FEDERALISM, SECESSION, AND THE MORALITY OF INCLUSION

Allen Buchanan*

I. THE RISKS OF SECESSION

The past half-decade has seen a startling increase in secessionist movements around the globe, and—more significantly—in *successful* attempts at secession. From Kashmir to Sri Lanka to the Baltic Republics, from Yugoslavia to Czechoslovakia to Armenia, from Chechnya to Quebec, the enthusiasm for state-breaking seems to be gathering momentum.

Even for those of us who view the modern state with deep ambivalence at best, the prospect of uncontrolled secession is a cause for considerable apprehension. Not only in the former Yugoslavia, but also in many other cases as well, secession and the efforts of the state to resist it have resulted in massive violations of human rights and floods of impoverished refugees.

As the human and economic costs of secession mount, individual states and international organizations such as the United Nations and the European Community are forced to consider whether there are ways of avoiding secessionist crises or at least of controlling the damage they generate.

II. EXPANDING THE OPTIONS

Elsewhere I have argued for the need for an international, institutional response to secession crises—for articulating principles and building international legal institutions designed to bring secession within at least the minimal constraints of the rule of law.[1] The first element of this strategy is to distinguish between secession and other, less extreme forms of *self-determination.* The second is to build international consensus on the principle that the recognition of various other rights of self-determination does not, in itself, entail that the group in question has the right to secede. A third element of the proposal is to work for consensus on the principle that there is a presumption against secession and in favor of less extreme forms of self-determination, except as a last resort remedy for certain serious injustices. Crucial to this approach is the tenet that the right to secede should not be viewed as a general right ascribed to all groups (or "peoples") that desire independent statehood, but rather as a special, remedial right to be ascribed only to groups that have

* Grainger Professor of Business Ethics, Professor of Philosophy, Professor of Medical Ethics, University of Wisconsin-Madison.

1. Allen Buchanan, *Self-Determination, Secession, and the Rule of Law, in* NATIONALISM (Jeff McMahon ed., forthcoming 1995).

suffered serious injustices at the hands of the state.[2]

The forms of self-determination short of secession are diverse. Sometimes what are more properly called minority *cultural* rights are placed under this heading. Minority cultural rights include the rights of peoples to wear their distinctive cultural dress, to be called by their own names, to practise their own cultural or religious rituals, as well as the right to state support for teaching and preserving their own language. Rights of self-determination in the strict sense, however, are *political* rights. These include not only rights of self-administration, but genuine rights of self-government, including rights to regulate the use of land and the development of natural resources, which requires regulation of property rights, and rights to raise and disburse tax revenues. Such rights of self-determination, short of secession, may be called *internal* rights of self-determination because they are to be exercised within the state.

One attraction of this response to the problem of secession is that it expands the set of constructive options immeasurably. The door is opened to exploring a range of forms of self-determination, short of secession. States are then free to acknowledge that a group has legitimate interests in self-determination without thereby signaling a willingness to cooperate in their own dismemberment by recognizing a right to secede.

Another, less obvious feature of this strategy will appeal to those who sense the inherent limitation of secession as a form of resistance to the state. The limitation, paradoxically, is that secession is an extremely *conservative* response to state authority. Secession is sometimes referred to as state-breaking; more accurately it is the *multiplication* of states. Secession as such is simply the attempt to create more states, not a challenge to the *nature* of state authority. In contrast, exploring new forms of self-determination *within* the state may lead to a more critical attitude toward the nature and structure of state authority.

Secessionists assume that the problem is *a* particular state, not the character of the state itself. To think that one's problems with the state will be solved by getting one's own state is hardly to take a fundamentally critical stance toward the idea of state authority.

After all, secession is merely an attempt to diminish the territorial scope of one state's authority and replace it by the authority of another state. Thus secession does not challenge the dominant conception of the nature of sovereignty; it merely seeks to replicate sovereignty without questioning it. In that sense, secession is inherently conservative. It calls into question neither the dominant conception of state authority nor the international order, so far as the latter takes states as the fundamental elements of the international system.

Once we begin to explore other forms of self-determination for groups within the state, rather than assuming that self-determination means replicating states, we are liberated to rethink the very nature of the state. Instead of simply changing the territorial scope of this or that state's authority, we can attempt to reconceive the nature of that authority by investigating alternative structures of authority within the state. The result may be to transform our conception of political authority—and ultimately the state itself—much more radically than

2. ALLEN BUCHANAN, SECESSION: THE MORALITY OF POLITICAL DIVORCE FROM FORT SUMTER TO LITHUANIA AND QUEBEC 27–85 (1991).

any changes that may result from merely fragmenting states, or rather replicating them through secession.

Central to all internal rights of self-determination in the strict sense is a rejection of the idea of state sovereignty in its purest form—the claim that there is only one legitimate legislative authority, the state itself. Every internal right of self-determination is a limitation on state sovereignty. It is for this reason that to demand self-determination within the state is a more fundamental challenge to our conceptions of state authority than the threat of secession.

III. FEDERALISM AS AN ALTERNATIVE TO SECESSION

Perhaps the most familiar instance of internal rights of self-determination are the rights of federal units. In different federal systems, these units go by different names: provinces, cantons, or states, as in the United States.

It seems initially quite plausible, therefore, to explore federalism as a potentially less destructive alternative to secession. It may also seem plausible to explore the resources of existing and possible federal systems for challenging dominant conceptions of the nature of state authority itself.

However, in the remainder of this essay I will advance two theses that should temper enthusiasm for federalism, both as an alternative to secession and as a framework for rethinking the nature of state authority. The first thesis is that whether federalism will provide a viable alternative to secession will depend in part upon what the international community comes to accept as legitimate secession. More specifically: Federalism is likely to provide a viable alternative to secession only if international law unambiguously rejects the principle that an existing federal unit may secede if there is a *plebiscite* in that unit in favor of secession. The second thesis is that while federalism may represent a challenge to prevailing conceptions of state authority, in some instances this challenge represents moral regression, not moral progress—at least if one takes seriously what I have elsewhere called the morality of inclusion.[3] Briefly, the morality of inclusion recognizes that we have substantial obligations not to exclude others from membership in political associations simply because doing so would best further our own interests. In a growing number of cases, both secession movements and attempts to federalize unitary states may be motivated by or result in a repudiation of the idea of the *redistributive state*—the idea that one of the fundamental legitimating purposes of the state is to redistribute wealth from the better off citizens to the worse off.[4] To repudiate the idea of the redistributive state is to reject a fundamental element of the morality of inclusion.

3. Allen Buchanan, *The Morality of Inclusion*, SOC. PHIL. & POL'Y, Summer 1993, at 233.

4. This is not to say that there are not other serious limitations on federalism as an alternative to secession. Where ethnic conflict is the root cause of a secessionist crisis, federalism will usually have little to offer, at least if federal units are territorially defined. This is because in most cases conflicting ethnic groups are not neatly concentrated in particular territories but rather are mixed together.

IV. FEDERALISM AS A WAY-STATION ON THE ROAD TO SECESSION RATHER THAN AN ALTERNATIVE TO IT

If federalism is to provide a constructive alternative to secession, then centralized states must be encouraged to explore possibilities for devolution to federalism. Whether states will be receptive to federalist proposals will depend in part, however, on whether they view federalism as a way-station on the road to secession. Since most states are not keen to preside over their own dissolution, it is unlikely that federal alternatives will be freely and fully explored if there is good reason to believe that proposals for federalism will escalate to demands for secession.

Whether or not those currently holding the reins of state power will view federalist proposals as steps toward secession will depend upon a number of factors. Here I will concentrate only on one: What the international rules of the game of legitimate secession are perceived to be.

Suppose that it comes to be an accepted principle of international law that a federal unit may secede if there is a very substantial majority voting in favor of secession, in a free and fair *plebiscite*, within the boundaries of that federal unit. Acceptance of such a principle creates perverse incentives, if the goal is to explore federalism as an alternative to secession. Nonfederal states will understandably be reluctant to entertain proposals for federalism if doing so may make them vulnerable to dismemberment by plebiscite.

At the very least, fear of eventual secession by a federal unit may well lead the state to engage in highly restrictive policies concerning the flow of populations in and out of federal units. In order to prevent a certain ethnic or religious or national minority group from becoming a majority in a federal unit and then voting to secede, the state would seek to prevent immigration into that federal unit by members of the group, coming either from other states or from other regions of the country.

It is also worth pointing out that such a principle of legitimate secession creates perverse incentives not just for the state, but for others as well. A group intent on having its own independent state would have reason to attempt to concentrate in a particular federal unit, displace or overwhelm nongroup members residing there, and then hold a plebiscite on independence. Those familiar with U.S. history in the period immediately preceding the Civil War will recognize that this is not a mere speculative possibility. In Kansas the prospect of a plebiscite on slavery led to bloody conflicts in which pro-slavery and anti-slavery factions attempted to drive each other out of the territory.

To summarize: International recognition of a presumptive right of federal units to secede, in the absence of other substantive conditions for the ascription of the right to secede, therefore, can serve to block the emergence of federal systems or to distort the policies of those that already exist.[5]

Unfortunately, the European Community, the Council on Security and Economic Cooperation in Europe, and the United States, in their premature

5. For a more detailed discussion of the plebiscite theory of the right to secede, see BUCHANAN, *supra* note 2, at 70–74, and *Democratization, Secession, and the Rule of International Law*, *in* NATIONALISM AND SELF-DETERMINATION IN MULTICULTURAL SOCIETIES (Caroline Bayard and Stephania Miller eds., forthcoming 1995).

recognition of the independence first of Slovenia and Croatia, and then of Bosnia, have given tacit endorsement to the very principle of legitimate secession that creates these perverse incentives. Although the rhetoric of ethnic cleansing was already in full voice, and the history of Yugoslavia made the transformation from rhetoric to reality more than likely, there was no serious effort by the international community to hold Yugoslavia together by negotiating a new and more viable form of federalism. More disastrously, there was also no serious attempt to make guarantees of minority rights a firm condition for recognizing the independence of the seceding Yugoslav Republics.

Instead, the Yugoslav Federation was allowed to fragment along the boundaries of existing federal units, with the only condition being that the majority of citizens in a given federal unit voted in favor of secession. The danger is that a precedent is being set: that there will come to be a presumption that the rights of self-determination which federal units necessarily have go some distance toward legitimizing secession in the name of further self-determination, and that all that is needed for a federal unit to become fully independent is a pro-independence majority plebiscite within its boundaries. The plebiscite theory of the right to secede, when combined with federalism as a way of drawing the boundaries of the plebiscite, is a recipe for undermining whatever promise the federal alternative holds.

Here we have a clear application of a general point introduced at the outset of our analysis: Exploration of various forms of self-determination other than secession must proceed on the basis of an international consensus that such rights do not carry with them the right of the group to opt for full independence. Accordingly, recognizing a region as having federative rights should carry no presumption that a majority in that region may opt for secession. Thus the first of my two main theses: Federalism is likely to provide a viable alternative to secession only if the international community unambiguously rejects the principle that there is a presumption in favor of federal units having a right to secede if a majority within the unit favors secession.

V. THE ROOTS OF SECESSION: RESISTANCE TO DISCRIMINATORY REDISTRIBUTION OR REJECTION OF DISTRIBUTIVE JUSTICE?

As noted earlier, the redistributive state is one whose fundamental functions include the redistribution of wealth from the better off to the worse off citizens. In other words, the redistributive state includes among its main legitimating purposes the achievement of distributive justice, where distributive justice is understood to require some transfer of wealth from the better off to the worse off, independently of whether such a redistribution is to the advantage of the better off. (It should be emphasized that the redistributive state is not necessarily an egalitarian state in any strict sense).

To say that it is a legitimating function of the state to redistribute wealth among its citizens is not to rule out either the possibility that the state should also redistribute some wealth to the citizens of other states or that some redistributive functions should be carried out by agencies other than the state. Thus my assumption that it is a legitimating function of the state to redistribute

wealth among its citizens does not imply that there is no proper redistributive role for international institutions. Nor does it preclude the possibility that the division of labor regarding redistribution between the state and international institutions may shift in the future, with a greater role developing for the latter. A preview of such a development, though on a regional rather than a fully international scale, is already found in the growing assumption of redistributive functions by the European Community. The point, however, is that at present, the major agent of redistribution is the individual state.

Demands for secession and for devolution from the centralized state to a federal system can signal a rejection of the idea of the redistributive state in favor of the idea of the state as nothing more than an association for maximizing self-interest.[6]

What is at stake is a choice between two fundamentally opposed conceptions of the purpose of political association, which in turn are based on two radically opposed conceptions of the nature of moral obligations. On one hand, there is the idea that the only obligations we have (aside from any we voluntarily choose to assume) are founded on self-interested reciprocity—that we only have moral obligations toward those who can make a net contribution to our own well-being in a scheme of cooperation.[7] On the other hand, there is the idea that we have some obligations to individuals simply because they are persons or human beings, or perhaps because they are our fellow citizens, regardless of whether they are optimal partners in schemes of mutual cooperation, from the standpoint of our own self-interest.

The former conception of the nature of moral obligations, the view that our obligations to others are contingent entirely on how much of a contribution they can make to our welfare, leads naturally to a conception of the state as merely an arrangement for mutual maximal self-interest among *optimal trading partners*. As such, it is an explicit repudiation of the idea of the redistributive state. The latter conception of moral obligation, in contrast, supports the idea that a proper function of the state, and indeed, a primary legitimating purpose of political association, is the achievement of redistributive justice. For convenience, though with some risk of unclarity, I shall refer to the former as the purely instrumental conception of obligation, the latter as the noninstrumental.

The crucial point is that these two different conceptions of the basis of our moral obligations and of the purposes of the state lead to two correspondingly different conceptions of citizenship or political membership, and to two different conceptions of how the boundaries of political association are to be drawn. According to the purely instrumental conception, individuals are free to choose those with whom they will form a political association, strictly on the basis of the criterion of maximal self-interest. Thus the better

6. The causes of secession are complex. There are also a number of different reasons which secessionists advance to justify their actions. These proffered justifications usually take the form of grievances, more specifically, allegations of injustice. Secessionists may claim that they are seceding to escape violations of their human rights or to redress the historical injustice of having had their own sovereign state unjustly annexed (as in the case of the Baltic Republics). For a systematic critical analysis of the various justifications for secession, see BUCHANAN, *supra* note 2, at 27–85.

7. Allen Buchanan, *Justice as Reciprocity Versus Subject-Centered Justice*, 19 PHIL. & PUB. AFF. 227 (1990).

off, the "haves," may freely choose to restrict citizenship to themselves, to form a state which includes only themselves and enables them to pursue their own self-interest most effectively.

In contrast, according to the noninstrumental conception, one of the purposes of political association is the achievement of distributive justice. Since distributive justice requires some redistribution from the better off to the worse off, the fact that a certain group would be better off if it could withdraw from the state, and thereby divest itself of obligations to the worse off, is not itself a legitimate reason for seceding.

On the purely instrumental or maximal self-interest view, an individual has a valid claim to be our fellow citizen, and to share the fruits of our cooperative enterprise, only if he can make an optimal contribution to our self-interest. The purely instrumental view of political association holds it to be perfectly legitimate, therefore, for the "haves" to secede from the "have nots," if in doing so the former will make themselves even better off.

Such a view of the legitimacy of secession is in sharp contrast to the one which I alluded to above and which I have defended in detail elsewhere.[8] According to the view I endorse, a group has the right to secede only if it is the victim of a serious injustice.

It is not difficult to find cases of attempted secession of the "haves" from the "have nots": Biafra's secession from Nigeria, Katanga's from Congo, and Slovenia's from Yugoslavia, immediately come to mind. And in each of these cases and others like them, a plausible case can be made that at least part of the motivation for secession, for at least some significant proportion of the secessionists, was to avoid continuing to subsidize their worse off fellow citizens.

Contemporary political discourse in Canada lends additional support to my hypothesis that secessionist movements can express or provoke a repudiation of the idea of the redistributive state and a shift toward the idea of the state as a mere association for maximal self-interest. In recent years a number of politicians and many ordinary citizens in Canada's resource-rich Western Provinces have repeatedly voiced the opinion that if Quebec secedes from Canada, their regions may leave the Canadian Federation as well and form some variety of confederation with the United States. The explicit rationale for this strategy is that it best serves the economic interests of the people of the Western Provinces. By disassociating from Canada, they believe they can sever their redistributive obligations to the rest of Canada, especially the very poor Maritime Provinces. In other words, the threatened secession of Quebec has, in the minds of Western Canadians at least, lead to a questioning of the fundamental purpose of political association. And some who have posed the question have answered: The sole purpose is maximizing self-interest.

In many cases—perhaps most cases—secessionists have explicitly justified their actions by appeal to distributive issues. But instead of explicitly repudiating the demands of redistributive justice, as some Western Canadians have, they have appealed to the notion of distributive justice to justify their attempt to separate from the state. Indeed, if there is one justification that is offered by virtually all secessionists it is what I have elsewhere called the

8. *See* BUCHANAN, *supra* note 2, and Buchanan, *supra* note 1.

charge of *discriminatory redistribution.*[9] Discriminatory redistribution occurs wherever the state engages in taxation schemes, development strategies, or other economic policies that systematically work to the benefit of the people of one region to the disadvantage of others, without a valid moral justification for this unequal treatment. Other labels for the same phenomena include "regional colonialism" and "sectional exploitation."

Examples of the allegation of discriminatory redistribution abound. American Southerners complained that federal tariff laws were discriminatory, serving to foster the growth of industries in the Northern United States at the expense of the import-dependent Southern agricultural economy. Leaders of the Northern League in Italy, who at times have engaged in secessionist rhetoric, charge that their region contributes disproportionately to the state, without receiving compensating benefits, and Biafrans declared that their region, while containing only 22 percent of the Nigerian population, contributed over 38 percent of the country's overall revenues.[10] A Basque protest song employs a rustic simile to express the same grievance, describing Spain as "a cow with its muzzle in the Basque country and its udder in Madrid."[11]

Taken at face value, the charge of discriminatory redistribution is not a rejection of the idea of the redistributive state, but rather an implicit vindication of it. Those who voice this grievance are not denying that justice requires redistribution. They are charging that the existing pattern of redistribution in their state is *unjust.*

It should be clear that the charge of discriminatory redistribution presupposes some substantive standard of distributive justice. To know whether a net wealth flow from one region of a country to another is an instance of discriminatory redistribution, one must know what the better off region owes the worse off and whether the actual flow of wealth from the one region to the other satisfies, exceeds, or falls short of the level required by that obligation. (Determining whether there is a net wealth flow is neither trivial nor unproblematic. In some cases adequate information may be lacking; but even where it is available, there may be methodological disagreements about how best to measure net wealth flows. These are significant obstacles quite independently of the deeper problem of disagreements on substantive standards of distributive justice.[12])

Typically, however, when secessionists claim to be victims of discriminatory redistribution, little if anything is said about what that standard is, and hence about how we are to distinguish between discriminatory redistribution and the redistribution that justice requires. One group's discriminatory redistribution may be another's distributive justice.

In states in which there is a firm and broadly-based commitment to the morality of inclusion, and hence to the idea of the redistributive state, charges

---

9. BUCHANAN, *supra* note 2, at 38–45.

10. ARTHUR NWANKO & SAMUEL IFEJIKA, THE MAKING OF A NATION: BIAFRA 229 (1969).

11. DONALD HOROWITZ, ETHNIC GROUPS IN CONFLICT 250 (1985).

12. In *Self-Determination, Secession, and the Rule of Law, supra* note 1, I explore the question of whether or under what conditions it would be feasible for international law to count discriminatory redistribution as a *prima facie* justification for secession. *See also Democratization, Secession, and the Rule of International Law, supra* note 5.

of discriminatory redistribution voiced by dissatisfied citizens in one region may provide a constructive occasion for clarifying and deepening the consensus on what distributive justice requires. Or they may provide an opportunity for reinterpreting or renegotiating the content of the obligations of the better off to the worse off. However, if the commitment to redistributive justice has worn thin, if the sense of shared national identity between the better off and the worse off has eroded, or if there has been a loss of faith in the ability of democratic processes to resolve questions of distribution equitably—then a fundamental disagreement about the purpose of political association may arise.

The possibility that this may occur—indeed the suspicion that it is already occurring—should lead us to re-assess proposals for federalism. Proposals to explore federalism, either as an alternative to the highly centralized state whose performance has been such a source of dissatisfaction, or as a more constructive and less dangerous alternative to secession, may at first appear wholly benign, at least when compared to secession. Secession, as I have argued, has an unfortunate combination of characteristics: It has a great potential for human destruction and political and economic chaos, yet at the same time does not require us to rethink the nature and structure of state authority. Federalism, in contrast, may seem to avoid both of these deficiencies.

However, if my analysis is correct, this appearance is deceptive. What may be at stake in the debate over federalism is not simply the structure of authority within the state (which functions should be centralized, which decentralized, etc.), but also the very purpose of the state, the nature of our obligations to our fellow citizens, and the meaning of citizenship. Federalization of unitary states may be motivated by and may in fact contribute to a rejection of obligations of redistributive justice.

It is important to point out that in the current essay I am not arguing that international law *should* presently recognize discriminatory redistribution as a *prima facie* justification for secession, though I have advanced that position elsewhere. Rather, my point is that distributive disputes are almost always at the heart of secessionist conflicts and controversies over federalization and that in some cases both secessionists and those advocating federalization of existing unitary states may in fact be more concerned with repudiating any significant obligations of redistribution than with rectifying distributive injustices.

This is not to say that an abandonment of commitment to the redistributive state is essential to the concept of federalism. It is only to say that in certain contexts the appeal of federalization can provide a legitimating discourse for abandoning the commitment to the redistributive state and replacing it by a tacit endorsement of the idea of the state as a mere association among optimal trading partners.[13]

It is important to understand that exclusion of the worse off can be accomplished by means other than the redrawing of state boundaries through secession or through the introduction of internal federal boundaries designed to function as barriers to redistribution. Initiatives to federalize centralized states may be the next logical step in a multi-dimensional process of exclusion that has already been at work for some time in many countries including, perhaps

13. I am indebted to Dr. Guiliano Amato for clarifying this point to me in an Aspen Italia Seminar on Federalism and Democracy in Europe in September of 1994.

especially, the United States.

I refer here to the various modes of what might be called *internal secession* by the better off. In the United States this process takes many forms: the migration of whites and prosperous businesses away from impoverished inner cities, the worsening lack of access to higher education and health care that the poor suffer, and the widening gap between those who possess the skills needed to thrive in a global economy in which facility with information-age technology is vital and those who do not. Initiation of federal structures, as well as increased governmental decentralization at the local level (which includes the secession of affluent areas from municipalities) may simply be the formal political expression of the movement toward socio-economic apartheid.

In fact, as a strategy for exclusion—for abandoning obligations of redistribution—federalism has at least one salient advantage over secession. If a better off region can negotiate a federal system that enables it to thwart serious efforts at redistribution, it can avoid sharing its wealth, while at the same time enjoying the benefits of being part of a larger political unit. Chief among these benefits are national defense and unimpeded access to the larger national market.

Two important conclusions follow for the assessment of proposals for federalism. First, if the commitment to redistributive justice is to be honored, we should give a great deal of weight in our evaluation of proposed federal systems to whether they are likely to impede or to enhance the implementation of the redistribution that justice requires. In particular, we should attempt to determine whether a proposed federal system would be likely to nurture and sustain a broadly-based commitment to redistributive justice—or whether its decentralized institutions will tend to undermine a sense of shared identity and weaken the sense of obligation to aid our less fortunate compatriots. We should also scrutinize the legislative mechanisms, representation and voting rules of a proposal for federalism to see whether they afford opportunities for the better off to block initiatives for redistribution. Also critical is whether the mechanisms of decentralization provide unacceptable opportunities for the better off to thwart redistributive policies by impeding their effective implementation at the local level.

The background assumption that makes plausible this recommendation for evaluating proposals for federalization in terms of their tendency to hinder or facilitate the redistributive function of the state is this: The state, for the foreseeable future, will be the major agent of distributive justice. This assumption is fully compatible with the possibility that the division of labor between the state and the now-feeble international institutions of redistribution will shift, with a significant and perhaps even predominant redistributive role for international institutions gradually evolving. If this occurs, then federalism or even secession, might have no deleterious effects from the standpoint of distributive justice.[14]

Second, we should be sensitive to the interplay between experiments in federalism and the process of developing an international consensus on when

14. This point is an important implication of the main thesis of Thomas Christiano's commentary on the version of this paper presented at the symposium. It was also made by Daniel Farrell during a discussion in the course of the symposium.

secession is legitimate and when it is not. More specifically, we should avoid establishing principles for legitimate secession which threaten to thwart the constructive exploration of federal alternatives.

Whether the current enthusiasm for federalism will turn out to be a force for progress is as difficult a question as whether the recent waves of "democratization" and "liberalization" rolling over many areas of the globe will bring significant improvements for the majority of people. The aim of this essay has not been to pass a final judgment on the prospects of federalism, but rather to deepen the debate over its potential value.[15]

15. I am very grateful to Thomas Christiano for his generosity in discussing with me earlier drafts of this paper.