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# Nations Without States

*Gidon Gottlieb*

## SELF-DETERMINATION RECONSIDERED

IN THE TWENTIETH CENTURY, the great powers allocated territories and permitted the creation of new states on the basis of the Wilsonian principle of self-determination. They invoked ethnic principles for the equitable distribution of territories. The central element in this approach was the division of territories. Yet most of the national and ethnic conflicts that remain today cannot be settled by changing the boundaries of states to give each national community a state of its own.

States bent on extinguishing smoldering embers of ethnic strife without the traumatic surgery of secession must make it possible for restive nations to carry on their life free from alien rule. The principle of self-determination must be supplemented by a new scheme that is less territorial in character and more regional in scope. Such a “states-plus-nations” approach requires functional spaces and special functional zones across state boundaries, the creation of national home regimes in historical lands, the grant of a recognized status to national communities that have no state of their own, the design of unions between peoples—as distinct from territories—as well as an approach to issues of national identity and rights that differentiates

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between nationality and state citizenship. A states-plus-nations framework does not preclude territorial compromises; it widens the menu of options when territorial changes do not suffice or when they are altogether ruled out.

The map of the world in the twentieth century changed after every one of the three great conflicts, the two World Wars and the Cold War. Yet only on one occasion, at the end of the First World War, did the great powers make deliberate changes collectively. After the Second World War and the Cold War, the powers could do little to determine the shape of the peace. When World War II ended, they outlined at Yalta the Soviet Union's spheres of influence. When the Cold War drew to a close, they did little to direct the tide of the nationalist and ethnic forces that remade the map of Eurasia from Germany to Kazakhstan. The powers are now confronted once more with national questions that threaten the peace. A new framework is required where Woodrow Wilson's principles failed.

#### BEYOND THE TERRITORIAL APPROACH

IN THE ABSTRACT, a good case can be made for liberal nationalism and for the principle that every nation should have a state of its own. Homogeneous national entities may be more likely to evolve into peaceable democracies than states rent by harsh linguistic and cultural antagonisms. The peaceful breakup of repressive multinational entities might be desirable when the new states born of their demise are liberal in character. In practice, however, the revision of boundaries is likely to embroil entire regions in hideous strife similar to the Yugoslav war. Moreover, boundary changes offer no panacea to national communities scattered without geographical continuity across regions and empires.

In today's international order, the sharp divide between the status of statehood and all other forms of subordinate political organization elevates the value of territorial independence beyond what it might otherwise be. The emphasis on the formal equality of states contrasts with earlier, occasionally less violent phases of history when most rulers were subordinate in some way to popes, emperors or one of the

other great sovereigns of the time.<sup>1</sup> Statehood has become the ultimate prize of nationalists; their banner is self-determination and their demands are territorial. There are no halfway houses between subordination and equality, between independence and autonomy. Yet there should be some intermediate status between politically subordinate autonomy and territorial sovereignty that can ease the relationship of nations without a state of their own to the remainder of the world community.

The tide of nationalism and ethnic passions is still rising in a wide arc from central Europe to the heart of Asia. Until the elections of last December, the intensity of Russian nationalism was obscured by the conflicts of small nations at war in the Balkans and the Caucasus. Nationalist fervor in the great powers is far from extinct; it is not the exclusive preserve of the smaller ethnicities. The substantial vote for Vladimir Zhirinovsky's ultranationalist party casts a shadow over Russia's frail democratic institutions and the safety of its neighbors. For years to come, ethnic strife will continue to loom large in Eastern Europe, the Balkans and the former Soviet Union. It could overwhelm efforts to bring these former communist lands into closer ties with the West. Sustained ethnic strife could mire these countries in a brutish culture of xenophobia, racism and hatreds incompatible with Western political civilization. In countries where democracy is not deeply rooted, nationalism is emerging as the new organizing principle for authoritarian rule, with somber implications for international peace.

The troublesome circumstances inflaming the passions of nationalities throughout the former realms of the tsars, the Ottomans and the Hapsburgs cannot be resolved by having diplomats trace lines on maps, or by negotiating complex legal regimes

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<sup>1</sup> Machiavelli wrote that Germany, for instance, was "compartmentalized into the Swiss, into republics called free lands, into princes and emperor. And the reason that among so much diversity of ways of life wars are not born, or if they are born they do not last long, is the very insignia of the emperor; who though it happens that he may not have forces, nevertheless he has among them such reputation that he is a conciliator for them, and with his authority, interposing himself as a mediator, he at once extinguishes every discord." Cited in Sebastian de Grazia, *Machiavelli in Hell*, Princeton: Princeton University Press, 1989, p. 159.

for protecting communities that lack a state of their own. Regimes based on the protection of minorities failed and fell into disrepute between the two world wars. No boundaries could be traced to create homogeneous nation states; national communities were left stranded inside states bent on repression.

Many large national communities continue to find themselves living in trying conditions outside their own national state in countries at the edge of their homeland. This is the fate of some 25 million Russian inhabitants of the former Soviet republics who were unexpectedly separated from Russia by borders created when the former Soviet republics declared independence. These Russians, cut off from the protection of their motherland, are often reduced to the status of an unwelcome minority among peoples impatient to be rid of Moscow's domination. The Russians began coming to the distant lands of Central Asia in the heady days of the Great Game and, in this century, in the wake of Stalin's policy of Russification. The treatment of these Russian populations has become a serious irritant in relations among the ex-Soviet states, but border changes cannot return them peaceably to Russia's jurisdiction. Any such changes would necessarily dismember the new states, setting Russia on a path of resurgent imperialism. Left unattended, this issue could yet provide the spark for massive Russian intervention in the former Soviet republics.

In the Balkans, the gruesome bestiality of the wars waged by Serb nationalists highlights the ruthless passions of a nation divided by new borders in what it regards as its own homeland. These are the borders that the Muslim-dominated Bosnia inherited on independence. Serbia's assistance to the Bosnian Serbs encouraged them to create their own state within Bosnia, potentially as part of a Greater Serbia. It sank the country into the devastating war from which no exit is yet apparent.

The failure of the territorial approach is also evident elsewhere in the former Austro-Hungarian empire. The uneasy conditions of ethnic Albanians in Serbia and of Magyar inhabitants of the countries bordering Hungary stem from the First World War's peace settle-

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ment. They cannot be resolved by more border changes that would remake the map of these scarred lands without resorting to the forced transfer of entire minorities.

Similarly, the territorial approach in the former Ottoman empire offers no greater hope than in the Balkans. The Kurdish people are also victims of peace settlements. Kurdish national aspirations were recognized in the Treaty of Sèvres, which addressed the disposition of Ottoman lands. The treaty was never ratified; it was superseded in 1923 by the Treaty of Lausanne, which ignored the promises of the Sèvres blueprint. The Kurds were never granted a state; today they inhabit a land divided among Turkey, Iraq, Iran and Syria and survive in dire circumstances among countries bent on their annihilation or submission. Their protracted strife against Turks, Iraqis and Iranians cannot be resolved by the creation of a new state. This step would require major changes in the map and the geopolitics of the Near East that are opposed by the powerful states of the region.

Other conflicts that cannot be settled by ordinary territorial adjustments concern historic lands claimed by rival nations as their national home. The issue of rights cannot always be reduced to a matter of boundaries. For example, the long-lasting strife over the unallocated lands of the former Palestine Mandate cannot be resolved by a simple partition of the country that would deny the legitimate rights of either Israelis or Palestinians in their historic homeland beyond state boundaries. A similar problem arises in Kosovo, where the fate of the Christian Serb shrines and monasteries cannot be determined merely on the basis of the wishes of the province's predominantly Muslim population. Kosovo was the seat of the medieval Serbian Patriarchate and the scene of the battle at Kosovo Polje, where the Ottomans defeated Serbia's Czar Lazar in 1389. The site of the battle, which opened the era of Muslim domination, is endowed with a significance that outsiders are at pains to understand.

There is a need for fresh thinking of a kind not seen since the peace settlements of the 1920s. It is time for a new effort, to update Woodrow Wilson's scheme for new nation states. The need for an update, an *aggiornamento* of the state system, is underscored by the inability of the United Nations and NATO to safeguard the territorial

integrity of Bosnia, which is a member of the United Nations, from the onslaught of Serb ethnic nationalism, or even to protect Bosnia's population from the barbaric massacres.

President Wilson's Fourteen Points do not resolve today, any more than they did 75 years ago, the enduring problems that are the legacy of the collapse of the Russian, Ottoman and Austro-Hungarian empires. No one contests these principles anymore, that "peoples and provinces must not be bartered about from sovereignty to sovereignty as if they were chattels or pawns in a game," that territorial questions should be settled "in the interests of the populations concerned," and that "well-defined national elements" ought to receive "the utmost satisfaction that can be accorded them without introducing new, or perpetuating old, elements of discord and antagonism." The trouble is that they do not address the hard issues of ethnic conflict and nationalist aspirations that unsettle a wide sweep of countries.

#### THE STATES-PLUS-NATIONS FRAMEWORK

THE AGE-OLD INTERNATIONAL order, which was limited to territorial states, needs to be expanded to make room for nations that are not organized territorially into independent states. A non-territorial system of nations has in fact existed for much of history, though it was never given a formal expression by states jealous of their sovereign authority. It consists of nations bound across borders and continents by ties of kinship, sentiments, affinity, culture and loyalty.

A deconstruction and rearrangement of rigid concepts of territorial borders, sovereignty and independence that originated in Western Europe has become a necessity in the East, where the creation of homogeneous nation states is out of the question. This deconstruction leads to "soft" solutions; it does not entail changes in international borders or the creation of new independent states. It reorders the standing of national communities on an internal constitutional plane as well as on the international diplomatic one along the lines outlined in the following sections.

*Functional Spaces and Zones.* Soft functional spaces are mere overlays added for limited purposes over existing boundary lines. They do

not prejudice or modify internationally recognized borders. In the European Union, for example, there are sets of diverse “spaces” governing social policy, immigration and the free movement of persons. The Schengen agreement on the free movement of persons without passports across international borders, for example, does not apply to all members of the European Union.

The deconstruction of rigid boundaries is a feature of current state relations. Soft jurisdictional lines for authorities of all sorts have long been a characteristic of national life: agencies like the New York Port Authority exercise their powers astride the limits of the states of New York and New Jersey. The creation of free-trade areas involves the limited removal of barriers between states. Between most states there are no boundaries interfering with the flow of ideas and information.

*Historical Homelands.* The notion of a special regime for a national or ethnic community in a historical homeland that lies across an international border would permit a soft exercise of national rights that does not entail a territorial rearrangement among states.

The depth of attachment of a nation to a historical homeland is not easily understood in secular societies, in which land is bereft of mystical significance and where the idea of a country blends into that of real estate. A national home is a concept that has its roots in history, culture and myth. The limits of a national or historical motherland often do not coincide with a state’s boundaries. The ties of sentiment binding a people to its land must be treated with delicacy and acknowledged in a manner that does not preclude recognizing the ties of other people to the same land. This issue bedevils the relations of Arabs and Jews in a city, Jerusalem, and in a country where both nations claim rights of the most sacred nature. The emotional nature of the ties between a nation and its homeland renders them immune to legal claim and to notions of legitimacy and majority rule that are sometimes advanced to deny them. An internationally recognized regime must be devised to give expression to those ties without prejudicing the territorial settlement between the states of a region.

A homeland regime would define the rights that a community may exercise in areas it considers to be its historical or national home, astride the international borders that may bisect it. This can be done



whether or not that community constitutes a majority in the region. A homeland regime could be crafted to place emphasis on national traditions, cultural rights and individual safety as well as on the disposition of land use questions at the local level. It could provide that no national would have the status of an alien in his or her national home even though not all might have the right to settle there. A regime of this nature would ideally involve a measure of local governance as well as the establishment of soft spaces across borders. It would have to be calibrated not to overly detract from the authority of the states in which it is established. Where the same territory is contested by two or more peoples, as in Bosnia, concurrent national home regimes could be created within a single region.

*The Status of Nations.* The lack of formal international status for nations and for ethnic communities that have no state of their own has been an object of constant concern in their struggle for recognition. The real stake in this struggle is support for the territorial claims of a national community implicit in the recognition of its status and the strain this inflicts on relations with affected states. But once international practice establishes that no such implications are warranted, granting recognition comes more easily. The Palestine Liberation Organization, for instance, has enjoyed full diplomatic relations with many states that have not endorsed the PLO's aims.

Nations that do not have a state of their own should be granted a formal non-territorial status and a recognized standing internationally, albeit one that differs from the position of states. The lack of international standing of communities that enjoy no territorial sovereignty can be mitigated with a soft approach, endowing them with privileges analogous to those that the regions of Europe have obtained in the European Community institutions and under the Maastricht treaty. Nothing in international practice, moreover, prevents granting representatives of non-territorial communities a standing and access to regional organizations like the Council of Europe or the Conference on Security and Cooperation in Europe. The colorful precedent of the Sovereign Order of the Knights of Malta, which has long main-

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tained formal diplomatic relations with a number of Catholic states, supports the grant of diplomatic privileges and immunities to communities deprived of territorial jurisdiction. Modern statecraft is highly flexible with regard to the conduct of relations with communities other than states.

In regard to the Kurds, for example, a soft international standing may offer the most they are likely to obtain in the present correlation of forces. It would buttress their security in northern Iraq without impairing the formal unity of the Iraqi state. The Kurds there have an unstable and complex status. They have achieved a tenuous form of national existence that falls well short of independence and statehood, and depend entirely on the goodwill of Turkey. They enjoy a wide measure of self-rule in a safe haven free from Iraqi soldiers, but one that remains secure only as long as it can be protected by a U.N.-sponsored security umbrella. The opposition of Turkey, Iran and Syria to Kurdish independence is such that Saddam Hussein reportedly allowed the Kurds to secede, secure in the knowledge that none of the other states of the region would tolerate a Kurdish independent state. In Turkey, the use of the Kurdish language is barely tolerated, and Kurdish national rights are not recognized. In Iran and Syria, Kurds are subject to the rigors of repressive rule. The hapless Iraqi Kurds are thus condemned to the formal embrace of a state that has engaged in genocidal warfare against them. This long-suffering community cannot be expected to forgo functional territorial arrangements for the safety and safeguard of essential needs, but it must be content not to challenge the international borders that run across Kurdish lands.

*National Identity and National Rights.* The nationalist tensions in the former U.S.S.R. and the tragic wars in the Caucasus and the former Yugoslavia highlight the centrality of national rights for nations separated by international boundaries. Matters of national identity and citizenship are shrouded in great emotional and linguistic complexity. National identity is frequently confused with state citizenship. These issues involve separate but crosscutting realms of discourse, the social-psychological and the juridical. The assertion of a national identity is a political and cultural phenomenon. It can be given a formality distinct from that of citizenship, which is always legally deter-

mined. The laws on nationality and citizenship bear witness to a rich and diverse usage among countries. The laws of Great Britain draw distinctions between the rights of citizens of the United Kingdom and those of British subjects; the status of British subject does not itself confer the right to settle in Britain. In the United States, not all "nationals" are citizens.

The fate of Russian minorities has become an issue in Russian politics. It was skillfully exploited by Vladimir Zhirinovskiy in his campaign for the Russian parliament. Nationalist critics charged that Russians living in the "near abroad" are being discriminated against and treated as second-class citizens, especially in the new countries of central Asia. This discrimination denies full rights of citizenship, promotes bias in schools, places Russian property and jobs in jeopardy, and forces Russians to learn local languages. The suggestion that Russia content itself with the feeble remedies of traditional international law for the protection of its nationals in nearby countries is unlikely to carry the day in a country rife with nationalist and xenophobic passions.

In December 1993, at a meeting of the leaders of the 12 countries that make up the Commonwealth of Independent States, Russian President Boris Yeltsin proposed granting special status for Russians living inside the borders of these former Soviet republics. The proposal sought to guarantee the rights of national minorities and to give nationals living outside Russia dual citizenship, but it was dropped in the face of Ukrainian and Kazakh opposition. Many feared that dual citizenship would give Russia the legal basis for intervention without regard to their status as citizens of the states they inhabit. The president of Kazakhstan, Nursultan Nazarbayev, went so far as to compare talk about the protection of Russians living in Kazakhstan with "the times of Hitler, who also started off with the question of protecting Sudeten Germans." A soft solution to defuse the tensions that are building up is in the interests of Russia and its neighbors. Intricate distinctions of status between nationals and citizens lend themselves to constructive use in carving out different kinds of civil, political, social and economic rights. The grant of Russian nationality, as distinct from dual citizenship, could be designed to extend diplomatic

protection and confer privileges inside Russia itself, rather than to assert Russia's right to intervene in the ex-Soviet states.

In the former Yugoslavia, it has become evident that states should allow nations and peoples to affirm a common cultural identity and kinship across international boundaries. States have no obligation to

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National identity is frequently confused with state citizenship.

change their boundaries to accommodate the wishes of a minority community that may nonetheless predominate in a region. States should recognize the legitimate civil rights of members of national and ethnic communities as well as their social rights and entitlements, a recurring demand in the former Soviet

Union. But the exercise of political rights is a different matter. It involves the relationship between a state and its citizens, a relationship built upon their undivided loyalty and mutual obligations.

*Union of Peoples and Union of States.* Soft forms of union between national communities divided by international frontiers could reduce tensions in stalemated conflicts. Such unions could grant a common nationality to persons of diverse citizenship and allow the exercise of political rights outside the state of a person's citizenship. A form of union that involves peoples rather than territories and that leaves international frontiers untouched could help resolve tensions in the Balkans, especially in Kosovo.

The arcane problems of Kosovo cannot be left to fester. This remote Serbian province, which borders on Albania, has a population that is 90 percent ethnic Albanian, and constitutes nearly half the Albanian nation. The struggle between Serbs and Albanians in the province threatens to unleash a wider Balkan war that could engulf Greece and Turkey. Seventy years after the final departure of the Ottoman Turks, the savage strife of Christian and Muslim populations in the former Yugoslavia is not over. In a sense, Kosovo is where the breakup of Yugoslavia began. It was there, in 1987, that Slobodan Milošević gained popularity by affirming Christian Serb supremacy over a largely Albanian and Muslim province.

A soft form of limited union between the ethnic Albanians of

Kosovo and the people of Albania would leave the borders of Serbia unchanged. This union could define the rights, entitlements and privileges that Albania would grant ethnic Albanians. Such privileges are by no means unprecedented: Israel's law of return grants citizenship and material help to Jewish citizens of other countries immediately upon their immigration. The difficulty for Albania lies in its capacity to grant meaningful rights of any kind. Yet a union of sorts between Albanians on both sides of the border could be symbolically significant to the Albanian people. It could be expressed by granting Albanian "nationality" to ethnic Albanians. Such Albanian nationality would not modify the Serbian citizenship of Kosovo's ethnic Albanians. It need not prejudice Serb sovereignty or Serbia's historical rights in the province.

#### UP FROM NATIONALISM

A SOFT APPROACH to managing the problems of nationalism corresponds to the profound changes that erode state sovereignty and reduce the all-importance of territoriality. These changes are characteristic of a global economy in which capital, technology and information flow unimpeded. Two contradictory trends—the integration and the fragmentation of states—are unfolding concurrently. The rise of free-trade areas that pushed states toward closer integration has paradoxically strengthened isolationist forces that nourish a revival of nationalism and ethnic strife. Nationalism is driven by the affinity-identity passions of ethnic communities and religious groups thirsting for self-esteem and dignity. These sentiments are strongest among laggards with hurt pride in the dark corners of fallen empires.

The interests that propel states toward ever-closer economic integration are embodied in the North American Free Trade Agreement, the Asia-Pacific Economic Cooperation forum, the General Agreement on Tariffs and Trade, and the European Union. The opposition to NAFTA among labor and environmental groups fed the isolationist forces that rejected a greater integration of the world economy. The GATT arrangements were, on the whole, concluded in a manner that minimized the participation of communities such as farmers in deci-

sions that affected their future. Both processes created coalitions with a marked inward and nationalist bent.

Deep tides of nationalist feelings and powerful financial and market interests are running in opposite directions. These tides are running up against the politically driven forces of governments, which are jealous of the authority and jurisdiction that was traditionally theirs. They are slow to relinquish control over people and activities that were long in their grasp. The spontaneous emergence of market-driven "region states" across national frontiers has further inhibited government action and regulation.<sup>2</sup> The region states are engines of growth that prosper only where state intrusion is minimal.

The reconciliation of these profoundly conflicting trends—the political and nationalist trends affirming state sovereignty, the economic trends forcing their wider association and the ethnically driven fragmentation trends threatening their unity—is a central task for modern statecraft. Soft forms of nationhood can help reconcile the forces of fragmentation. What is required is nothing less than a rethinking of self-determination; a revision of the Westphalian system, limited to states, from which other national communities are excluded; a readiness to update the peace settlements of 1919-23 with a scheme that reconciles the claims of national communities dispersed in the former empires of the east with the territorial integrity of existing states; a willingness to entertain national demands in terms broader than the protection of persons belonging to minorities and individual human rights; the adoption of diverse types of intermediate status between autonomy and territorial sovereignty; the elaboration of new kinds of regional standing for national communities that have no state of their own. All of this is within the reach of contemporary statecraft. 🌐

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<sup>2</sup> Kenichi Ohmae, "The Rise of the Region State," *Foreign Affairs*, Spring 1993, p. 78.