political communities have no fundamental moral importance: international society should be ordered in whatever way is instrumentally best for securing individual persons’ interests. The case for collective self-determination I lay out here suggests, however, that individuals have a fundamental interest in membership of self-determining political communities. There are individualistic reasons for ensuring these communities’ flourishing, as social liberals urge us to do.

Before beginning, I wish to note two limits to my enterprise. First, there is a widely held view of self-determination that I will not discuss in depth here: this is the nationalist theory. On this view, each cultural nation has a prima facie claim to its own political unit. A nation is defined by characteristics that its members believe themselves to share, including language, traditions, or a common public culture. For the nationalist, territorial boundaries ought, at least ideally, to reflect cultural boundaries. I set aside the nationalist view here because I am interested in seeing how far self-determination can explained on liberal-democratic grounds. As a normative matter, I believe that we should abandon the nation-state model that inspires the nationalist position. On my view, the promotion of the majority national culture is not a legitimate goal for a liberal state to pursue. If it is to treat its citizens with equal respect, the state should not publicly privilege a particular culture, as doing so devalues citizens of other nationalities, implying that they lack a full “stake” in its institutions. For these reasons, I confine myself here to liberal-democratic arguments for self-determination. If the arguments I consider below turn out to fail, this may show either that liberals must give nationalist considerations a larger role in their thinking, or alternatively, that they ought to abandon their commitment to self-determination.

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Second, I will not here provide a full account of the right to establish a new political unit, e.g. through secession. Instead, I explore a more preliminary question: what value is at stake in collective self-determination? To fully argue for a right to secede, we must additionally show that this value is of sufficient weight to hold others under a duty. This involves comparing the strength of the interests protected under the proposed right against the strength of possible countervailing considerations, such as other people’s interests in the territory, the costs of secession to their legitimate expectations, the risk of civil war, instability, etc. I will not perform that further, rights-grounding task here. So even if successful, my arguments only establish a strong interest in political independence, not necessarily a right to it. Exploring the countervailing interests that limit self-determination is a task I defer to future work. Though I share the view that decolonization was a moral triumph, I do not argue the full case for it here.

1. Instrumentalism and Unjust Governance

Why is colonialism wrong? An initial, fairly obvious, thought is that colonialism is wrong because it leads to unjust governance. This could be because colonial rule produces incentives for domination in foreign administrators; or because citizens in the metropole lack sympathy with their colonial subjects; or because colonial rulers are not sufficiently knowledgeable about the lives of people living in distant places, with different customs and traditions, to govern them well.

This view is lent some plausibility when we examine the human rights abuses associated with colonial rule. To take one particularly egregious case, consider the Congo Free State, the brainchild of Belgium’s King Leopold. Under Leopold’s rule, the Congo generated immense profits through the exploitation of native peoples in the production of wild rubber. To get men to collect rubber, Free State officials seized their wives and families and held them hostage until they brought the required quota. If a district fell short, its residents were flogged, tortured and raped until the rubber was provided. Tyranny in the Congo was so pervasive that it resulted in the massive depopulation of the country: up to 50% of the inhabitants are thought to have died by the time Leopold’s rule ended.

Though the Congo Free State is a horrific case, it is not completely unrepresentative of colonial practices. Forced labor was also instituted in Dutch East India and in French Equatorial Africa, and less brutal methods for controlling indigenous labor were widespread in Spanish America. In the settler states of North America, Australia, and New Zealand, indigenous inhabitants were dispossessed of their lands, subjected to “civilization” campaigns, and sometimes exterminated altogether. Finally, in almost all colonial cases, Europeans institutionalized forms of discrimination that damaged the self-respect of the populations they ruled. Since so many colonies were misgoverned, a basic commitment to human rights may seem enough to explain our intuition that colonized peoples had claims to self-determination.

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7 From 1884 until 1908, the Congo was considered Leopold’s private property, after which it became a colony of the Belgian state. For more on this history, see Adam Hochschild, King Leopold’s Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa (New York: Houghton Mifflin, 1999).
In the contemporary literature, Allen Buchanan puts forward an instrumentalist account of this kind. Buchanan argues that a state is morally justified in exercising political power if it “(1) does a credible job of protecting at least the most basic human rights of all those over whom it wields power and (2) it provides this protection through processes, policies, and actions that themselves respect human rights.” Human rights, as defined by Buchanan, are interests that are constitutive of a decent life and are necessary for individual flourishing. A state that adequately protects these rights secures at least minimal justice for its subjects, and this fact gives it a right to rule its population and territory.

Buchanan explains why colonialism is wrong, to the extent that it was, on the basis of an instrumentalist theory of state legitimacy. Most plausible theories of state legitimacy have some instrumentalist component: they do not hold that a government’s performance is irrelevant to its right to rule. But Buchanan closely links his instrumentalist theory of legitimacy with an account of the grounds for political independence. On his view, a state has a right to non-interference with its population and territory if it performs certain legitimating functions—i.e. protecting human rights. No claim to self-determination can be justified against a legitimate state on the part of secessionist groups. Instead, claims to self-determination are remedial claims against governments that fail the instrumentalist legitimacy test. What gave colonized peoples rights to self-determination, then—to the extent they had such rights—was the fact that colonial states generally failed to achieve morally good outcomes, by protecting human rights. Given this, colonial states lacked a claim to their territory, and national liberation movements did no wrong in taking it from them.

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9 Buchanan also argues that democratic authorization is necessary for legitimacy where the institutional resources for such authorization can feasibly be put in place. A sophisticated instrumentalist view can thus include democratic rights among the conditions that must be satisfied for a regime to be legitimate. I consider this extension in the following section. For now, I focus on Buchanan’s minimal view of legitimacy, which merely requires protection of other, non-political, basic rights. (For the distinction between minimal and full legitimacy, see Buchanan, JSLD, 259).
10 Buchanan, JLSD, 372.
11 Buchanan, JLSD, 67.
12 In addition to serious human rights violations, Buchanan recognizes two other grounds for secession: (a) unjust annexation of a legitimate state’s territory, and (b) violations of intrastate autonomy agreements (Buchanan JSLD, 352). One might think the no-annexation requirement could legitimize decolonization. But this is doubtful. First, it is unclear how far back in time the unjust annexation argument is meant to apply: most states also acquired parts of their domestic territory through unjust annexation in the distant past. But colonies were also acquired in the distant past—Ireland or India were ruled for hundreds of years, and all colonies were acquired before 1945, the “statute of limitations” Buchanan suggests (Buchanan JSLD, 357). Second, most colonies did not form legitimate states prior to their colonization, so it is unclear whether the annexation argument applies to them. I believe the best explanation for these further grounds for secession must refer to an account of self-determination, like the associative account I propose below, that goes beyond an instrumentalist view of political legitimacy.
One attractive feature of instrumentalism is that it establishes a plausible link between our respect for the autonomy of a legitimate state and our respect for the individuals who make it up. This is because a legitimate state helps to enable its subjects’ personal autonomy and well-being in important ways. Individuals require physical security and they need their most essential material needs met, and a legitimate state helps to ensure their survival and flourishing. Legitimate states also confer various legal powers on individuals, like the power to make contracts, to acquire property, to marry or start a business, all of which enable them to pursue their projects. A stateless environment, on the other hand, would be one where peace, property, personal security, and basic rights were in jeopardy and where, in consequence, the individual would be threatened and insecure. So while it might seem that by imposing and enforcing laws, states restrict the autonomy of the individuals they govern, the instrumentalist view rightly claims that this is not true of legitimate states. The basic idea is that a properly ordered political institution is a precondition of individual freedom and security, and deserves respect as such.

The precise nature of the instrumentalist connection between the autonomy of the state and the autonomy of the individual is unclear, however. Individuals might have an interest in a threshold provision of justice-related benefits, such that any state that passes the threshold gains rights to political independence. Or individuals might have an interest in the maximal provision of these benefits, such that a state only has a claim to independence if it is better at providing these goods than rival claimants. If we adopt the threshold interpretation, then surely there are a variety of political units that could satisfy the threshold. For example, if the state of Canada were to dissolve into Quebec and the Rest of Canada, or even into Greater Montreal, Greater Toronto, Greater Ottawa, etc, each of these units could provide a reasonably just legal system to its constituents. Likewise, if Canada were to be merged into a North American Union, this political unit could secure an adequate level of justice-related benefits for its subjects. But if we take the maximizing interpretation of the view, instrumentalism requires us to draw boundaries in a way that maximizes the justice of the legal systems thereby created. We might get the most just set of states by allowing for widespread colonialism, or by merging Canada with the US. It is not clear why exactly instrumentalism should take a threshold form: if individuals are connected to their institutions simply as beneficiaries, surely they would have an interest in the additional benefits to be gained from a maximizing approach. So the implications of instrumentalism may differ according the interpretation we give it, and the threshold interpretation may not be sustainable.

14 Buchanan adopts such a threshold view. His argument as to why groups that could sustain an alternative state have no claim to self-determination depends heavily on the incentives for instability such a right might create. Finally, he also adds a “Non-Usurpation Requirement,” which holds that “an entity is not legitimate if it comes into being by displacing or destroying a legitimate state by a serious act of injustice (264-265).” It is not clear to me what grounds the non-usurpation requirement in Buchanan’s theory. It seems to be an ad hoc addition. See Buchanan, JLSD, 275-276; 377-379. I suspect that the Non-Usurpation Requirement also depends on considerations about self-determination that are not well-captured by an instrumentalist view.
Can instrumentalism account for our intuitions about colonialism’s wrongness? Here the evidence seems mixed. Certainly it can explain the most extreme cases, like Leopold’s Congo. But not every instance of colonial rule was as bad as the Congo. Consider British rule in India, which lasted from 1772-1947.\textsuperscript{15} While there was certainly plenty to criticize about British India, it was not a tyrannical regime, whose claim to rule could be easily dismissed on instrumentalist grounds. Instead—particularly after the mid-nineteenth century—colonialism in India was a liberal, modernizing project. The British established a civil service and introduced technologies like railways, canals, the telegraph, and a postal service. They also put into place modern educational institutions and instituted a range of social and political reforms, like the abolition of female infanticide and sati (widow burning), the codification of law, and the protection of private property rights. Under British rule Indians lacked full democratic control over their affairs and often faced racial discrimination, but they were not devoid of avenues for social mobility. Over time, British India created an educated native elite of lawyers and civil servants who staffed the Empire’s bureaucratic offices, served on municipal councils and in provincial assemblies, and eventually became India’s ruling class.

There were of course serious deficiencies of British rule in India, from a social justice perspective. Two in particular stand out. First, British repression of native uprisings could be coercive and heavy-handed, and was sometimes carried out with minimal regard for the rule of law, as in the aftermath of the 1857 Mutiny and the 1919 Amritsar Massacre.\textsuperscript{16} Second, racial exclusion and informal segregation was an everyday feature of life for most native Indians.

While British India was hardly a just society, it is unclear how exactly—on the instrumentalist view—we might defend a claim to Indian self-determination. It is certainly not obvious that we could support such a claim. Here, three facts seem relevant. First, British rule amounted to a gain for justice when compared to the Mughal Empire that existed prior to conquest. The British instituted significant modernizing reforms, provided at least basic rights protections and rule of law for their Indian subjects, and had established significant public services. Second, while there were justice-based grievances against the colonial regime, these grievances were probably not worse than those that existed in many Western societies at the time—e.g. the grievances of black Americans in the 1890s, or the grievances of the working class in European countries. Those grievances were eventually ameliorated through domestic social movements, and perhaps

\textsuperscript{15} Britain’s colonial possessions in India were administered by the East India Company (subject to Parliamentary oversight) rather than the Crown until 1858.

\textsuperscript{16} In the 1857 Mutiny, a large number of native troops rose up against British rule and sought to restore the Mughal Emperor. Their grievances were complex, in part provoked by fear the British were seeking to Christianize India. Many mutineers were hanged or executed without due process of law and civilians were killed for pro-rebel sympathies. It is not known exactly how many casualties resulted, but the numbers were large. The Amritsar Massacre occurred when a contingent of British soldiers under the command of a renegade general opened fire on a peaceful political gathering, killing 379 unarmed Indian civilians in 1919. The general was relieved of his command, but the incident greatly radicalized the Indian nationalist movement.
Indian claims might have been addressed in the same manner, without upending existing political structures. Finally, it is unclear that an independent, self-ruling India in the nineteenth or early twentieth century would have been an improvement from a justice-based perspective.

The instrumentalist’s inability to unqualifiedly endorse India’s claim to self-determination seems troubling, however. After all, the Gandhian independence movement has struck many as the paradigm of a just anticolonial struggle. The more we reflect on the full range of colonial cases, the more implausible instrumentalism begins to seem, for two reasons. First, it is hard to see how instrumentalism can generate any claim to decolonization against a colonial power that does a reasonable job at protecting human rights. From a beneficiary’s perspective, there is no difference between being ruled by a domestic government (as long as it performs basic legitimating functions) and being ruled by a foreign government (that performs the same functions). But surely we have an objection to being colonized by a foreign government, even if our colonizer goes on to successfully provide us with minimally just rule. The instrumentalist is unable to capture this objection.

A second problem with the instrumentalist approach is that its view of the connection between the individual and the political community seems too narrow. Recall that the instrumentalist focuses on the role played by political institutions in providing justice-related benefits, benefits like security, basic rights protections, and a system of property and contract law. But this overlooks the fact that our autonomy might expressed through shared institutions in an additional way, simply by making decisions together on how to order our collective life. Citizens are not just the passive “takers” of their political institutions; they are also the active “makers” of them. It might be as important that citizens themselves create the policies they live under (in their role as “makers”) as that these policies be good ones (from their perspective as “takers”).

We can gloss this idea with a distinction drawn from Rousseau, who suggests that citizens are autonomous through their state in two senses. Through citizenship, Rousseau argues we gain “civil freedom,” or a secure sphere in which to exercise personal autonomy, by protection of our essential rights and interests under law. This echoes the instrumentalist view. But Rousseau also holds that we gain an additional “moral freedom” through the state, which involves “obedience to a law one has prescribed to oneself.” “Moral freedom” implies that we are connected with our political institutions in a way that goes beyond simply benefiting from their services, a way that further implicates us as the authors of these institutions. Though the precise nature of this connection remains obscure, it seems a promising avenue to pursue. If the subjects of a state are also the agents behind it, then colonial rule would manifest a fundamental disrespect for their agency.

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2. Disenfranchisement and the Democratic View

One way to interpret Rousseau’s view is to hold that certain forms of collective decision-making are intrinsically morally valuable, and that what is wrong with colonial rule is that it denies these to its subject populations. If there is value to democratic procedures independently of their tendency to produce just governance, colonial rule may be unjust even when it produces good outcomes for the colonized. This account seeks to explain the wrong of colonialism on the basis that legitimate political power ought to be authorized, in fair democratic procedures, by those governed by that power. In this vein, it seems natural to associate self-determination with the claim that “the people” should rule, that they should govern themselves.19 As John Plamenatz puts it, “if it is right that governments should be responsible to the governed, then it is wrong for one people to impose their rule on another. Alien rule and democracy are clearly incompatible.”20

The democrat links self-determination to the need for procedures through which a people’s will can be expressed in political decision-making. These procedures include equal rights to vote for representatives, to associate in political parties and interest groups, to express political views, and to compete for office. If such procedures exist, then according to the democrat, the laws will reflect the decisions of a self-governing people, and as such they are worthy of respect. Like the instrumentalist, the democrat connects the state’s political independence to its legitimacy. But the democrat holds that legitimacy has a procedural as well as a substantive aspect. Legitimate political power must not only fulfill legitimating functions; that power must also be authored by those who are subject to it, through their participation together in a democratic process. A substantively just state might be deficient in its legitimacy, if its laws have not been authorized by those required to live by them.

If correct, this democratic argument allows us to account for a wider range of self-determination claims than pure instrumentalism did. Very few colonizers allowed their subjects representative institutions. Consider again the case of British India. Although an independent India in the 1890s may not have amounted to a gain for social justice, for the democrat, that fact alone is not sufficient to give Britain the right to rule India. Britain still denied Indians the opportunity to have any input into the making of the laws and policies by which they were governed. If legitimacy has both a procedural and a substantive aspect, then some loss to government’s substantive performance—perhaps not too great a loss—might be outweighed by the gain in procedural legitimacy involved in giving Indians a voice in their own affairs.

Why should we think that democratic procedures are intrinsically valuable? To begin, we should note that arguing for democratic procedures’ intrinsic value does not mean we must take a purely procedural view of democratic legitimacy. A pure proceduralist holds that the authorization of laws through majority voting is enough to

render those laws legitimate exercises of political power, regardless of their substantive content. Many people rightly find this position implausible. But all the democrat need maintain is that the legitimacy of political power is partly dependent on whether the laws it imposes were authorized in a fair procedure, and that colonial governments did not meet this requirement. The democratic theories of greatest interest are thus hybrid theories, which incorporate instrumentalist concerns about human rights protection within a broader proceduralist view. Indeed, many theorists of democracy’s intrinsic value have argued that the same considerations that ground the moral importance of democratic procedures—considerations like equal respect for individuals as autonomous reasoners, or the need to publicly demonstrate to each individual that his interests are taken into equal account—can also ground substantive constraints on the acceptable outcomes of a democratic process. There are a variety of arguments for the reconciliation of substance and procedure in democracy that I will not elaborate here. I simply mention these possibilities to emphasize that the democratic view need not depend on the implausible assumption that authorization of law in a fair voting procedure is sufficient for political legitimacy; instead, it only claims that it is necessary. For the democrat, good outcomes do not exhaust the requirements of political legitimacy.

For our purposes, the essential question is: can a commitment to the value of democratic procedures explain the wrongness of colonial rule? To answer, we need to take a closer look at the reasons why democracy might be intrinsically valuable. Here, we find two broad types of argument. The first type claims that democratic procedures are required by respect for citizens’ public equality. On this account, disenfranchising people is wrong because it brands the excluded as inferior, or fails to treat their interests with equal concern. A second type of argument claims that democratic procedures are required to render political power consistent with citizens’ autonomy. On this view, each person has a fundamental claim to determine the shape of her own life. But when political decisions are imposed upon her without her consent, this impairs her ability to control her own affairs. The thought is that perhaps this imposition of political power can be reconciled with her autonomy if she is given some say over these decisions.

Let us first consider public equality arguments. There are many versions of this

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21 Many theorists have endorsed a hybrid account of state legitimacy that incorporates instrumentalist and democratic considerations. Charles Beitz allows, for example, that representative self-government is a requirement of social justice. If denied under conditions where it is appropriate, then subject populations may have a right to claim political independence in order to establish democratic institutions. See Beitz, PTIR, 98. Similarly, Allen Buchanan argues that “where institutional resources exist for democratic authorization of government,” such procedures must be utilized if the state is to be fully legitimate. Buchanan, JLSD, 254.


kind of argument. Jeremy Waldron defends the view that rights to participation are grounded on individuals’ right to “be treated as equals in matters affecting their interests, their rights, and their duties.” To be a rights bearer, Waldron emphasizes, is not only to have claims to be benefitted, it is also to be a “particular intelligence,” with a unique view of justice that is worthy of consideration. Disenfranchising someone where the person possesses the capacity to deliberate about the issues involved, insults and slights him. It fails to respond to his capacity for autonomous moral reasoning.

Charles Beitz has argued that among citizens’ interests in the choice of a political procedure is an interest in recognition, which tells in favor of equal participation rights. Disenfranchising someone stigmatizes that person, and may help to institutionalize patterns of disrespect in the wider society. It would be reasonable for anyone to object—in a contractarian justification procedure—to forms of decision-making that had these invidious effects. Beitz maintains that we ought therefore to be concerned not simply about the quality of the outcomes a procedure produces, but also about the message that the structure of formal voting procedures sends about citizens’ relative status.

Finally, Thomas Christiano claims that justice requires the state to equally advance all citizens’ interests, but there is considerable disagreement about what this requirement amounts to. For citizens to be treated as equals, however, they must be able to ascertain that their interests are given equal consideration by society. As Christiano puts it, “it is not enough that justice is done; it must be seen to be done.” Being granted equal influence over political decisions—in order to correct for the fallibility and cognitive biases of others—is a form of public equality that citizens can agree satisfies justice’s requirements. When one’s own view is treated as of no consequence, one can reasonably suspect that one’s interests are not taken equally seriously.

While more could be said about each of these arguments, they all pursue a strategy of maintaining that democratic procedures are required in order to treat people as public equals. Disenfranchising people is wrong because it sends the message that they are second-class citizens, or are less deserving of respect, or that their interests deserve lesser consideration. Though I find these positions plausible, my purpose is not to evaluate them. Instead, I wish to investigate whether they can be extended to provide an account of the wrongness of colonial rule. Is colonial rule primarily wrong because it fails to respect the colonized as equal citizens, by excluding them from participation in public affairs? There is no doubt that most colonial enterprises did disenfranchise their subjects. Still, I do not think this fact provides an adequate explanation of the injustice of colonial rule. To see why, consider the following case:

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26 Waldron, *Law and Disagreement*, 239.
Political Incorporation. Suppose that instead of merely extending support to the 2011 Libyan revolutionary movement, France had overthrown the Qaddafi regime, occupied the country, and annexed Libya’s territory, much as it annexed Algeria in 1830. Further suppose that after annexation, France governed Libya justly and extended its inhabitants participation rights within a wider French republic. Imagine, in other words, that there were no distinctions between French citizens and “the former Libyans” in terms of their democratic or other rights. Would this political incorporation have been wrong?

If the imagined political incorporation is wrong—as I believe it is—it is hard to see how the public equality argument can explain it. Because Qaddafi’s regime threatened humanitarian abuses, there was arguably a right to intervene in Libya in 2011. And because Libya was not a democracy prior to the intervention, its people had no claim to self-determination, on the view we are considering. So it appears that as long as a colonizer is willing to politically incorporate the people of a non-democratic country, that group has no further claim to autonomy. But that seems wrong—even if the Libyans are enfranchised, their political incorporation may conflict with their wish to retain their own political community.

The problem is that on the public equality argument, we ought to be indifferent between a wider democratic metropole, in which previous colonial subjects are enfranchised, and an independent democracy on the former colonized territory. Both are ways that individuals’ claims to public equality might be respected. But intuitively, it does not seem that we should be indifferent among these options. Instead, it seems that the colonized territory has a continuing claim to political independence when its citizens were incorporated without their agreement.

One might object that a unilaterally imposed regime, like the one envisaged in Political Incorporation, cannot be democratically legitimate. But suppose that just prior to incorporation, a democratic referendum was held in the combined Franco-Libyan territory, and that a majority (composed almost entirely of metropolitan French) had voted in favor of annexation. The new regime would then be democratically authorized. But the annexation still seems wrong. The unilateralism argument, it seems, must appeal to an additional principle for delimiting the group within which democratic decisions should be taken. It is Libya, not Franco-Libya, that should be consulted. But this “boundary principle” cannot be provided by democratic procedures themselves.

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32 Libya did have an organ of political representation under Qaddafi—the General People’s Congress. However, real political power remained with Qaddafi himself: there was no right to form political parties or contest elections.

33 The Libya example raises concerns familiar from the literature on the democratic boundary problem: democratic procedures themselves cannot define who counts as part of the “people” among whom democratic decisions are to be taken. A referendum on the independence of Palestine, for example, would have very different results depending on whether those enfranchised are the Palestinians, or both Israelis and Palestinians, or the whole world. For some representative discussions, see David Miller, “Democracy’s Domain,” Philosophy and Public Affairs, 37:3 (2009), 201-228; Sophia Näsström, “The Legitimacy of the People,” Political Theory 35:5, (2007), 624-658; and Ben Saunders, “Defining the Demos,” Philosophy,
One might think that Political Incorporation is of dubious relevance, since in practice colonizers never offer to enfranchise their colonial subjects. But this is not true. In the 1950s, France granted full citizenship—with suffrage rights—to all adult men and women in its former Algerian colony. France also undertook important efforts to overcome the legacies of racial discrimination against Algerian Muslims, akin to the efforts at integration that began in the US around the same time. A second example is the United Kingdom of Great Britain and Ireland: from the Act of Union in 1801 until its independence in 1922, Ireland formed an integral part of a wider Britain. The Irish were fully enfranchised: they elected their own MPs to the British House of Commons. Britain also embarked on a process of social reform to address Irish grievances: Catholic emancipation was completed by 1829, and several land reform bills were passed in the 1880s to help Irish tenant farmers and to weaken the power of the landlord class. Despite these reforms, home rule—and later independence—remained very popular in Ireland and in the international community.

On the democratic equality argument, it is hard to see why Ireland and Algeria had any claims to secede and establish their own independent political units. They were democratically enfranchised within the wider metropole. And though they had substantive grievances dating from their history under the colonial state, arguably these grievances had begun to be addressed—and might have continued to be addressed—through the existing political process, and without the need for independence. But this ignores the overwhelming alienation of the Irish and Algerians from metropolitan institutions, and it is inconsistent with popular sentiment of the period, which saw Irish and Algerian independence as quintessentially just causes. If these reflections are correct, then the public equality argument—while plausible in its own right—cannot be extended to provide an account of colonialism’s injustice. Public equality may be a demand of justice, but it cannot help us draw the boundaries of the political community.

Let us turn, then, to the second democratic argument, the autonomy argument, to see if it can do better. The autonomy argument holds that the value of democratic procedures is rooted in the value of individual self-government. We believe that each individual has a claim to determine the shape of his life, and not to be ruled from outside by the alien wills of other people. But political authority appears to conflict with this

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claim: it imposes laws upon us without our consent that are backed up with coercive political power. So long as we are not anarchists, we will doubt that such political power can be done away with, since it is an important condition for our personal security, our rights, rules about property and contract, the provision of public goods, and so on. But how can our claim to autonomous self-government be reconciled with this need for political authority? One answer—with classical roots in Rousseau’s *Social Contract*—is: authority and autonomy can be reconciled if individuals impose the laws on themselves. And the thought is that democratic participation is a way to give laws to yourself—democratic procedures play a crucial role in reconciling authority and autonomy.

An appealing feature of this autonomy argument is its “two-pronged” approach to understanding the connection between the individual and the political community. Recall that the instrumentalist focused on the ways in which an individual is a beneficiary—or “taker”—of a legitimate system of law. But for the autonomy democrat, a legitimate system of law is also an *expression* of the autonomy of the people, who produce it together through their participation in the political process. They are the “makers” of their institutions, the agents behind them. On this view, an individual’s autonomy has both a private and a political component. If the autonomy argument for democratic participation is successful, it might therefore ground an argument for the political independence of democratically authorized states. Such states embody the will of each citizen, which gives these citizens a claim to have their institutions respected by others. Granted, even if it works, this autonomy argument for self-determination would not apply to non-democracies. But it would still show something important: that democracies have a right to self-determination, because they are specially authorized by their subjects.

Does the autonomy argument work? I don’t think so. The problem is that it is hard to understand what it means to “impose” a law or an institution “on myself” in a context where that law or institution is collectively chosen. This is so outside of a situation where all citizens unanimously agree about the form that law or institution should take. Why exactly should I consider democratically produced laws an expression of my autonomy, especially when I am in the outvoted minority? The autonomy argument seems to conflate the fact that laws are produced democratically with the supposed fact that citizens have voluntarily consented to those laws. But we do not actually consent to the laws or to the authority of the state when we participate politically. This is quite clear when we are in the dissenting minority on some serious political question: we may strongly object to what the majority does in our name. Here, we are ruled by the majority; we do not rule ourselves.

Can the role of democracy in expressing individual autonomy be construed in some other way? Robert Dahl argues that democracy is the political regime that uniquely *maximizes* individual autonomy. Dahl concedes that individuals who must obey binding collective decisions cannot be said to have chosen these laws for themselves. But he still claims that democracy is special because it extends the maximum feasible self-determination to all individuals, consistently with having to make some choices collectively. More individuals in a democracy live under laws they endorse than in any

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36 For this language, see Christiano, *The Rule of the Many*, 26.
other political form.\textsuperscript{37}

But one might object that one is freer when one has personal control over a decision than when that decision is made by a group of which one is a part. Suppose you need to paint your house. Are you freer if your municipality decides the new color by majority vote, or if you get to choose the color for yourself? It seems obvious that you are freer in the second case. But life under a benevolent despot might provide more opportunities for this sort of personal choice than life in a democracy would. A despot might better protect your rights, or extend you more extensive control over your person or property—adopting fewer zoning ordinances affecting your house, for example—thereby allowing you more personal choice over more aspects of your life. If that is so, then democracy does not uniquely maximize individual autonomy.\textsuperscript{38}

There may be other ways to reformulate the democratic autonomy view. But I suspect they will all face the problem that individuals enjoy more self-government when are the sole “decider” on an issue than when they vote on it together with others. Since it is not clear that a democracy will impose fewer collective decisions than an autocracy would, democracy cannot claim to maximize autonomy when compared with a non-democratic regime that imposed minimal restrictions. The problem is that it is not clear that majority voting procedures express individuals’ self-governing choices in any way, and it is this connection that we need if we are to show that respect for the democratic community’s independence shows respect for individuals’ autonomy. So while something like the autonomy view is necessary in order to vindicate self-determination, it is not clear that the democratic autonomy view—as currently formulated—can do the job.

3. The Associative Account of Self-Determination

Despite its failure, the autonomy view’s two-pronged approach to the connection between the individual and the political community seems on the right track. Are there avenues other than democratic participation by which to understand a citizen’s interest, as a “maker” of his institutions, in his society’s independence? I think there are. An individual can have an interest in his society’s autonomy if he reasonably affirms his participation in the relationship of political cooperation that undergirds its institutions. On this view, political autonomy requires that our state be structured such that: (a) our personal autonomy, as “takers,” is objectively guaranteed by our political institutions; and that (b) as “makers,” we also subjectively affirm these institutions and feel at home in them. The associative view says that we express our agency not by willing the law as our own will, and not by participating democratically, but rather by affirming our political institutions.

This associative view derives its inspiration from Hegel’s notion that freedom has both an objective and a subjective component. Objective freedom requires that our political institutions actually be structured so as to guarantee the personal autonomy of their individual members (in this, it largely agrees with the instrumentalist). But Hegel argues that citizens’ freedom is not exhausted by these objective considerations: it has a further subjective sense. Freedom also requires that the individuals who sustain political institutions together experience this joint activity as an expression of themselves, not as something that they are coerced or manipulated into performing by an alien power. To the extent that citizens can attain this subjective freedom, they will see their state as a creation of their own cooperation, not as an institution of subjugation, conquest, or oppression. The idea is that there is an important good in achieving functionally legitimate institutions through the (relatively) willing contributions of those subject to them, rather than through imposition by force. This is the same good we achieve when we willingly act on our own freely formed intentions, rather than being forced to act on the will of someone else.

I think interpreting the citizen’s agency connection to the state in these Hegelian terms captures many of our concerns about colonialism. What is striking about India or Ireland is that colonial rulers were unable to bring their subjects to affirm their association with the metropole. This feeling of alienation on the part of colonized peoples had historical roots in the fact that the political association was the product of unjust conquest, and that for some time, the colonizers had mistreated their subjects and set themselves apart as a superior racial class. But what is important is not the specific historical roots of alienation but the fact that a sense of oppression on the part of these peoples persisted and was difficult to eradicate, even once attempts to address their grievances were made. Though an objective basis for affirming their institutions was perhaps in place, their subjective ability to do so was not.

Not every political association initially imposed by force, however, remains incapable of generating rational affirmation. To see this, consider again the case of Hawaii. The acquisition of Hawaii occurred through a process quite similar to the acquisition of India or Ireland, and there was a strong case for restoration of the Hawaiian monarchy in the immediate aftermath of annexation. But over time, the situation in Hawaii changed. The political power of the old plantation-owning class was destroyed, and racial discrimination against Hawaiians—a mix of descendants of native inhabitants and of Japanese and Chinese laborers—was gradually ameliorated. When Hawaiian statehood was submitted to a referendum in 1954, 93% of the population voted in favor. So sometimes a political relationship that was initially established through an unjust use of force can come, over time, to feature both reasonably just governance and widespread endorsement by its participants. A colonial past does not preclude gaining the rational affirmation of politically incorporated citizens, though it may make it less likely.

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39 Hegel also uses the term “self-determination” to describe the unity of objective and subjective freedom in the state, see e.g. Hegel, *Philosophy of Right*, ed. Wood/Nisbet, (Cambridge: Cambridge University Press, 1996), sec. §275. And he links the self-determination of the state to its internal sovereignty at *PR* § 278.
To see why affirmation matters, we should begin by emphasizing that “the state” is not an entirely separate agency from the people who make it up. Instead, the state is reproduced by its members’ cooperative activity, including their obedience to law; payment of taxes; democratic voting; and cooperation with the police, judges, and public officials. A number of contemporary action theorists have offered theories of this sort of collective agency. Christopher Kutz, whose account I largely follow here, argues that joint action is undergirded by an interlocking structure of shared “participatory intentions” on the part of members. Roughly, I share in a structure of collective intention whenever I think of myself as doing something because and insofar as we are doing something together. A group is formed when we are mutually aware of these shared intentions, and they mesh in a way that allows us to act on our joint goal. Although individual citizens possess and act on these participatory intentions, their intentions make irreducible reference to a collective aim. Participants in joint action have an awareness of the relation in which their action stands as a means to a group end, and they would not perform it otherwise.

I believe that sustaining the state can be understood—in this vein—as a joint intentional practice, on a grand scale, among the citizenry. Of course, states also feature formal governance institutions, such as a structure of official roles—including the legislative, executive and judicial branches; the police; and the bureaucracy—and the binding procedures used in making collective decisions. These more formal institutions typically direct citizens’ activity. But still, it is the willing contributions of ordinary citizens—their everyday intentions to “play their parts”—that make the laws and policies imposed by officials possible, effective, and stable. In the absence of this underlying structure of intentions among ordinary citizens, formal institutions cannot rule without significant repression. But such repression is not characteristic of most well-functioning states: instead, citizens generally cooperate voluntarily with their officials, and they accept the results of collective decision procedures as authoritative without having to be forced.

In this way, ordinary citizens willingly coordinate their behavior to make law and policy—including the rules defining their civil rights, and rules about property and contract—effective on their territory. What it means for something to be my property, for example, is simply to have a system of social behavior coordinated around my possession of it: to have my right over it generally recognized and respected by my fellow citizens. By paying taxes, the people also contribute to the institutions that enforce their rights against those who refuse to respect them. Additionally, when their state is a democracy, the people don’t simply sustain an apparatus of legislation and coercion, they also offer input into the direction of their cooperative activity. Democratic peoples create the laws they live under by voting, debating political issues, associating in political parties and interest groups, and taking part in social movements. In all these ways, ordinary people in a well-functioning state sustain and reproduce their political institutions. Though they

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do not know each other personally, citizens are still participating in a joint enterprise together: they are upholding a shared scheme of law.

To share in this joint enterprise, it is not necessary that each citizen actively intend all his state’s laws and policies. But his own contributions—in the form of obedience to law, voting, payment of taxes, and cooperation with police, judges, and state officials—are causally linked to an ongoing collective process, and he would not perform them otherwise. These contributions support the public coercion of other people on the territory in the name of a particular conception of justice, and he can be expected to be aware of that fact. In this way, citizens have a grasp of the relation in which their political contributions stand to a collective end. Indeed, many characteristic acts of citizens—such as voting, or paying taxes—would make little sense if we did not expect our fellow-citizens to play their parts alongside us.41

The “people’s” collective activity, however, takes place against the background threat of coercion by government agents. So we might wonder: does this joint activity implicate the wills of those involved? Or is it simply something they are forced into? I believe that even though the state is a coercive institution, the wills of its members are often manifested in their political activity.42 For this to be the case, they must be able to reasonably affirm their participation in this joint enterprise, according to the following conditions:

(1) **Objective Legitimacy:** Citizens’ relationship of political cooperation must be one that it is reasonable to value, because it provides minimally just rule that protects the basic rights of each member, and

(2) **Subjective Legitimacy:** The citizens, by and large, must actually value and affirm their political relationship.

On this view, a state’s claim to autonomy is derived, not just from the (objective) legitimacy of its rule, but from the additional subjective value of willing affirmation of a relationship of political cooperation by a critical mass of its participants. While it is important that the state’s scheme of law be functionally legitimate, it is also important that it be sustained—to the extent possible—through the unforced contributions of the citizenry. Why care about affirmation, and not simply just governance? There are both instrumental and intrinsic reasons for valuing affirmation. Affirmation is an important instrumental good because without it, people will have to be “forced to be free” on a continuing basis, and we can expect that this will make for a more repressive political community. And affirmation is an important intrinsic good because it allows citizens to see their political institutions as their joint creation, and that gives these institutions a relational value for them that goes beyond the legitimating functions they perform.

41 Kutz elaborates a minimalist conception of joint action that is appropriate to large and diffuse groups, such as a citizenry. See Kutz, *Complicity*, 90-96.  
42 Harry Frankfurt, “Alternate Possibilities and Moral Responsibility,” in *The Importance of What We Care About*, (Cambridge: Cambridge University Press, 1998). Frankfurt emphasizes that even when someone is threatened with a penalty, he can have reasons that suffice to motivate him to undertake the action, quite independent from the threat.
The **instrumental** reasons for valuing affirmation derive from the fact that it is better for everyone if states that can achieve willing compliance. The problem with colonial rule is that even where it is reasonably just, it is often unable to achieve this, since it is so widely rejected by its subjects. Colonial rulers have to force people to cooperate in sustaining institutions that they do not affirm, and we can expect that—since it is likely to be resisted—their rule will need to be imposed with significant repression. Large-scale support for the state is instrumentally valuable because where it is present, it produces goods that benefit everyone. The authorities in such a community will be less coercive, and there will be a greater sense of trust in one’s institutions and one’s compatriots. Unrepressive political institutions are an important good—even for those who do not affirm them. But they are not a good that can be privately distributed, like a voucher tailored to each person’s citizenship preferences, since the reproduction of shared institutions requires the participation of a critical mass of others. The interest of one person, or of a small number of people, is not sufficient to warrant redefining our political institutions. But the aggregate interest of a large group is often sufficiently weighty to ground a claim to redraw boundaries. Where many people together have an interest in a public good, the case for that good’s provision becomes much stronger.

These instrumental considerations do not exhaust our reasons for caring about subjective affirmation, however. The existence of a community of willing cooperators is also valuable for **intrinsic** reasons, since it enables citizens to see their political institutions as their *common creation*, rather than an alien imposition. Willing cooperators see themselves as “members of society, and not simply caught in it.” Albert Einstein reportedly once said that “The state to which I belong does not play the least role in my spiritual life; I regard allegiance to a government as a business matter, somewhat like the relationship with a life insurance company.” But willing cooperators do not regard their state in this way. It is not a matter of indifference to them if their state is replaced by an equally just colonial institution, since only this particular state is a product of their joint political activity. By choosing to support its institutions, willing cooperators are *empowering* their state: they are helping to maintain, strengthen, and stabilize its rule. No one citizen’s voluntary contributions are alone sufficient to empower an institution, but the contributions of many citizens together are. This gives citizens an interest, not just in having *some* legitimate institution specify their rights and duties, but in having that institution be the one that they have together produced. As their creation, their state has a relational value for them that goes beyond the justice-functions it performs, and which could equally well be performed (though in a slightly different way) by other institutions.

To see the difference between the state’s intrinsic and its instrumental value, consider the difference between the relation that a tourist has with a state she is visiting.

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and the relation a citizen has with her own state. When visiting Brazil, its system of law has instrumental value for me, because it performs an authoritative specification of rights that benefits and protects me, and that I need in order to do justice to others. It is a good thing, from my point of view, that there is a state in place here. But it is a matter of indifference to me which state in particular this might be. If Brazil were annexed by Argentina tomorrow, this would not affect my interests as a visitor to the territory, since I could still do justice to the people with whom I interact, only now by orienting myself to Argentine law rather than Brazilian law. Brazil does not have intrinsic value for me, then, because I am not part of the group agent that, over time, has created it.

But matters look very different when we consider the issue from the perspective of a citizen of Brazil. If he is a willing cooperator, this citizen will not be indifferent between living under a scheme of Argentine law or Brazilian law. That is because he and his fellow citizens together created the legal institution that is Brazil.46 A variety of legal schemes—each containing different regulations about property, taxation, electoral systems, environmental stewardship, and the organization of social benefits—could protect citizens’ basic rights. But a country’s particular scheme of law will reflect its members’ history of interaction and cooperation: their laws are the product of their joint input. The fact that a particular scheme of law is the product of a people’s own cooperation, and that they affirm that cooperation, gives them a special claim to that set of institutions, which cannot be fulfilled by substituting a functional equivalent.

A citizen’s agency-connection to his political institutions may show up in other ways: in his feelings of pride, shame, or liability for his state’s acts. When Brazil gets involved in an unjust war, its citizens will rightly feel responsible for what they have done in a way that I—an American tourist visiting their territory—cannot. Unlike me, Brazilians share, to a degree, in Brazil’s successes or failures. If Brazil wreaks havoc on innocent foreigners, Brazilian citizens will feel liable for the harms. Individual Brazilians may not have had direct control over their country’s decision to go to war, and their dissent may not have been able to prevent it. But the Brazilian people, acting together through their institutions, did have control over that war. The acts of the state of Brazil rest on the interdependent choices of many Brazilians to empower it, by voting, willingly complying with the law, and paying taxes. Each citizen may not be individually responsible for these acts, but as a people they are collectively responsible. So Brazil is intrinsically valuable for its citizens in the same way a football team is intrinsically valuable for its players: since they together produced it, they share in its wins and losses, even when—as individuals—they did not solely cause them.

It is important to see that the value of rational affirmation emphasized here is not the same as a requirement that citizens consent to their institutions. There are three reasons for this. First, consent is generally taken to require the presence of reasonable alternative options. But rational affirmation can be present even where there are no alternatives, as long as we endorse the particular option on which we act. Most citizens

46 It might be objected that only the founding generation actually creates an institution. But later generations can willingly reproduce it, and in so doing they may “give” the institutions “to themselves” because they rationally affirm their activity in sustaining them.
were born into their state, and they have no option of leaving it or setting up a new one. Still, they may affirm their state and see their own activity in sustaining it as something in which they willingly participate. A second reason is that it is not necessary that every individual endorse their state in order for the “public” good of rational affirmation to exist. It is only necessary that there be a widespread sense of willing cooperation. In order for legal institutions to be reproduced without coercion, a sufficient number of people have to voluntarily sustain them, but every person need not do so: indeed, some people will have to be “forced to be free” in any legitimate state. Finally, to be a willing cooperator, it is also not necessary that I endorse all the state’s laws and policies. Just as I can disagree with my golf club’s policies—and even work to change them—without resigning my membership, so too I can be a willing political cooperator even while disagreeing with some laws and working to change them, while still affirming my state’s right to rule.

It might be objected that even if most citizens are willing cooperators, unwilling individuals are wronged by being forced to be free. But this objection is implausible. Though I cannot defend the argument here, I accept the Kantian view that each individual is subject to important natural duties that require his participation in a state, and that he can rightly be coerced to perform these natural duties. If this is correct, then these unwilling individuals already owe it to the others with whom they interact to comply with a legitimate authority. As long as their state guarantees these unwilling individuals’ basic rights, then we do them no wrong by requiring them to comply. It is not an impermissible infringement of an unwilling person’s freedom to require him to support a legitimate state, anymore than it is an impermissible infringement of his freedom to require him not to assault or murder others. So affirmation plays no role in the argument that legitimate states are necessary in general, or that individuals have a duty to comply with them in order to do justice to others.

But while individual consent is not required, the widespread affirmation or endorsement of the political community is an important condition for a state’s right to rule. Affirmation secures a special nomination for this particular state to be the one that rules this particular group. It shows that their political authority stands in a special moral relationship with them, a relationship that no alternative, equally just or beneficial authority, could claim. This fact—that a particular state is the product of a self-determining process of political cooperation among citizens—singles it out as the one with a special right to rule this group and their territory. Such affirmation is generated when a number of individuals share interlocking intentions to willingly comply with the laws, to pay taxes, to vote (in a democracy), and to cooperate with the police, judges, and state officials. To generate this special right, it is not necessary that every member of the community willingly cooperate with their state; but it is important that most do.

47 I defend this argument much more fully in Stilz, Liberal Loyalty.
48 Here I agree with A. John Simmons that there are two distinct dimensions to our moral evaluation of states, which he calls justification and legitimacy. See A. John Simmons, Justification and Legitimacy, (Cambridge: Cambridge University Press, 2001), 122-145.
To sum up, then, on the associative view, a citizen will have an interest in his state’s self-determination if and only if the following three conditions are met:

1. **Political Relationship Condition:** The group has established a history of political cooperation together in the recent past (usually through sharing a state, but perhaps also through a substate political unit, or an organized national liberation movement, about which more below),

2. **Objective Legitimacy:** Their relationship is one that it is reasonable to value and affirm, because it can provide rule that protects the basic rights of each member, and

3. **Subjective Legitimacy:** The citizens, by and large, do value and affirm their political relationship.

Like the instrumentalist and democratic views, the associative account holds that claims to form a new sovereign political unit are remedial claims that come into effect when the state’s legitimacy fails. One reason the state’s legitimacy might fail is through severe and persistent human rights violations, as the instrumentalist emphasizes. But this is not the only way legitimacy might fail. When the people of an objectively legitimate state cannot be brought to affirm their current institutions, they will have a remedial claim to create legitimate institutions that they can affirm. Generally, members of an objectively legitimate state will respond over time by affirming its practices of political cooperation. Sometimes, though, it is possible for citizens of a minimally just state to fail to identify with it, and this will especially be the case there is a history of coercion, conquest, oppression, and conflict dating from the past. Even if this history of abuse has now been overcome, and objectively legitimate institutions are established, formerly oppressed citizens may be unable to affirm the relationship of political cooperation required to sustain them.

Consider two types of case. The first type I call warranted failures of subjective legitimacy. Here, some citizens reasonably fail to affirm their state, despite the fact that its rule over them is objectively just. Such warranted failures often occur when the past history of the political relationship is oppressive or alienating. To see this, think of the analogous case of the wife of a former alcoholic. Her husband may now be perfectly sober and loving. He may sincerely regret the past history he had with his wife, and have made attempts to build a better relationship going forward. Still, when we look at matters from his wife’s perspective, it seems reasonable that she may be unable to identify with this relationship, and wish to discontinue it. It may be hard for her to ever feel completely comfortable being near him, to expunge the memory of his alcoholic years, etc. The value of a political relationship, like the value of other relationships, is in part a matter of the history of interaction between the parties, and we cannot “undo” this history. The wife’s reaction is reasonable because we can imagine ourselves feeling the same thing were we in her situation.

I believe that many colonial cases are warranted failures of subjective legitimacy of this kind. Most subject peoples experienced a history of political misdeeds and oppression that left behind an important legacy of alienation. Even though better
governance was established for Ireland in the late nineteenth century, for Algeria in the 1950s, or for many indigenous peoples since the 1970s, these groups still had (and have) extreme difficulty in bringing themselves to affirm a continued political relationship with their former colonizer. They may “know” that objective reforms have taken place, but be unable to identify with the political practices in which they find themselves participating. I submit that this is a “reasonable” reaction: it is one we could imagine ourselves having in their situation. The interest in external self-determination is very strong when it is grounded in a warranted failure of affirmation of this kind. If a group:

(a) has a past history of coercion, conflict, or oppression at the hands of a now-objectively legitimate state;
(b) finds itself unable, over a significant period of time, to affirm its political participation in that state;
(c) possesses a tradition of political cooperation that can be more willingly affirmed (perhaps based on a substate political unit or organized national liberation movement), and
(d) has the political capacity to construct and sustain objectively legitimate institutions on the basis of these joint cooperative practices,

then I believe it has a very strong claim to establish a new political unit. As I noted above, this claim must still be assessed against possible countervailing considerations, such as the potential for civil unrest, instability, ethnic conflict, or human rights violations. But warranted alienation provides a weighty reason for redrawing boundaries.

A harder type of case I call a simple failure of subjective affirmation. Here, a subgroup feels alienated from its state despite enjoying an objectively good history with it. Perhaps members of a substate political unit or a culturally distinct subgroup simply cease to identify with their fellow citizens, in a way that is widespread, lasting, and has serious repercussions for their willingness to “play their parts” politically. We may not see their failure of affirmation as reasonable or believe that we ourselves would have the same reaction. Still, if their sense of alienation is sufficiently deep, and if the group possesses traditions of political cooperation that can be more readily affirmed, then I believe there is some reason to grant them self-determination, though this reason is weaker. In part, this because if secession is not allowed, political relations are likely to become more conflictual, and authority more repressive for everyone. But there is also a more intrinsic reason: even if the political relationship is still objectively valuable, the alienated subgroup is not able to appreciate this, and that means its value is partly lost to them.

Compare the case of someone who has enjoyed an objectively good history with his family, but has now become severely disaffected. He may still have binding duties to his family, to care for his children, for example, or to pay spousal or child support. Still, if his alienation is genuine, significant, and long-lasting, much of the value of the relationship will be lost for all concerned, in an irretrievable way. In this kind of case, it is often better to allow separation, if separation can be achieved in a manner that is not too costly. I submit that the case is similar for secessionist groups. If separation can be
achieved in a manner that is not unduly costly, and allows both parties to pursue more widely affirmed political relationships, then there is some *pro tanto* reason to allow secession. Still, this reason seems weaker than in the case of a warranted failure of affirmation. It may therefore be appropriate to impose higher “exit” costs on groups that have no history of subordination, or to explore options for self-determination short of full independence, such as federalism or devolution.

In conclusion, I wish to make two final points. First, on the associative view I have defended, both objective and subjective legitimacy are valuable. But which has the higher priority when the two conflict? Suppose a colonial power rules in a way that is objectively legitimate—it protects its subjects’ basic rights—but its regime is not widely affirmed. If it decolonized, however, the native inhabitants would establish a regime that violated basic human rights, perhaps because deeply rooted social cleavages would lead one segment of society to oppress another. Should the colonizers leave?

In reply, I note that on my view, the objective and subjective elements of self-determination are inherently connected. This is because subjective affirmation is valuable only when it is authentic, and the objective legitimacy conditions guarantee this authenticity. For my will to be implicated in my state, I must not be manipulated or coerced into affirming it. Where an endorsement is expressed only out of fear, manipulation, or adaptive preference, it carries no moral weight. Some minimal protections of my personal security, and my ability to form and express my own opinions—including basic liberties of conscience, speech, and association—are necessary safeguards against such manipulation or coercion. One can imagine a range of rights protections that might enable citizens to freely form and express their authentic endorsement, beginning with the mere protection of freedoms of speech and thought, and extending all the way to full democratic participation rights. Democratic rights—such as the right to vote, to form parties, and to run for office—provide robust guarantees that citizens’ affirmation is authentic, and thus that their state is self-determining. But I believe it is also possible for citizens to authentically affirm their state even where its institutions are not fully democratic, as long as they are free to form and express dissenting opinions. Some degree of objective legitimacy is necessary to ensure that citizens have sufficient control over their own will-formation for their subjective endorsement to be genuine.

For this reason, on my view, objective legitimacy should take priority over subjective legitimacy in cases of conflict. Were the colonizer to withdraw in the case above, its action would not in fact promote the self-determination of the subject people. This is because the native regime that followed their withdrawal would fail to safeguard the preconditions for such self-determination. The priority that my associative view places on objective legitimacy sets it apart from other views—like Michael Walzer’s—that emphasize subjective legitimacy alone. Walzer suggests individuals have “rights…to live as members of a historic community and to express their inherited culture

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49 It is important to emphasize that the fact that a state is not self-determining does not show that it can justly invaded by foreigners. On most theories, the only just causes for war are self-defense and *in extremis* humanitarian intervention. But if a group that is not self-determining is justly subjected to military occupation, then there is no further obstacle to sustained rule over its territory.
through political forms worked out among themselves." This idea is in some ways similar to the associative view. But he also thinks that outsiders should presume a certain "fit" between the community and its political institutions, even if the regime is highly oppressive, as long as that oppression does not involve grievous moral wrongs, such as the massacre or enslavement of citizens, or the expulsion of large numbers of people. To the contrary, I believe we are not entitled to presume "fit" unless citizens’ wills and opinions are formed under minimally just conditions, and unless those wills and opinions have some channel for public expression. In cases where a subject people cannot sustain institutions that meet the preconditions for authentic self-determination, decolonization may be delayed until they develop the political capacity to do so. Colonial institutions can be provisionally legitimate during this period.

A second worry is that the associativist view, as I have described it, is not meaningfully distinct from the nationalist approach. In reply, I emphasize that my associative argument differs from the nationalist one in interpreting "peoples" not as cultural groups, but rather as groups defined by a history of willing political cooperation together. The "people’s" relationship consists in a pattern of coordinated social behavior that can support organized political authority. Though this pattern of political cooperation may overlap with cultural ties, it does not have to. Citizens who have cooperated to sustain a multinational state—such as Belgium, India, or Canada—will count as "peoples" on the associative view, though they would not qualify as national cultures. Because of my definition of the people, I believe administrative boundaries often have moral weight, despite the fact that they may have originated in acts of conquest or dynastic union, or may cut across cultural groups. Administrative boundaries are important because they circumscribe joint practices that have supported political authorities in the past, and might serve to support them in the future. Administrative boundaries thus define “proto-peoples,” groups that have the institutional traditions and (perhaps) the reserves of willing cooperation to support a legitimate authority today.

While I agree with nationalists that individuals have important interests in their culture, I believe their argument for political self-determination rights is weak. National groups do not require political sovereignty in order to practice their culture. They can secure their cultural interests within a multinational state, e.g. by enjoying rights over language, land, or education. Moreover, granting self-determination at the expense of minority cultural rights may undermine diverse societies, by presenting uninational states—which can only be attained by assimilation or exclusion—as the "first-best" option for nations.

Instead, I believe liberal states should reduce their association with the majority culture, and give culturally diverse citizens an equal stake in their institutions and public

52 For these arguments, see Raz and Margalit, “National Self-Determination,” and Miller, “Secession and the Principle of Nationality.”
53 For an argument in favor of such policies, see Will Kymlicka, Multicultural Citizenship (Oxford: Oxford University Press, 1995).
spaces. The more culturally “neutral” states become, the more likely they are to bring diverse citizenries to affirm their cooperation together. I am not denying that alienated cultural groups might currently claim self-determination rights, on my account. But this is not a necessary consequence of my associative view. To the extent that cultural minorities are alienated, I believe this has its roots in the fact that many states have adopted an illegitimate “nation-state” ideal that privileges the majority culture. Were a “cultural neutrality” requirement implemented, I believe that the practical implications of my associativist view would differ markedly from the nationalist one. Though current patterns of subjective alienation may reflect patterns of cultural distinctiveness, they need not do so.