Conclusion

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Abstract and Keywords

As the concept of nationhood becomes a source of wars of aggression and crimes against humanity, another concept of rejecting this notion has come into play. By rejecting the concept of nationhood, it argues for a cosmopolitan ideal where all individuals are treated the same and national cultures disappear, replaced by more individualistic and modern notions of humanity, which in turn leads to less conflict and strife. Unfortunately, this view could also disastrous for individuals whose very nature require a social context within to flourish. The world would have lost culture and a way of life that makes up the tapestry of human experience.

Keywords: nationhood, wars of aggression, national cultures, legitimate defense, world community

To some readers, our reliance on Romantic notions such as culture and nation will come as a surprise, to be sure, and at worst, a shock—perhaps even labeled dangerous. The reliance on such notions may be considered especially ironic in a book devoted to war and crime, violent endeavors fueled by the
flames of national passion more than any other kindling. One might think, then, that we have relied on the very notions that we ought to have dispelled, that we conceded too much by operating within the very paradigm that is responsible for the cultural institutions of war and war crimes that we have studied. Why not reject such notions altogether, the skeptic might ask, and argue for a cosmopolitan ideal where all individuals are treated the same and national cultures evaporate from the scene, replaced by more individualistic and modern notions of humanity?

This argument has been made before, and usually it has been countered by the positive claim that something would be lost if national cultures disappeared and were replaced by one monolithic McWorld. According to one view, this would be disastrous for individuals, who by their very nature require a social context within which to flourish. According to a second view, national cultures have value in and of themselves, independent of the individuals who constitute them. Therefore, even if every member of a national culture were resituated in a new context, and (p.216) were happy in it, this would still be a bad thing for humanity. The world would have lost something of value: a culture, a way of life, a set of values and attitudes that enrich the tapestry of human existence. The value of a national culture is not just instrumental, but intrinsic. National cultures are more than a source of warmongering and national prejudice, they are a source of the inspiration and difference that make human flourishing possible.

Although both of these responses to the skeptic have merit, we must set them aside for the moment and explain why we have lingered so long on the concepts of nationhood and guilt. In the preceding pages, we have attempted to offer a realistic account of human life, one that presents a balanced picture of what life is and what life might be. There are elements to human existence that are subject to revision—imagination is the only limit—and there are elements that are hardcoded into our lives, whether by virtue of biology, language, or the structure of rational cognition. And there are elements that fall somewhere between, subject to revision in some possible way but highly unlikely to be revised because they are so deeply embedded in civilization.
Conclusion

National cultures, and the very concepts of nationhood and people, are exactly that, we have argued. We live our lives within these national cultures, and to suggest that the world could be replaced by a set of purely cosmopolitan connections is somewhat disingenuous, given the facts on the ground. In a sense, this is one manifestation of the well-known distinction in politics between ideal-world theory and real-world theory. In ideal-world theory, one can make optimistic assumptions about one’s ability to rewrite the way things are; in real-world theory, one must remain more realistic and then train one’s gaze on how to order the world in the face of these intractable realities. The existence of national cultures and peoples is one such notion. It is here to stay, with all of its benefits and its horrific missteps, and our task is to reorient our theory to offer the best possible outcome in light of these realities.

To that end, we have offered in these pages what amounts to an ironic turn. We have taken the concept of nationhood—a source of wars of aggression and crimes against humanity—and turned it into a concept that, when properly understood, provides the basic theoretical foundation for resisting these phenomena. The nation is recognized in our account as a basic element on which a claim of legitimate defense can be raised. A violent attack against a nation, whether or not it constitutes a state, is an illegal action that can be resisted, not only by the nation itself, but by the entire world community. Furthermore, we have shown in chapter 6 (p.217) how this claim is embedded within international law and a proper reading of Article 51 and its recognition of a natural right to légitime défense.

Of course, it is also subject to great abuse, and we have taken great pains to define the outer limits of our own argument, explicitly demonstrating the logical flaws in any legal argument for preemptive war that jettisons the key concept of imminence. Although we have demonstrated how a war of humanitarian intervention might be justified by legitimate defense, it is always possible for a nation to marshal these legal resources as a ruse to justify its aggressive military actions. But this possibility should not foreclose the possibility of legitimate and honest appeals to these legal arguments. That any legal doctrine might be perverted by the powerful is no reason to deny its use by the weak.
There is a tendency to view the relationship between nations as an international state of nature, in the Hobbesian sense of the expression: nasty, brutish, and short. The conduct of nations is regulated by the world community, the United Nations, and our understanding of international law. But there is no Leviathan to enforce our edicts. The conduct of nationstates has always therefore been violent, and perhaps necessarily so, given the necessity for self-help actions in a situation where there is no government power to enforce the laws with the same immediacy as the domestic police. But we are reminded here of Cicero and his conclusion that “there is no more difference between this orderly civilized life, and that former savagery, than there is between law and violence.”

So Cicero suggests that the state of nature was not some historical moment, but rather an ever-present and ongoing tension between respect for law and the resort to violence. The international law of self-defense, as we have outlined it in this book, stands on the border between these human forces. Referring again to the tension between law and violence, Cicero writes:

If we prefer not to use one of these, we must use the other. Do we want violence eradicated? Then law must prevail, i.e., the verdicts in which all law is contained. Are the verdicts disliked or ignored? Then violence must prevail. Everyone understands this.

Of course, it would be preferable if the world community universally accepted the conclusions of international law. This is ideal-world theory if ever there was one. But there will always be rogue states, launching wars of aggression under the banner of self-defense, doing rhetorical violence to the concept in their quest to justify illegal actions. The right of legitimate defense, both on our own behalf and on the behalf of others, is real-world (p.218) theory, an attempt to come to terms with the fact that one cannot always assume that the rest of the world will respect a nation’s right to exist. Indeed, at this moment in time, it is clear that this respect is lacking. The current president of Iran has stated explicitly that Israel has no right to exist and should be wiped off the face of the map. These comments have spawned controversy among legal scholars who point out that President Ahmadinejad may be guilty of incitement to commit genocide under the Rome Statute. Putting aside this controversy, however, one is left with the undeniable fact that when law fails, one must resort
to violence. But this need not mean that in the wake of violence, law should fall by the wayside. As we have attempted to demonstrate in these pages, the use of legitimate defense is the lawful and justified use of violence, which can prevail in the face of a nation’s worst nightmare: an attack from beyond its horizon, or even from within.

Notes:


(4.) The discussion raises a serious jurisprudential question. Can an individual be prosecuted for incitement to commit genocide under the Rome Statute, even before a genocidal campaign was launched? The International Criminal Tribunal for Rwanda prosecuted individuals for incitement to commit genocide in Rwanda, but in that case the incitement caused an actual attack. The Iranian situation poses the question of whether the charge of incitement to commit genocide, under the Rome Statute, could be used as a tool for early intervention in a developing situation of concern to the international community.