

The French Revolution, the Union of Avignon, and the Challenges of National Self-Determination

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National self-determination was one of the most important and controversial concepts in twentieth century international relations and law. The principle has had a remarkable history, from Woodrow Wilson's assertion that the peoples of Eastern Europe ought to form their own national states in place of ruined multiethnic and multilinguistic empires after the First World War; to decolonization after the Second World War, when populations worldwide invoked a right to throw off the yoke of imperialism; to the breakup of and war in the former Yugoslavia at century's end in precisely the same area in which a nation's self-determination was first intended to be a panacea for the region's diverse peoples. And yet, national self-determination, if not always called that, has a much longer lineage. Some note its earliest appearance in 1581, when the Dutch claimed independence from Hapsburg Spain. However, it was not until the French Revolution when, as Alfred Cobban remarks, "the nation state ceased to be a simple historical fact and became the subject of a theory," that a people's right to determine its destiny in international as in domestic affairs

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was first articulated and applied.¹ The clearest instance of this articulation and application during the Revolution was the union of Avignon and France.

Avignon came under the pope's control in the Middle Ages, and was famously the site of the papal court from 1309 to 1377. From 1378 until 1417, during the Western Schism, Avignon and Rome were home to rival claimants to the papacy, although Avignon's were subsequently deemed "antipopes." Even after the official removal of the Holy See back to Rome, Avignon remained a possession of His Holiness until the end of the eighteenth century, when the revolutionary changes afoot in France, which completely surrounded the enclave, could hardly have been expected *not* to influence the town. Locals clamored for reforms and a constitution on the French model, but when their sovereign Pope Pius VI refused, in June 1790, the municipal government declared independence and proclaimed its desire to join France. Civil strife between partisans of the pope and those who advocated union with the French nation ensued in both Avignon and its adjacent but politically separate neighbor, also under papal rule, the Comtat Venaissin. After much violence, political and legal wrangling, and a plebiscite conducted over the summer of 1791 that according to French officials showed union to be the sovereign choice of the people, the National Assembly in Paris decreed the union of Avignon and the Comtat with France on September 14, 1791.

Among historians of the French and Avignon revolutions, there is an air of triumph about the union and a simple narrative that a novel and inspired principle emerged, which matured by the twentieth century into an all-powerful ideal. René Moulinas, a historian of Avignon, has written at length about "this idea, novel in the field of international law and attribution of sovereignty—the will of those concerned,"—a principle "that we call today the right of self-determination."² Similarly, the eminent international lawyer, Arthur Nussbaum, calls Avignon's introduction of "the idea of the plebiscite...into the processes of annexation...a great accomplishment. One must remember that this was the era in which princes sold their soldiers like so many horses."³

1. Alfred Cobban, *The Nation State and National Self-Determination* (New York: Thomas Y. Crowell, 1970), 33.

2. René Moulinas, "L'élaboration d'un nouveau droit international : Avignon, le Comtat, et le droit des peuples à disposer d'eux-mêmes (1789–1791)," in *La Réunion d'Avignon et du Comtat à la France : Actes du colloque organisé par l'Association départementale du bicentenaire de la Révolution et par l'Académie de Vaucluse... (Avignon, Faculté des Lettres et des Sciences Humains, 21 septembre 1991)*, ed. René Moulinas (Avignon: CDDP de Vaucluse, 1992), 47, 54.

3. Arthur Nussbaum, *A Concise History of the Law of Nations* (New York: Macmillan, 1950), 133. See also Michel Vovelle in Martine Lapiéd's *Le Comtat et la Révolution*

It is true that, by advancing claims to territory based on the will of the people themselves, revolutionaries implicitly challenged the fundamentals of eighteenth century international law.⁴ Up until the French Revolution, the transfer or status of territory in Europe was almost always determined by dynastic inheritance or conquest in war, after which it would be enshrined in treaty law. However, just as national self-determination would have a checkered history in the twentieth century, its remarkable appearance in Avignon was fraught with violence, antagonism, and much bloodshed, and it augured great ideological and legal difficulties. As one contemporary commenter put it, “[i]t has been said that peoples, just like Aeson, can only regenerate themselves in a bath of their own blood. The revolution in Avignon and the Comtat Venaissin sealed with new proof this depressing historical reality.”⁵ The revolution in Avignon and its implications for international law, therefore, are in need of serious reconsideration. In

française : naissance des opinions collectives (Aix-en-Provence: Publication de l’Université de Provence, 1996), 9; and, more recently, Jean-Pierre Bois, *De la paix des rois à l’ordre des empereurs, 1714–1815* (Paris: Hachette, 2003), 285.

4. In this article, “international law” is used as opposed to other, more contemporary iterations such as “*droit des gens*,” “law of nations,” or even the Roman “*jus gentium*.” The intention is not to project, anachronistically, a later terminology. Rather, this phrasing reflects the supposition that, in addition to contemporaries’ own belief in the affirmative, there is always an objective “body of rules and principles of action which are binding upon civilized states in their actions with one another,” to quote James Leslie Brierly, *The Law of Nations: An Introduction to the International Law of Peace*, 6th ed. (Oxford: Oxford University Press, 1963), 1. In contrast to a realist understanding of international law, which often rejects its existence in an epistemological sense, Brierly, the so-called “English school” of international relations theorists, and others, affirm that “[n]o political society, national or international, can exist unless people submit to certain rules of conduct,” to cite Edward Hallett Carr as a representative voice, in *The Twenty Years’ Crisis, 1919–1939: An Introduction to the Study of International Relations* (London: Macmillan, 1962), 41. Robert Redslob, a French theorist, agrees, stating that “once states were constituted they formed a system of norms to govern their mutual relations.” See his *Histoire des grands principes du droit des gens depuis l’antiquité jusqu’à la veille de la Grande Guerre* (Paris: Rousseau, 1923), 7. Finally, Martti Koskenniemi, the pre-eminent thinker on international law today, concurs that “[i]n a system whose units are assumed to serve no higher purpose than their own interests and which assumes the perfect equality of those interests, the Rule of Law seems indeed the sole thinkable principle of organization,” in “The Politics of International Law,” *The European Journal of International Law* 1 (1990): 1. This ever-present system of norms, this conception of the rule of law, in any and all political society, in European history is what is meant here by the term “international law.”

5. *Bibliothèque Nationale de France* (hereafter BN): LB39-4920. Raymond de Verminac-Saint-Maur, *Des troubles d’Avignon et du Comté Venaissin, depuis le mois d’Août 1789, jusqu’à ce jour* (Paris: C.F. Perlet, 1792), 3. According to Greek mythology, Aeson, the father of Jason of Argonauts fame, was killed by Jason’s wife Medea, who then put the corpse in a pot filled with his blood. Aeson came back to life as a young man.

particular, the story of Avignon's proclamation of independence from the pope, of its announcement of a desire to join France, and of the eventual acceptance of that request by the National Assembly in Paris was *not* one in which the will of the people was clearly and unambiguously made manifest; this story was *not* one in which a sovereign people openly chose freedom over despotism; and it was *not* one in which the most obvious and immediate outcome was the liberal internationalism of Wilson's Fourteen Points, as scholars such as Moulinas, Nussbaum, and others have described it.

Instead, contemporaries encountered terrible difficulty, both materially and theoretically, in determining the sovereign will of the people in Avignon, especially for the purposes of annexations in international law. Everything from the mechanics of voting in municipal assemblies to the question of emigration would cloud a "true" determination of the will of the people. Second, it soon became apparent that there was not a necessary connection between the liberty of the people of Avignon to choose their political destiny and the choice of political liberty. A free people could still choose to live under a tyrant. Finally, although the union of Avignon and the Comtat Venaissin with France showed revolutionaries to be operating in response to a particular crisis and without any intention to upset fundamentally the nature of European international law, and although the union of Avignon was itself a fairly benign and unique episode in revolutionary foreign affairs, it portended a new and potentially chauvinistic means of territorial acquisition, even before the outbreak of the French Revolutionary Wars. Much later, in the aftermath of the First World War, United States Secretary of State Robert Lansing presaged future complications when he asserted "[s]elf-determination should be forgotten. It has no place in the practical scheme of world affairs. It has already caused enough despair, enough suffering and enough anarchy."⁶ He could well have been describing the origins of the principle, and the troubles encountered immediately thereafter, at the time of the French Revolution.

History of the Revolution in Avignon

In early medieval times, Avignon had been a possession of the Counts of Provence, but came to belong to Queen Joan (Jeanne, in French) of Naples, who sold it to Pope Clement VI in 1348. The Comtat Venaissin had been

6. Robert Lansing, "Self-Determination: A Discussion of a Phrase," *Saturday Evening Post*, May 1921, 16.

ceded even earlier: part of the patrimony of the Counts of Toulouse, it was acquired by Pope Gregory X in 1273 from Philip III.⁷ The two territories were entirely contiguous, being enclosed by the Rhone, the Durance, and the mountains of Dauphiné; however, as they had been acquired separately, the pope never joined them politically, which had important repercussions for their evolution and eighteenth century revolution.⁸

For the most part, residents of Avignon and the Comtat never showed much open discontent with their status as subjects of His Holiness.⁹ However, over the course of the eighteenth century, a series of factors came together to intensify a desire among some for union with France. First, many contemporaries stressed the Frenchness of the inhabitants of the provinces. As one early nineteenth century historian described it, “despite the long Italian domination, [the people of Avignon and the Comtat were] French by instinct, by language, by character, by nature.”¹⁰ During the eighteenth century, there was a tendency advocated by some Enlightenment thinkers for the harmonization of both knowledge and practical reality, which may have caused Avignon—where state boundaries did not correspond with cultural and linguistic divisions—to be seen as a medieval anachronism in an increasingly rational and harmonious political order.¹¹ Second, in part because of favorable memories of an occupation by France during the Seven Years War, between 1768 and 1774, merchants in Avignon were becoming aware of the benefits of formal membership in the French national economy. More immediately, locals blamed popular deprivations caused by poor harvests and harsh winters in 1788–89 on dithering papal officials, and large quantities of foodstuffs had to be

7. Jean-Jacques Clere, “Le rattachement d’Avignon et du Comtat à la France : approche juridique (1789–1791),” *Annales historiques de la Révolution française* 290 (1992): 571. Some dispute exists as to the exact date of the pope’s acquisition of the Comtat.

8. On the history of the revolution in Avignon, see, especially, René Moulinas, *Histoire de la Révolution d’Avignon* (Avignon: Aubanel, 1986); and Sylvain Gagnière et al., *Histoire d’Avignon* (Aix-en-Provence: Édisud, 1979), of which the section on the revolution, pp. 477–92, was written by Martine Lapied. Older surveys include Jean François André, *Histoire de la Révolution avignonnaise*, 2 vols (Paris: René et Cie, 1844); Pierre Charpenne, *Histoire de la Révolution dans Avignon et le Comtat et de leur réunion définitive à la France* (Paris: Emile Leschevalier, 1892); and Charles Soullier, *Histoire de la Révolution d’Avignon et du Comté-Venaissin en 1789 et années suivants*, 2 vols. (Paris and Avignon: Seguin and Fischer-Joly, 1844).

9. BN: 8-LK7-659(A). Joseph Guerin, *Discours sur l’histoire d’Avignon* (Avignon, Guichard, 1807), 43.

10. André, 1:140. See also Paul Achard, *Précis de l’histoire d’Avignon, au point de vue religieux, et dans ses rapports avec les principaux événements de l’histoire générale*, 2 vols. (Avignon, Seguin Ainé, 1852), 2:130; and Moulinas, *Histoire*, 14–15.

11. See for example Denis Diderot, “Encyclopédie,” in *Encyclopédie ou Dictionnaire raisonné des sciences, des arts et des métiers* (Paris: Briasson et al., 1751).

imported from France.¹² Finally, in the spring and summer of 1789, politics in Avignon were inspired by and emulated the momentous occurrences then taking place all over France. As enunciated in a poster hung up all over Avignon in early August 1789 and titled “*Avis d’un patriote à ses concitoyens*” (“Opinion of a patriot to his fellow citizens”) while Avignon and the Comtat were struggling under the combined weight of famine, the internal dissensions of its citizens, and other problems, “harmony and equality starts to exist in France. By what fatal destiny do we not see them reigning here too?”¹³

Thus, desire for a revolution in municipal government, as had happened in France in July 1789, was accelerated by the demand by the poster’s anonymous author for an assembly on the French model. On March 25, 1790, Philippe Casoni, the vice-legate and pope’s representative in Avignon, authorized reformed municipal elections on the condition of the pope’s eventual blessing. The vote returned mostly pro-French patriots, merchants, and lawyers. New protests on April 10 led the vice-legate to accept all demands for reform but then, on April 21, an injunction arrived from Pope Pius VI revoking all the concessions granted previously by his representative. This move pushed most Avignon residents to the recognition that a successful program of change would only happen through union with France.

On June 10, an attempted takeover of the city hall by pro-papacy, aristocratic forces set off another round of fighting. Extraordinary intervention by the mayor of nearby Orange and a detachment of French National Guards was all that prevented widespread bloodshed. In these tense circumstances, the various district assemblies of Avignon met to decide the city’s destiny. Following the lead of the district of Saint Symphorien, the city “unanimously deliberated to declare the people of the Avignon nation free, sovereign, and independent, and to unite with the French nation” on June 12, 1790.¹⁴ The city also resolved to send four envoys to the National Assembly in Paris to put the request for union in person.¹⁵

12. *Archives départementales de Vaucluse* (hereafter ADV): 1-J-39; *Archives du Ministère des Affaires Etrangères* (hereafter AAE): CP-Rome-910. See also Hyacinthe Chobaut Chobaut, “Avignon et le Comtat à la veille de la Révolution Française,” in *Mémoires de l’Académie de Vaucluse* 23 (1923): 140–42.

13. The anonymous poster, “*Avis d’un patriote à ses concitoyens*,” was posted in Avignon on the night of August 1, 1789.

14. See ADV: 5-F-181. “*Délibération du Conseil général de la commune de la ville d’Avignon du 12 juin 1790*,” or *Archives municipales d’Avignon* (hereafter AMA): 4-H-6. Deliberations of the districts, June 9–18, 1790. Deliberations of the district of Saint Symphorien, June 12, 1790.

15. They were Jean Duprat the younger, a native of Avignon and a silk-thrower; Nicolas Jean Baptiste Lescuyer, a notary; André Pacifique Peyre, a lawyer originally from Perenas; and Louis Gregoire Tissot, also a lawyer from Joncquières. See ADV: 6-L-128.

The city's solemn decree, however, hardly settled matters, and helped provoke a conflict that fed off long-standing tensions between Avignon and the Comtat Venaissin. Casoni fled to Carpentras, historically the capital of the Comtat, where he issued a "public and authentic" protestation of the revolution in Avignon.¹⁶ A representative assembly also convened in Carpentras, on May 24, both to institute reforms and to proclaim loyalty to His Holiness. A force of pro-France soldiers from Avignon laid siege to Carpentras in January 1791, helping to spell the doom of the representative assembly. The municipal government in Avignon proposed the federation of the city with the rest of the Comtat, and invited representatives to an electoral assembly. The more conservative and pious regions of the Comtat refused to participate, and instead, organized themselves into an avowedly counter-revolutionary group called the "Union of St. Cecilia," which again triggered fighting, and a second siege of Carpentras in May.

Until this point, the French had taken an equivocal stand on the events in Avignon and the Comtat. Previously, in November 1789, a Third Estate deputy from nearby Aix-en-Provence named François Charles Bouche, who came from an ancient and illustrious Provençal family, had presented a formal request in the National Assembly for the union of Avignon and the Comtat and France, but at the time, his proposal excited little attention in either Paris or the Midi.¹⁷ Even after Avignon's initial request for union in June 1790, most deputies in Paris had dithered for fear either of antagonizing the pontiff, who had the Civil Constitution of the Clergy under consideration at the time, or of offending other European powers.¹⁸ Maximilien Robespierre was one of the few who, early on, embraced the cause of Avignon as one of principle, based on solidarity deriving from shared respect for popular sovereignty: "[t]he cause of Avignon," he famously declared, "is that of the universe, it is that of liberty."¹⁹ On November 20, 1790, the Parisian Assembly prorogued a discussion on union, but to help restore order in Avignon and the Comtat it decided to send French troops, control over which it controversially gave to

16. *Bibliothèque municipale Ceccano* (hereafter BMC): Ms 2522-66. "Protestations de Son Excellence Monseigneur le Vice-légat d'Avignon," Carpentras, 1790.

17. *Archives parlementaires de 1787 à 1860 : recueil complet des débats législatifs et politiques des Chambres françaises*, vol. X (November 12 1789–December 24, 1789) (Paris: Paul Dupont, 1878), 4. This proposal came on November 12, 1789.

18. BN: LB39-4920, 70. The Civil Constitution of the Clergy reorganized the relationship of the clergy in France to the government.

19. *Archives parlementaires de 1787 à 1860 : recueil complet des débats législatifs et politiques des Chambres françaises*, vol. XX (October 23–Novembre 26, 1790) (Paris: Paul Dupont, 1885), 525. Debate of November 18, 1790.

the revolutionary municipal government in Avignon.²⁰ Revolutionary Avignonais saw this move as a tacit recognition of their independence to be followed, it was hoped, by union.²¹ Those who opposed union, meanwhile, were livid at this violation of papal sovereignty and international law.²²

By spring 1791, Pius VI had formally condemned the Civil Constitution of the Clergy and, therefore, with the violence in Avignon and the Comtat threatening to spill over into neighboring departments, the National Assembly decided to become seriously involved. On May 25, it named three mediators to a twofold mission, to make peace between the warring factions in Avignon and the Comtat and to discern the true opinions of the people there with respect to union with France.²³ Peace was signed between the revolutionary forces of Avignon and the Union of St. Cecilia on June 19, 1791, after which the mediators organized a series of votes and consultations across the region.²⁴ Based on these plebiscites, the mediators concluded that a veritable majority wished to join France. The deputy Jacques-François, baron de Menou, an infantry colonel and nobleman from Tours who would go on to a career as a Napoleonic general, gave the joint report of the diplomatic and Avignon committees to the National Assembly on September 12, 1791. He declared that, out of ninety-eight communities, fifty-two had voted for union with France, with another seventeen announcing that they had previously affirmed a desire for union and did not feel the need to do so again; nineteen voted against; and ten refused to make their views clear. Fifty-two was not only a majority of communities, but represented a majority of the population, 101,046 out of 152,919 people. Menou went on to assert the liberty and freedom of these votes and that, as no foreign countries would be seriously injured by union and as it was probably necessary to avoid civil war, union, therefore, ought to be

20. See the statute at ADV: 9-J-7-2. "Loi pour la protection des Etablissements François à Avignon, & pour le maintien de la tranquillité dans cette Ville," Paris, December 1, 1790.

21. AMA: 4-H-1. Lettres of the deputies of Avignon to the National Assembly, June 1790 to October 1791.

22. AAE: CP-Rome-913. "Translation of the Note submitted by the Papal Nuncio," January 15, 1791.

23. Jacques Lescène des Maisons, a justice of the peace; François-Valentin Mulot, a constitutional and Rousseauist priest, formerly a Benedictine and now a municipal officer in Paris; and Raymond de Verninac de Saint-Maur, a former magistrate who would later serve as prefect in the department of the Rhône. See AMA: 4-H-4. The action of the French mediators, June 9 to September 29, 1791. See also Charpenne, *Histoire de la Révolution*, 1:155.

24. See, for example, AMA: 4-H-6. Special deliberations of the districts and corporations of Avignon, 1790–1791. Deliberations of the districts, July 14, 1791.

mandated.²⁵ Deputies on the right in the National Assembly immediately attacked these results, and had the mediators summoned for questioning. However, during continued debate about Avignon the next day, the Assembly was interrupted by news that the king had accepted France's first written constitution. On September 14, 1791, Jérôme Pétion de Villeneuve, then one of the stars of the Assembly, argued that the time had finally come for a vote. A large majority of deputies concurred with the mediators' views, and the National Assembly decreed, "in accordance with the wish freely and solemnly proclaimed by the majority of the communities and citizen of the two countries," the union of Avignon and the Comtat with France.²⁶

International Law and Conquest during the Ancien Régime

That the National Assembly justified what was essentially the annexation of foreign territory with "the wish freely and solemnly proclaimed by" the inhabitants of the territory itself was a massive departure from the status quo of early modern international law. Emerich de Vattel, the eighteenth century's most widely read authority on such topics, may well have allowed that "succession is established by the express will, or the tacit consent of the nation," which echoed social contract theory going back at least to Thomas Hobbes' *Leviathan*.²⁷ However, in Vattel's celebrated *The Law of Nations* (1758) he recognized "just title" to territory as deriving only from "concessions, purchases, conquests made in the regular war, &c." and not from the choice of the population concerned.²⁸ Similarly,

25. *Archives parlementaires de 1787 à 1860 : recueil complet des débats législatifs et politiques des Chambres françaises*, vol. XXX (August 28–September 17, 1791) (Paris: Paul Dupont, 1888), 579–84. See also BMC: Ms 2539–41. "Tableau général de la population & des Citoyens Actifs des Villes & Lieux formant les Etats d'Avignon & Venaissin réunis, & des divers vœux émis pour l'adoption d'un Gouvernement," and BMC: Ms 2550–9. "Tableau servant à prouver le vœu de la grande majorité du Comtat Venaissin, pour sa réunion à la France." Finally, more recently, see Lapiéd, *Le Comtat et la Révolution française*, 97.

26. The decree, "Loi portant réunion des Etats d'Avignon et du Comtat Venaissin à l'Empire Français," September 14, 1791, is available at BN: 8-LK2-4650. *Recueil de diverses pièces fugitives concernant La Révolution du Comté-Venaissin & de la Ville d'Avignon*, 1791, #137.

27. Emerich de Vattel, *The Law of Nations* (1758; repr. Washington: Carnegie, 1916), book I, ch. 5, §60 The full title in the original French is *Droit des gens; ou, Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains*.

28. *Ibid.*, book II, ch. 7, §80. See also book II, ch. 11, §140, and book III, ch. 13, §193, §198, §201, and §202.

Voltaire bemoaned that it would “never be examined in any treaty” whether “men have the right to sell other men.”²⁹ Here, the great *philosophe* touched on another great element of Ancien Régime international law, the documents where such “just titles” were codified in treaty law. Other eighteenth century political writers, such as Jean Dumont, the abbot de Mably, and Georg von Martens, posited treaties as the fundamental basis of international law.³⁰ Even Jean-Jacques Rousseau, to whom French revolutionaries were most indebted for ideas about popular sovereignty, believed that conventions in the abstract “remain the basis of all legitimate authority among men” and that “external relations” in particular necessarily included “public law” and “treaties.”³¹

Treaties were not only important as formal records. According to Karlijn van Blom, Martens saw Europe as a society with “shared rules, customs, standards and values,” which he discerned “by comparing the treaties between the powers of Europe.”³² As the Roman legacy of Western European political unity was swept away in the seventeenth century, in its place civility and the sociability of people provided a new human order and compensated for a waning Christianity as the basic social ethic.³³ Thus, especially after the Peace of Westphalia, international relations and law were understood to operate between theoretically equal sovereign powers who were, for the most part, dynastic princes. This understanding was popularized by, again, Vattel, who transformed and

29. Voltaire, *Précis du siècle de Louis XV*, in *Œuvres historiques* (1768; repr., Paris: Gallimard, 1957), 1552.

30. Jean Dumont, *Corps universel diplomatique du droit des gens, contenant un recueil des traités d'alliance, de paix, de toutes les conventions et autres contrats, qui ont été faits en Europe, depuis le règne de l'empereur Charlemagne jusques à présent ; avec les capitulations impériales et royales et en général de tous les titres qui peuvent servir à fonder, établir, ou justifier les droits et les intérêts des princes et États de l'Europe*, 8 vols (Amsterdam: P. Brunel, 1726); Gabriel Bonnot de Mably, *Le droit public de l'Europe fondé sur les traités conclus jusqu'en l'année 1740* (The Hague: J. Van-Duren, 1746); Georg Friedrich von Martens, *Précis du droit des gens moderne de l'Europe, fondé sur les traités et l'usage* (Göttingen: Jean Chret. Dieterich, 1789).

31. Jean-Jacques Rousseau, *On the Social Contract*, trans. and ed. Donald A. Cress. (1762; repr. Indianapolis: Hackett, 1987), 20, 103.

32. “A Very Uncertain Perspective... The Revolutionary and Napoleonic Age and International Relations in Europe, in the Views of Georg Friedrich von Martens (1756–1821),” in *In the Embrace of France: The Law of Nations and Constitutional Law in the French Satellite States of the Revolutionary and Napoleonic Age (1789–1815)*, eds. Beatrix Jacobs, Raymond Kubben, and Randall Lesaffer (Baden-Baden: Nomos, 2008), 133–34.

33. Keith Michael Baker, “Enlightenment and the Institution of Society: Notes for a Conceptual History,” in *Main Trends in Cultural History: Ten Essays*, eds. Willem Melching and Wyger Velema (Amsterdam: Rodopi, 1994), 119.

externalized Jean Bodin's notion of a prince's supreme and exclusive sovereignty. According to his analysis, the sovereign dynastic ruler was the sole representative of the people both internally and externally.³⁴ The states system in which these dynastic sovereigns operated was increasingly understood as a secular civilization bound by a common heritage, manners, and commerce, the norms of which formed the basis for international law.³⁵

Martin Wight describes the "dynastic idiom" as even more fully infusing international relations: "[a]lliances were consolidated by dynastic marriages. . . Territorial aggrandizement was justified by dynastic claims. Foreign revolutions were fomented by cultivating dynastic pretenders,"³⁶ and this international society was fundamentally informed by French courtly culture.³⁷ International policy was thus infused with notions of dynasticism, glory, prestige, and courtly ceremony, sometimes to the detriment of a rational appraisal of state interests.³⁸ Even the balance of power, perhaps the defining model of seventeenth and eighteenth century international relations, was reflective of a dynastic obsession with status.³⁹ Voltaire may have mocked the more absurd facets of dynasticism, once imagining a prince who goes to war after a "genealogist proves. . . that he descends in a direct line from a count whose kin had made a family pact three or four hundred years before with a house memory of which no longer subsists. . . [for a] province, which is located some hundreds of leagues away."⁴⁰ Nevertheless, on the eve of the French Revolution,

34. See Stephane Beaulac, *The Power of Language in the Making of International Law: The word sovereignty in Bodin and Vattel and the myth of Westphalia* (Leiden: Martinus Nijhoff, 2004), 127, 137.

35. See, for example, John Greville Agard Pocock, "What Do We Mean by Europe?" *Wilson Quarterly* 21 (1997): 12–30.

36. Martin Wight, "International Legitimacy," in *Systems of States*, ed. Hedley Bull (Leicester: Leicester University Press, 1977), 154.

37. Norbert Elias, *The Civilizing Process: The History of Manners*, trans. Edmund Jephcott. (New York: Urizen Books, 1978), 53.

38. See William Doyle, *The Old European Order*, 2nd ed. (Oxford: Oxford University Press, 1992), 265–66, 268.

39. Mlada Bukovansky, *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture* (Princeton: Princeton University Press, 2002), 84. See also M. S. Anderson, "Eighteenth Century Theories of the Balance of Power," in *Studies in Diplomatic History: Essays in Memory of David Bayne Horn*, eds. Ragnhild Hatton and M. S. Anderson (Harlow: Longmans, 1970); Martin Wight, "The Balance of Power" in *Diplomatic Investigations: Essays in the Theory of International Politics*, eds. Herbert Butterfield and Martin Wight (Cambridge, MA: Harvard University Press, 1966); and Alfred and Detlev F. Vagts, "The Balance of Power in International Law: A History of an Idea," *American Journal of International Law* 73 (1979): 555–580.

40. Voltaire, "Guerre" in *Dictionnaire Philosophique* (Geneva: Gabrid Grasset, 1764).

“just” claims to territory were based on military conquest, purchase, concession, or succession; were set down in sacred treaty law; and were almost always effected by a dynastic prince. As Jacques-Bénigne Bossuet, the late seventeenth century French bishop and theologian had put it, “the whole state is in the person of the prince”; and, he could have added, “system of international law is based on him, too.”⁴¹ Therefore, French revolutionaries’ idea that the will of the people, instead, was the legitimate basis for politics, precipitated an unintended re-evaluation of international legality, just as it was undermining the position of the king domestically. After the National Assembly abandoned monarchical government for a domestic political system based on popular sovereignty, this idea inadvertently bled into the international sphere.

The Difficulty of Determining the Sovereign Will

Historians have well documented the difficulties associated with revolutionaries’ attempt to institute Rousseauian notions of the general will in France in domestic politics, with some drawing a direct causation from popular sovereignty to the Terror.⁴² The story of Avignon reveals these troubles to be present, if not more acute, in the international realm, in both theory and practice. With respect to practice, the mechanics of consulting the people to discern their will was a tremendous challenge, even in the small and relatively self-contained territories of Avignon and the Comtat Venaissin. There were the obvious questions of whom exactly to consult, who ought to consult them, and how. At the time, voting rights such as they existed were almost always tied to means and property, but in Avignon, there were no direct taxes and therefore no distinction between what in France was coming to be called “active” and “passive” citizenship. So, basically anyone could vote in the June 12, 1790 district polls by which Avignon declared independence and first requested union with France, and in the many subsequent polls. Any man that is; certainly no women were consulted in any of the plebiscites that occurred. Opponents of these votes argued that they were the intrigues of “men without fortune and without honor.”⁴³ Others questioned the qualifications or quality of the representatives in assembly. As one nobleman put it, “[a]lmost all the deputies will

41. Jacques-Bénigne Bossuet, *Politique tirée des propres paroles de l'Écriture sainte*, ed. Jacques Le Brun (1709; repr., Geneva: Droz, 1967), 185.

42. François Furet, “The French Revolution is Over,” in *Interpreting the French Revolution*, trans. Elborg Forster (Cambridge: Cambridge University Press, 1981), especially 48–49.

43. ADV: 5-F-181 #11. “Mémoire” on the events of June 1790 in Avignon.

not be used to undertaking diligent work; they will soon grow tired of the repetitiveness of meetings; for the most part they will only have very weak notions of the principles of administration. The true interests of the Province will be extremely often unknown to them.”⁴⁴ Controversially, the role of violence and coercion hung over the ballots. One opponent said of the votes, “one imprints the sacred character of legality on bloody insurrections...on the clamor of a portion of the multitude, deliberating [with] arms in hand.”⁴⁵ In the minds of those opposing the revolution, the entire process was also cast into doubt, and the true desire of the majority left uncertain, because of that classic revolutionary phenomenon, emigration. Some claimed that most propertied citizens “fled their homeland to save their lives” in the time surrounding the crucial vote in Avignon on June 12, 1790, which was, therefore, “the work of a few seditious types...having abandoned themselves to the greatest excesses,” those without property, and foreigners.⁴⁶ On the other hand, a letter to deputies in Paris on July 17, 1791 claimed that votes in Avignon and the Comtat were “perfectly free, in spite of the emigrations that occurred for a variety of reasons; there is still an absolute majority of propertied citizens even counting those absent.”⁴⁷

The questions of both partiality and coercion became particularly contentious with respect to the French mediators and soldiers sent to the Midi in the summer of 1791 to end the ongoing civil war, and to discern the population’s true desires in a state of calm. Partisans of the pope believed either that those favoring France would be privileged or that voters wishing to remain under His Holiness’ rule would be cowed, or both.⁴⁸ As one anonymous pamphleteer described, “[t]he commissionaires [mediators] were sent; instead of reestablishing peace and tranquility, in accordance with their mission, they favored the scoundrels who terrorized [the province], and they forced the communities of the Comtat to vote in favor of union.”⁴⁹ Leader of the anti-union faction in the National

44. ADV: 9-J-7-1. “Discours prononcé par M. le Baron de Sainte-Croix à la séance... du 25 mars 1790, de l’Assemblée générale des Etats du Comté Venaissin...”

45. BMC: Ms 2987–29. “La vérité dévoilé,” June 18, 1790.

46. BMC: Ms 2539–30. “Protestation de la majeure partie des Citoyens-propriétaires d’Avignon, contre toute émission de vœu qui “tendoit à soustraire le pays à la domination du Saint-Siège,” July 12, 1791.

47. AMA: 2-D-32. Active correspondence of the municipality, March 22–October 5, 1791.

48. See, for example, the letters to the Archbishop of Avignon, in Villeneuve, June 18, 1791 and September 24, 1791 in *La France et Rome de 1788 à 1797 : Régeste des dépêches du cardinal secrétaire d’état, tirées du fonds des ‘Vescovi’ des archives secrètes du Vatican*, ed. Georges Bourgin (Paris: Albert Fontemoing, 1909), 8–9, 12–13.

49. ADV: 1-F-4. “Réponse à un publiciste concernant les Droits du Saint-Siège sur le comtat Venaissin & sur Avignon.”

Assembly, abbot Jean-Sifrein Maury, called the mediators “missionaries of Revolution.”⁵⁰ The pope himself accused them and their soldiers of “favoring revolt,” and they were one of many pretexts on which he dismissed the votes they organized all as a shenanigan.⁵¹ The National Assembly had explicitly ordered the mediators “not to take any ulterior position relative to the rights of France to this region” in their work, and they were tasked, moreover, with removing all Frenchmen fighting for either side in the civil war.⁵² When criticized by those who opposed union for meeting with pro-France factions, the mediators responded by asking if it was possible to negotiate peace without first talking to combatants on both sides?⁵³ In a report to the National Assembly on September 9, 1791, one of the mediators noted, quite correctly, that the French presence did not prevent many communities from voting in favor of the pope.⁵⁴ During the decisive vote of the summer of 1791, many voters, including some who resisted union, thanked the mediators and French soldiers for the opportunity to express their views in safety.⁵⁵

As for theoretical misgivings raised by France’s annexation of Avignon through an invocation of the popular will, many were concerned with the potential for the sovereign will to be used as justification for secession *from* France. As Pierre Victor Malouet, a former royal colonial official who had served in Saint-Domingue (where a slave revolt that ultimately led to the establishment of the modern state of Haiti also showed the impact of popular sovereignty on territorial claims), put it, “sovereignty resides in the people, no doubt; but where does the sovereignty of the people reside? Each of these factions, city, province, market town, can they or can they not detach at will from the union...that forms one people?”⁵⁶ On November 18, 1790, after Robespierre gave his oft-quoted “the cause of Avignon is the cause of the universe” speech, the Lyonnais abbot Louis Charrier de la Roche argued in the National Assembly that no country,

50. Achard, *Précis de l’histoire d’Avignon*, 2:145.

51. BN: 8-LK2-4650. *Recueil de diverses pièces fugitives concernant La Révolution du Comté-Venaissin & de la Ville d’Avignon*, 1791, # 135. “Mémoire officiel communiqué aux Ministres des Cours Etrangères par ordre de Sa Sainteté.”

52. ADV: 5-F-181 #17. “Commission du Roi” given to Mulot appointing him a mediator, Paris, June 1, 1791.

53. See BN: LB39-4920, 50.

54. *Archives parlementaires*, vol. XXX, 438–43. See for example *Archives nationales de France* (hereafter AN): D-XXIV-1-7-2. Deliberation of Cayranne, August 23, 1791.

55. See, for example, BMC: Ms 2960–92. “Adresse de l’Assemblée Electoral aux Habitants du Département de Vaucluse, arêté dans la Séance du 13 Août 1791,” Avignon, 1791.

56. BMC: 8-32395. “Motifs d’après lesquels, M. Malouet a demandé l’élargissement des Avignonois détenus à Orange,” July 1790, 1–2.

France included, would be exempt from the principle of popular sovereignty, and that France's colonies could choose to leave.⁵⁷ Louis-Pierre Dufourmy de Villiers similarly argued that "Lorraine, Franche-Comté, Foix, Provence, etc. are no longer attached to the crown, by virtue of treaties cessions, successions, or other titles of servitude stipulated between Despots, but rather they are integral parts and dissolved in the French Empire by their simple, voluntary cooperation in the new social pact which is today the only title that replaces all those that force or ruses had extorted from the weak."⁵⁸ But if that voluntary social compact could mean union with France, could it not also mean secession?

Difficulties based on geographical considerations and the will of the people were also raised because of the historical separation of Avignon and the Comtat, and because long-standing tensions between the two boiled over into open enmity and war during the Revolution. The French tended popularly to see Avignon and the Comtat as one unit, and rarely contemplated union with one without the other. In the aftermath of their declaration of freedom and request for union with France, the residents of Avignon emphasized their ancient division from the Comtat and asked that their sovereign be heard independent of that of the Comtat, a point that the city's envoys in Paris reiterated.⁵⁹ Soon, however, people in Avignon recognized that they "must unite all their efforts" with the people of the Comtat "to hasten the moment of union with France."⁶⁰ Comtadins, for their part, also emphasized the differences between the two, both in terms of historical claims and contemporary action. They contrasted "the respectful conduct of the people of the Comtat with the manner—seditious, outrageous, and in violation of the law of nations—in which the demagogues of Avignon act against their legitimate Monarch, which causes the birth in the hearts [of Comtadins] of feelings of implacable

57. *Archives parlementaires*, vol. XX, 531–4. See also ADV: 1-F-4. "Réponse à un publiciste concernant les Droits du Saint-Siège sur le comtat Venaissin & sur Avignon."

58. See BN: MFICHE 8-LB39-4874. "Les droits des peuples défendus contre la politique & contre les titres odieux de leurs antiques oppresseurs, ou, la liberté réclamée pour les Avignonois & les Comtadins pardevant l'assemblée nationale..." (Paris: Momoro, April 26, 1791), 8. See also BN: 8-LK2-4650. *Recueil de diverses pièces fugitives concernant La Révolution du Comté-Venaissin & de la Ville d'Avignon*, 1791, #87 "Les Comtadins deviendront-ils Français ? Par un Membre de la Société des Amis de la Constitution, séance aux Jacobins à Carpentras," Carpentras, 1791, 10.

59. AMA: 4-H-6. Deliberations of the districts, July 14, 1791. See also ADV: Biblio-65-2, 14–15.

60. ADV: 1-L-80. "Procès-verbaux du pacte fédératif entre les Avignonnais et les Comtadins," February 7, 1791. See also BN: NUMM-78749. Louis-Guillaume Tissot, *Suite des éclaircissements sur les événements actuels d'Avignon et du Comtat Venaissin* (Paris: Imprimerie de la rue d'Argenteuil, 1791), 2–4.

hatred” for the people of Avignon.⁶¹ Comtadins constantly accused Avignon of meddling in their affairs.⁶²

All these competing claims rendered the matter of actually consulting the people, already thorny, eminently more difficult. Even after the National Assembly decreed union in September 1791, citizens in Carpentras, amid their “cries of joy,” claimed that they had indeed wanted union with France but not with Avignon, and asked that in matters civil, juridical, and administrative their city be separated from Avignon.⁶³ This is but one of the many examples of how the supposedly simple principle of the sovereignty of the people quickly drew in issues of factions and dissident groups, territorial integrity and homogeneity, and secession and civil war.

The Liberty to Choose Versus the Choice of Liberty

The revolution in and annexation of Avignon also showed that there was no inevitable teleology that linked popular sovereignty with political liberalism, as the historiography, which champions union with France as the victory of the will of the people over feudalism, dynastic right, or despotism, likes to suggest.⁶⁴ These sorts of claims simply echo the original advocates of the union and the well-known critiques of Voltaire and other *philosophes*, who raged against the idea of Avignon being “the property” of the pope, claiming instead that “sovereignty cannot be the stuff of the property of a person.”⁶⁵ Some questioned provocatively whether “kings can sell people like a herd of sheep?”⁶⁶ However, the reality was far messier. Some advocates of union employed arguments that smacked precisely of treating Avignon and its people as feudal “property,” whereas papal

61. AAE: CP-Rome-912. “Manifeste des représentants du Comté Venaissin,” August 5, 1790.

62. See ADV: 6-L-120. Papers of Gabriel-Raymond-Jean-de-Dieu-François d’Olivier (coadjuteur Chancellor of the Rectory and deputy to the Representative Assembly of the Comtat). “Délérations des députés du Comté Venaissin,” November 1790. See also ADV: 9-J-7-1. “Extrait du procès verbal de l’Assemblée représentative du Comté Venaissin,” December 20, 1790.

63. ADV: 5-F-181, #20 bis. “Deliberation des citoyens actifs de la ville de Carpentras,” September 17, 1791.

64. See Moulinas, *La Réunion*; Nussbaum; Vovelle; and Bois cited above in notes 2 and 3. Even Alfred Cobban, the great historian of the French Revolution and cited in note 1, asserts that the process was “easy,” 41.

65. ADV: Biblio-65-2, 17–8.

66. ADV: 1-J-44. *Révolutions de Paris*, November 20–27, 1790.

partisans in turn made strident (if, in hindsight, somewhat ironic) claims based on the will of the people.

The first calls, both in Avignon and in France, for union were based on practically every basis *except* the choice of those concerned: cultural compatibility between the French and those in Avignon, the need for territorial or economic consolidation or the free circulation of people, the fear that Avignon could become a counter-revolutionary enclave within France, or the strategic need to control fully both the Rhone valley and the east–west overland route to Milan.⁶⁷ Common at the time, although counterintuitive in retrospect, were assertions of France’s dynastic or treaty rights to the territory, beginning as far back as the time of Charles Martel, in 672, and sometimes even in Roman times.⁶⁸ Bouche’s first request in the National Assembly in November 1789 was based on medieval treaty law; he even argued for union precisely *against* the wishes of the local population and wrote “we will annex them without consulting them, without consulting them we can take them.”⁶⁹ Deputies such as Bouche, Pétion, and Menou sought to invalidate the pope’s claim, for example, by nullifying Queen Joan’s original sale based on the will of her grandfather, Robert of Naples, her minority at the time of sale, her coercion by the pope, or the fact that the sale price of 80,000 florins did not represent the value of the territory, or was likely never paid.⁷⁰ The envoys that Avignon sent to Paris after the city’s solemn declaration of independence and request for union also included such antediluvian claims.⁷¹ Similarly, they made arguments based on other facets of traditional public law, such as the inability of parts of the patrimony of the old counts de Provence or Toulouse to be alienated.⁷²

The pope’s advocates, such as Maury and Malouet in the National Assembly and his diplomats in both Paris and Rome, went about rebutting these French claims based on history and treaty law. They had their own arsenal of traditional law to support the pope’s claim to Avignon, and they sardonically highlighted the similarity of French claims to Avignon

67. See for example BN: MFICHE LB39-3527. Dupart, Lescudier, Peyre, and Tissot’s “Manifeste de la ville et Etat d’Avignon,” Paris, 38; and ADV: 9-J-7-3. Dupart, Lescudier, Peyre, and Tissot’s “Supplement au Manifeste de la ville et état d’Avignon,” 1790.

68. See, for example, AAE: MD-Rome-32. “Memoire des Droits du Roi sur Avignon et sur le Comté de Venaissin.”

69. Cited in Moulinas, *Histoire*, 37.

70. ADV: Biblio-75. Charles-François Bouche. “De la restitution du Comtat Venaissin, des ville et état d’Avignon. . .” Paris, 1789, 15. See also BN: 8-LB48-1027, 29.

71. ADV: Biblio-65-2.

72. BN: F-47112 (9) and BN: F-5005 (245). See also ADV: Biblio-75, “De la restitution,” 21–22 and ADV: 9-J-7-3.

based on ancient rights and the type of diplomatic activity in Eastern Europe, such as the partitioning of Poland, undertaken by powers such as Russia and Austria, which revolutionaries tended to abhor.⁷³ One writer compared Bouche's 1789 proposal to just those sorts of actions, performed "with imprescriptible rights in one hand, and guns in the other."⁷⁴ The papacy's defenders described these violations as being particularly egregious because they were committed against His Holiness and the church: for Avignon to accept the French constitution was "to substitute the ancient and legitimate government for the destructive state of anarchy and to subrogate contemporary laws for holy canons, reversing the sacred hierarchy, the authority of the church, and even the Catholic faith."⁷⁵ Supporters of the pope also advanced the argument (which was surprising, given that the papacy was simultaneously making claims to moral supremacy, that even if the original sale by Joan had been wrong or invalid, "these vices would have been covered or rather erased by a constant possession of four or five centuries").⁷⁶ Finally, many opponents of the union, and the pope himself, relished the seemingly blatant contradiction between France's declaration of peace to the world and renunciation of conquests, and its annexation of Avignon soon thereafter.⁷⁷ Those in favor of union countered that conquests implied violence, submission, and war.⁷⁸ The people of Avignon and the Comtat, rather, "wanted to be part of [the French] nation, to be free with it."⁷⁹

More notably, opponents of the union made provocative claims based on the will of the people and were, in fact, the first to employ this tactic in the immediate aftermath of Bouche's November 1789 proposal, when a

73. *Archives parlementaires*, vol. XXX, 496.

74. ADV: Biblio-75. "Réponse d'un Comtadin, à la brochure intitulée : Restitution du Comtat Venaissin, des Ville & Etat d'Avignon par M. Bouche. . ." 5.

75. BMC: Ms 2550-6. Pius VI, "A nos vénérables frères l'archevêque d'Avignon, & les évêques de Carpentras, de Cavaillon, & de Vaison, & à nos chers fils le chapitre, le clergé, & le peuple de la ville d'Avignon, & du Comtat Venaissin, soumis à notre souveraineté temporelle," Rome, April 23, 1791.

76. BMC: Ms 2536-39. "Question de droit public, concernant la monarchie. . ." May 22, 1790.

77. See, for example, AAE: CP-Rome-914. "Chirographe de notre Saint Père le Pape Pie VI Par le quel Sa Sainteté ratifie, approuve et confirme la Protestation du Commissaire de la Chambre contre toute usurpation de la Ville d'Avignon et du Comtat Venaissin et annule et déclare comme non avenu le décret du 14 Septembre 1791 de l'Assemblée Nationale qui prononce l'incorporation de ces états à la France," Rome, 1791. See also AAE: CP-Rome-914. Letter from Bernard in Rome to Montmorin, October 5, 1791.

78. ADV: Biblio-65-2, 19.

79. ADV: 5-F-181 #22. "Les Comtadins deviendront-ils français? Par un membre de la Société des Amis de la Constitution, séante aux Jacobins à Carpentras," Carpentras, 1791.

unanimous deliberation of the City Council in Avignon affirmed its loyalty to the pope, and the Representative Assembly of the Comtat rejected union, claiming “the only legitimate foundation of any acquisition or claim of sovereignty is the free consent of the People” and, again channeling Voltaire (although not sharing his politics *or* his views of organized religion), asserted that “people cannot be sold or trafficked like simple mobile or territorial property.”⁸⁰ The true will of the pious and loyal subjects of His Holiness—unfettered and not coerced, especially in the Comtat—continued to be an argument against union, even after those subjects began to espouse revolutionary political positions.⁸¹ Lists of grievances (in French, officially, *Cahiers de doléances*) prepared in the region starting in the summer of 1789 in emulation of the French, often requested French-style reforms in municipal government or the adoption of the French constitution, but, sometimes, while maintaining loyalty to the pope. Avignon was the first community to make such a request, asking that “[w]hen the Constitution of France is known, it will be punctually followed [here].”⁸² After that city clearly declared its desire for *both* French-style administration *and* union with France, the diverse communities of the Comtat were left grappling with these choices, also reflected in their “*cahiers*,” which often simultaneously proclaimed loyalty to the pope and requested reform of the province on the French model.⁸³

In June 1790, the Representative Assembly in the Comtat sent the National Assembly in Paris its homage and congratulations on its glorious work: “[e]ncircled by France, linked to the French by intimate and daily links, speaking the same language, having the same mores, the same opinions, making up, for all intents and purposes, but one people with them, it is necessary that we be governed by the same laws;” thus, it “adopted the French Constitution, and all the decrees of the National

80. ADV: 9-J-7-1. “Déclaration et protestation de l’Assemblée des Etats du Comté Venaissin, réunis aux membres du Comité des mêmes Etats, contre la Motion faite, au sujet de cette Province, à l’Assemblée Nationale de France,” November 25, 1789. See also ADV: Biblio-75. “Des droits du pape sur le Comté Venaissin et l’état d’Avignon et réfutation de l’écrit de M. Bouche,” Geneva, 1790, 41.

81. Lapied, *Le Comtat et la Révolution française*, 17–8.

82. See ADV: 6-L-119. “Essai des doléances de la ville d’Avignon,” 1789. See also BMC: Ms 2820. “Essai des doléances de M. les cordonniers de la ville d’Avignon,” 1790.

83. BMC: Ms 5985. *Cahiers de doléances (1789–1790) Avignon, the Comtat-Venaissin, Orange*. Aubignan on May 22, 1790 proclaimed these as its first and second *doléances*, 71; Caderousse, December 29, 1789, asked explicitly for the adoption of the French constitution and the suppression of feudal rights, 238; these trends were followed in Carpentras, 246; La Garde Raréol, 305; Rasteau, 349; Roaix, 353; Thor, May 20, 1790, 360; and Vacqueyras, 366.

Assembly of France.”⁸⁴ However, the Comtat was only to follow those French laws that were “compatible with our locality and with the respect due our Sovereign. Yes, Sires, the adoption of French laws...could not bring about the slightest assailing of the respect and inviolable loyalty that we maintain until the last breath, for our beneficent monarch.” For Comtadins, then, their loyalty to the Pope was based on their “free consent” and “unanimous wish.”⁸⁵

When it later became apparent that most of the people in both Avignon and the Comtat were opting for union with France, the advocates of the pope shifted their argument, emphasizing the social contract as a necessary corollary of the will of the people. They argued that a synallagmatic agreement existed between ruler and ruled, and that the people could not unilaterally throw off their sovereign. An anonymous pamphleteer asked whether the “integrity of a prince to fulfill his engagements does not impose on the people the obligation to maintain and to maintain inviolably their oath of loyalty to him?” In a comment that does not seem to admit the possibility of a prince and his people not agreeing on all matters, this writer also asked “[i]f peoples do not want their prince to dispose of them without their consent, can the people dispose themselves without the consent of the prince?”⁸⁶ Maury, exasperated at all the talk of the rights of peoples, argued that the corresponding rights of kings were being ignored.⁸⁷

The contradictions in both sides’ positions is not only evident with hindsight, but was clear to some contemporaries. Louis-Pierre Dufourmy de Villiers recognized that France, having thrown off the idea that titles mattered for territory, and instead recognized the importance of popular sovereignty, “cannot, without perjuring itself, invoke again any of its ancient property titles”—and many contemporaries argued precisely that France was perjuring itself with its dynastic and historical claims to Avignon and the Comtat.⁸⁸ In a speech on May 2, 1791 on behalf of the diplomatic committee of the National Assembly, Menou asked of France’s claims to Avignon based on medieval treaty law, “[i]s this about dispossessing the

84. AAE: CP-Rome-912. “Copie de l’adresse de l’Assemblée Représentative du Comté Venaissin à l’Assemblée Nationale,” Carpentras, June 11, 1790.

85. *Ibid.*

86. BMC: Ms 2536–39, 34–5.

87. *Archives parlementaires*, vol. XX, 564–80. Debate of November 20, 1790.

88. BN: MFICHE 8-LB39–3532. Louis-Pierre Dufourmy de Villiers, “Supplément à la défense des droits des Avignonois, des Comtadins et autres Peuples à la plus entière liberté. Pour répondre aux diverses objections et particulièrement aux Députés, au Rapporteur et à M. de Robespierre,” (Paris: Chalons, 1790), 15. See also BN: MFICHE LB39-3531. Louis-Pierre Dufourmy de Villiers, “Des droits des Avignonois à la plus entière liberté. De la nécessité de rédiger une déclaration des droits des Nations avant de statuer à leur demande,” (Paris: Chalons, 1790), 13.

pope, by resuscitating the system of feudalism?”⁸⁹ What is more, the people of Avignon and some in Paris such as Robespierre were increasingly frustrated that the National Assembly seemed to be refusing to honor its self-proclaimed devotion to popular sovereignty as it delayed making a final decision about the union. As the city government in Avignon lamented, “we see with suffering that committees continually send back an affair so essential [as the union], on which depends the tranquility and happiness” of Avignon and the Comtat.⁹⁰

Similarly, many of the positions taken by those opposing union, in particular the idea that Comtadins could adopt the French constitution and maintain their loyalty and “respect due to the Sovereign Pontiff,” were contradictory and, therefore, easily ridiculed.⁹¹ Comtadins tended to want to put in place the mechanics of French revolutionary administration, but not to embrace the principles of popular sovereignty that were their legitimating basis. Moreover, it is possible that these self-avowed believers in the National Assembly’s work were being less than honest at times. The envoys of the very same Representative Assembly that lauded the National Assembly and its constitution wrote to Carpentras from Paris to complain that they were consistently being denied the ability to address the National Assembly by pro-union deputies such as Bouche, but then added, “[i]t does not matter, we have not been upset of being denied the honor... of sharing [this forum] with rebels.”⁹² Finally, many reveled in the biting contradiction that the Representative Assembly in Carpentras “multiplied to infinity its oaths of loyalty to the Pope” while His Holiness formally prohibited it.⁹³

Unlike contemporaries, historians seem to have missed these inconsistencies or undervalued their importance, and advanced a clearer, although misrepresentative, narrative. The great historian of the Revolution and international affairs Albert Sorel merely remarked that, sometimes, French revolutionaries invoked old treaty law in Avignon and sometimes they did not, all the while aiming to show the similarity between Ancien

89. See *Archives parlementaires de 1787 à 1860 : recueil complet des débats législatifs et politiques des Chambres françaises*, vol. XXV (April 13–May 11, 1791) (Paris: Paul Dupont, 1886), 452–67, for Menou’s report.

90. AMA: 2-D-32. Active correspondence of the municipality, March 22–October 5, 1791. Letter to Tissot in Paris, March 22, 1791.

91. ADV: 9-J-7-1. “Extrait du procès verbal de l’Assemblée représentative du Comté Venaissin,” May 29, 1790.

92. BMC: Ms 4199. Correspondence of the Representative Assembly and its envoys in Paris, 1790 and 1791. Letter from the envoys in Paris, November 29, 1790.

93. ADV: 6-L-1. Letter from “Membres de la Société des Amis de la Constitution” to “Amis et frères,” Avignon, January 13, 1791.

Régime and revolutionary goals.⁹⁴ He therefore neglects what was unique and telling about the confusion of legal idioms, of old and new *means*, at the time. More recently, Marc Belissa has used the episode to chastise revolutionaries, when they hewed to older-style arguments, for not being more pure in the application of “cosmopolitan liberty.”⁹⁵ He thereby reifies the idea of the Revolution as a Manichean struggle of liberalism and modernity versus despotism and the Ancien Régime. But in Avignon, it was clear that the principle of popular sovereignty was neither in the exclusive purview of the French nor a necessary harbinger of liberal politics.

The Popular Will Corrupted: Avignon as a Cause of Conflict and a Prototype for Conquest

The union of Avignon had important consequences for international politics and law beyond the immediate context of southern France. Because it allowed French revolutionary principles to transcend into international affairs, it heightened the potential for international conflict, despite revolutionaries’ initial efforts to tread gingerly, with the powers of monarchical Europe. What is more, it introduced a new and dangerous pretext for conquest. Although in Avignon revolutionaries tried to exhibit a scrupulous concern for the will of a foreign people, this respect proved to be tenuous in any annexation based on the principle of popular sovereignty. Later revolutionary acquisitions occurred in their own specific contexts, not least after the outbreak of the Revolutionary Wars and many during the most radical phases of French domestic politics. Nevertheless, even before French troops entered the territory of any other sovereign power, opponents of the union recognized how the precedent set in Avignon was ominous for the future of international law.

For a long time, revolutionaries in Paris prevaricated over the question of union precisely because of the pope’s and others’ acrimonious response to the annexation, when it came. What is more, revolutionaries were eager early on not to antagonize the pope, because of disputes over religious matters in France. From the start, it was clear that the pope did not think well of the constitutional innovations occurring in France. During the summer of 1789, François-Joachim de Pierre, Cardinal de Bernis, France’s

94. See *L’Europe et la Révolution française*, vol. 2, *La chute de la royauté* (Paris: Librairie Plon, 1925), 107.

95. Marc Belissa, *Fraternité universelle et intérêt national (1713–1795) : Les cosmopolitiques du droit des gens* (Paris: Editions Kimé, 1998), 233, 241.

ambassador in Rome, reported that Pius VI was concerned that the pretensions of the Third Estate did not bode well for the church or its clergy.⁹⁶ After the night of August 4, 1789, when feudalism was abolished in France, the papal nuncio wrote to Armand Marc, Count of Montmorin, the foreign minister, protesting the National Assembly's decree rescinding the annates, a payment Rome had received since time immemorial; Bernis intoned "[o]ne does not destroy by a simple stroke of the pen the most ancient of our treaties [the Concordat]."⁹⁷ Therefore, in this earliest phase of the Revolution, the Concordat—the agreement with the Holy See and the Gallican church concerning the rights and privileges of each, signed in Bologna in 1516 between Pope Leo X and King Francis I—was the subject of the most controversy. Although the supreme pontiff himself maintained a decorous silence about the Revolution, French envoys in Rome reported all sorts of rumors of his displeasure, as well as potential avenues of action, such as a letter to be sent to all French bishops.⁹⁸ The dispute became even more divisive after the National Assembly adopted the Civil Constitution of the Clergy, on July 12, 1790. And yet, Pius VI kept his silence, which Bernis described as based on a desire that quick decisions and impatience not precipitate a schism, even though popular gossip indicated that a rupture was imminent.⁹⁹

Montmorin and other French officials, for their part, wished that His Holiness would make a decision or some sort of pronouncement so that they, the French, would know where they stood.¹⁰⁰ When the National Assembly voted on the question of Avignon on November 20, 1790, most deputies subscribed to Mirabeau's opinion that union was not in France's current interest; although it was not explicitly declared, the understanding was that the French prudently wished to settle the matter of the Civil Constitution of the Clergy before deciding on Avignon.¹⁰¹ Montmorin also reflected this position in the instructions he gave to Philippe de Ségur, who succeeded Bernis as French ambassador in Rome. He counseled that Avignon was one of many matters of contention between the Holy See and France, and "it is very probable that it will be discussed...with bitterness." However, as of yet, the Assembly had not

96. AAE: CP-Rome-911. Letter from Bernis in Rome to Montmorin, July 15, 1789.

97. AAE: CP-Rome-911. Letter from the papal nuncio in Paris to Montmorin, August 8, 1789; letter from Bernis in Rome to Montmorin, August 19, 1789.

98. AAE: CP-Rome-912. Letters from Bernis in Rome to Montmorin, March 10, 1790 and March 16, 1790.

99. AAE: CP-Rome-913. Letter from Bernis in Rome to Montmorin, November 2, 1790.

100. AAE: CP-Rome-913. Letter from Montmorin in Paris to Bernis, October 5, 1790.

101. *Archives parlementaires*, vol. XX, 580.

decreed anything that substantively affected the rights of the pope and, therefore, Ségur, “until the Assembly pronounces otherwise, can only respond that the disposition of the King is to maintain the old state of things.”¹⁰²

The pope finally and formally condemned the Civil Constitution of the Clergy in the bull *Quod aliquandam* of March 10, 1791. He went on to use most emphatic language—in April 1791 he called the Assembly’s actions “the sounds of war that philosophical innovators...excite against the Catholic Religion”—which not only made real the long-expected break between France and Rome, but also freed the National Assembly to act in accordance with the principle of popular sovereignty in Avignon.¹⁰³ The pope himself now would not tarry in denouncing French activities there as well. In November 1792, when France had voted against union but sent soldiers and placed them under the authority of the municipal authorities, many of the pope’s advocates had denounced the move as a flagrant violation of his sovereignty. Although the pontiff himself had remained silent at that time, almost immediately after he received word of the union, the pope began work on a denunciation of the Assembly’s decree. Now, he “felt he was indispensably obligated to denounce” the actions of France in sending troops. “Such a duty is all the more pressing today and it is all the less permitted to put off fulfilling it, [now] that there is too evident proof of effrontery, and coordinated efforts with which they sow all over the same principles. No one can ignore the plots hatched to propagate [these principles] with an incredible rapidity, such that barely can one believe that there is in Europe at this moment a state which shelters such atrocities and where our Holy Religion, authority, and public tranquility are all equally compromised.”¹⁰⁴

Whereas His Holiness had been both patient and reticent over religious matters so as to prevent a schism, in the temporal realm of international law he not only immediately cried anathema at France’s annexation of Avignon and the principles that underlay it, but he also emphasized the need for speed in recognizing, opposing, and, ultimately, stopping their spread. In so doing, he greatly contributed to the legal and wider conflict.

102. AAE: CP-Rome-914. “Mémoire pour servir d’Instructions au Sr. Philippe de Ségur...allant à Rome en qualité d’Ambassadeur Extraordinaire de Sa Majesté près le Saint Siège,” Paris, 1791.

103. AAE: CP-Rome-914. “Bref de notre très Saint Père le Pape Pie VI sur le serment civique prêté par les Ecclésiastiques & sur les élections et les consécérations des faux Evêques dans le Royaume de France,” Rome, April 13, 1791.

104. AAE: CP-Rome-914. The pope’s letter of protest over the annexation of Avignon, included with a letter from Bernard in Rome to Montmorin on November 16, 1791.

The union and everything it represented contributed to tension in Europe, in this case pitting France against not only the papacy but also Catholic states such as Austria, which not surprisingly backed the pope, and even Orthodox Russia. Comtadins who opposed union felt it worthwhile “to testify to Europe, that [they] persist and will persist in the solemn sentiment” of inviolable loyalty to His Holiness.¹⁰⁵ Although the pope and those around him claimed that “[i]n this state of things. . .all that is left. . .is to unite [our] tears. . .in submitting entirely to the decrees of Providence,” in reality they did anything but.¹⁰⁶ Rather, the French envoy in Rome reported that the Curia was preparing an official response to France’s annexation. In mid-November, France’s agent secured a copy of a letter to be sent to the ambassadors and ministers of every Catholic power in Rome and forwarded it on to Paris.

The pope complained that although France had “published and reiterated to all the Courts of Europe the most formal and exaggerated protestations of having renounced all aggression and conquests,” the National Assembly “impudently dares. . .to authorize and order the most violent and criminal usurpation.” He accused France of not only trying over the previous months “to put into doubt the solidity and validity of titles,” but also supporting the “alleged claim of the people of Avignon and the Comtat. . .to be declared French,” all of which he dismissed as “sophism and imposture” to the end of seizing the province. Interestingly, he did not explicitly reject the idea that the people of Avignon and the Comtat could decide this matter; rather, he charged that “by fraud, by armed force, by imprisoning many loyal subjects, by the most cruel vexations, the majority of Citizens either fled or were not in a state to vote,” and, therefore, that France “hastened to exploit the will of the inhabitants.” But he asserted that the sovereigns of Europe were too intelligent to be fooled by France’s charade. Therefore, he figured that his fellow monarchs’

unvarying sense of right, and their exacting justice, put [him] in the necessary position of not delaying in letting them know of such a serious outrage, and of formally and solemnly requesting their assistance. . .These same sentiments inspire the firmest confidence that, rightly indignant at such an outrage, they will employ all their credit, and will equally want to lend their powerful support to have annulled a decree that, by invading a sovereign [territory]

105. ADV: 9-J-7-1. Declaration by the Representative Assembly of the Comtat, June 15, 1790.

106. ADV: 1-J-39. Letters of the Secretary of State of the pope to the bishops of Avignon and the Comtat from the Vatican Archives, to the archbishop of Avignon in Villeneuve, October 1, 1791.

belonging to the Holy See, insults the most sacred rights and compromises openly the territorial properties of all the sovereigns of Europe.¹⁰⁷

Thus the pope aimed to garner support for his individual loss by describing it as a threat to all Europe.¹⁰⁸ France's relations with the papacy deteriorated further, and affected diplomacy practically: already the French *chargé d'affaires*, Bernard, could only communicate with the pope's Secretary of State via the intermediary of his son! However, on November 23, 1791, the Cardinal informed Bernard's son that the Holy See was no longer dealing with France at all.¹⁰⁹

In February 1792, Bernard reported that most foreign courts had responded in a "satisfactory" manner to the pope's protest, "but yet without announcing anything specific."¹¹⁰ The Portuguese responded that they had already taken the issue up with their ambassador. Santini, the Russian agent in Rome, had been circulating a letter that he had received the week before in which Catherine the Great's foreign minister thanked the pope for the report and said that the Empress was intently following the subject of the annexation, which was "offensive to the law of nations." He concluded by saying that "although Russia did not have direct political relations with the Court of Rome... if possible, her Imperial Majesty will unite very willingly her efforts with those of other Powers to insist on the rights" of the Holy See in Avignon.¹¹¹ The Austrian Emperor, for his part, never responded to the pope's first missive, leading His Holiness to write him again about the "great and manifest injustice" of the annexation of Avignon, asking that he, "placed at the head of a great Empire, surpassing in dignity and in strength all other princes... employ all your measures to render us justice in Avignon."¹¹² A few days later, word arrived in Rome that Leopold II was almost dead—indeed, that he had probably not seen any of the pope's letters before falling ill—but that no matter what opinion his successor took on the matter, the death and subsequent election of a new Emperor would likely cause many delays in dealing with the affair.¹¹³

107. AAE: CP-Rome-914. Letter from Bernard in Rome to Montmorin on November 16, 1791.

108. ADV: 1-F-4. "Réponse à un publiciste concernant les Droits du Saint-Siège sur le comtat Venaissin & sur Avignon."

109. AAE: CP-Rome-914. Letter from Bernard in Rome to Montmorin, November 23, 1791.

110. AAE: CP-Rome-915. Letter from Bernard in Rome to Lessart, February 1, 1792.

111. Ibid.

112. AAE: CP-Rome-915. Letter from the pope in Rome to the Holy Roman Emperor Leopold II, March 3, 1792.

113. AAE: CP-Rome-915. Letter from Bernard in Rome to Lessart, March 14, 1792.

Revolutionaries, having of course thrown their earlier caution to the wind in decreeing annexation, nevertheless did not yet suppose that their differences with Rome were irreconcilable or that hostilities were imminent. The National Assembly offered the pope an indemnity for his lost territory.¹¹⁴ Moreover, advocates of the union argued, as they had before the National Assembly's decree, that Avignon could not be a serious pretext for war: "[i]f the pope [and] foreign powers seriously would like to undertake against France a war... can one imagine that they have grasped the nature of the union of a city situated in the middle of France... that, not being able to influence in the current balance of power in Europe... [is] no sort of external threat for powers?" The envoys Avignon sent to Paris argued that "[i]f the pope had sought a pretext for open combat, he should have chosen his annates, his tithes, etc." and that, similarly, if foreign powers were in need of pretexts, "they would have found them in the Family Pact, in the aristocratic fury of the émigrés, in the prescription of despotism."¹¹⁵

Even if revolutionaries were not undertaking a premeditated program of aggrandizement in Avignon, as illustrated by the delicate and restrained manner in which they approached the union, and even if they were correct to question the provocative nature of the union in terms of European power politics by highlighting the meager material stakes involved, France's annexation of Avignon based on the principle of popular sovereignty was still enormously contentious. Many of the opponents of union foresaw the potential evils inherent in transfers of territory based on the popular will. Some argued that possession based on historic, dynastic, or feudal titles was the only basis for stability in international relations; the revolutionaries' position, they asserted, called into doubt all territorial claims, and all international treaties concluded over the centuries that had not taken into account the will of the people and thus augured the collapse of diplomatic and legal relations between states. As one opponent of union reminded the French, if the logic of popular sovereignty was applied to the entire map of Europe "you yourselves also [must] return therefore the provinces that you have added to your kingdom by such illegitimate means" as conquest, negotiation, or dynastic inheritance or marriage.¹¹⁶

114. AAE: CP-Rome-915. Letter from Bernard in Rome to Dumouriez, April 4, 1792. See also AAE: MD-Rome-76. "Mémoire servant d'instructions pour le C.en Cacault allant à Rome en qualité de chargé des affaires de la République Française," Paris, January 19, 1793.

115. ADV: 9-J-7-3. "Supplément au Manifeste de la ville et état d'Avignon," 1790. See also AN: D-XXIII-4-14. Dispatch from Dumouriez to Noailles, ambassador of France in Vienna, March 27, 1792.

116. ADV: Biblio-75. "Réponse d'un Comtadin," 3.

This accusation of hypocrisy was not, however, the author's most incendiary accusation. In the case of Avignon, the gravest anxieties were not retrospective but rather forward looking, because the author exclaimed, "[w]hat a revelation, this memorable decree, for all proposals of union of foreign provinces with France! Conquest is therefore in your eyes only what it is in the eyes of philosophy."¹¹⁷ Or, as Malouet warned, "[a]ny annexation is now possible so long as one can prove or simply conjure up a supposed popular will in favor of the takeover."¹¹⁸ Therefore, the union of Avignon set the precedent for a new *kind* of annexation. Although in inception the union was based on the choice of the people concerned, when figures in Midi and Paris championed the will of the people to justify the union of Avignon, precisely because they were not proclaiming a clear principle, they ended up opening a Pandora's box in which French national interest and the "popular will" could become hopelessly confused. Opponents of the union quickly seized on this point and demanded to know if this principle "sufficed to strip a sovereign of a part of his state, why stop if on such a happy path? Savoy, Nice, the Low Countries, the Palatinate..."¹¹⁹ These concerns were prescient. France used similar, if increasingly insincere, legal claims about the will of the people from the precedent of Avignon, in justifying its annexation of precisely these four areas, and many others.

It was not, however, only counter-revolutionaries who opposed this logic of territorial change based on the will of the people. An eccentric thinker, Louis-Pierre Dufourmy de Villiers argued that in opposing the union he was not defending aristocratic rights; he hated the rights of the pope, the Count of Provence, and the King of France.¹²⁰ Instead, he was speaking out against both the French who tried to say that France had *any* claim to Avignon, and against the people of Avignon who too quickly asked for union without reflecting on the sacrifice of their hard-won freedom.¹²¹ He especially opposed another figure who claimed to support the people of Avignon because their cause was that of the "universe," Maximilien

117. *Ibid.*

118. *Archives parlementaires de 1787 à 1860 : recueil complet des débats législatifs et politiques des Chambres françaises*, vol. XVIII (August 12, 1790–Septembre 15, 1790) (Paris: Paul Dupont, 1884), 370–73. Debate of August 27, 1790.

119. ADV: Biblio-75. "Réponse d'un Comtadin," 12.

120. BN: MFICHE 8-LB39-4874. Dufourmy, "Les droits des peuples défendus," 4. He lived from 1739 to 1796. Near the time of the Estates General, he published the "Cahiers du quatrième Ordre, celui des pauvres Journaliers, des Infirmes, des Indigents, etc., l'Ordre sacré des infortunés ; ou Correspondance philanthropique entre les Infortunés, les Hommes sensibles, et les Etats-généraux : pour suppléer au droit de députer directement aux Etats, qui appartient à tout français, mais dont cet Ordre ne jouit pas encore," 1789.

121. BN: MFICHE 8-LB39-3532. Dufourmy, "Supplément à la défense," 2.

Robespierre. De Villiers argued against Robespierre's and others' claim that just because France had renounced aggressive conquests it could not possibly chauvinistically extend its territory. In spite of "the principle that territories and sovereignty only belong to nations," Dufourny argued that the French were opening the way for conquest based on "all the passions of the wild man, united to the vices of the social man, temptation of ambition, consumptiveness of greed, or the gangrene of avarice," and he quoted the fable of La Fontaine about a lion king who eats a lamb, and the wily fox who tells him it is permissible.¹²² Dufourny, therefore, went beyond the argument that dynastic and treaty claims needed to be respected because of the stability they afforded in ordering the territorial and political world. He argued that by rendering such claims dependent on the people—fickle, contradictory, and difficult to consult, as the revolution in Avignon and the Comtat had proven—such claims were decoupled from any mooring that could prevent the entire system from descending into, not anarchy, but something worse: a contest driven by the worst depravities of humankind.

For this reason, Dufourny advocated establishing "the bases of the legitimate relations between societies, their moral and non-contractual relations, which would form a declaration of the law of nations;" only then could all nations enter into coalitions or come together in universal society based on the rights and duties of individuals.¹²³ He was, like all who have tried to develop a uniform code of international law, defeated by the details and could only propose platitudes: "[t]his necessary declaration, the work of the most pure philosophy, cannot be the product of the analysis of conventions or treaties, either ancient or contemporary, by which the leaders of nations have until this day settled their own personal interests; but it must be the fruit of the profound mediation of the most learned people, and most of all the most virtuous."¹²⁴ But his failure to enunciate a moral vision of international law did not preclude the reality that, in the absence of one, territorial claims could easily be driven by the most vicious wickedness once they became unhinged from their traditional berths. And this is precisely what happened: over the next 20 years, France engaged in a program of annexations legitimated, in part, by the legal veneer of the principle of popular sovereignty, but with ever less diligence accorded to learning the people's choice, to the point where it was for the most part nonexistent.

122. *Ibid.*, 4, 17–19.

123. BN: MFICHE LB39-3531. Dufourny, "Des droits des Avignonois à la plus entière liberté," 3–4, 8.

124. *Ibid.*, 6.

Conclusion

Modern theorists have asserted that national self-determination is “not just contested, but notoriously ambiguous,” “misunderstood and misused,” or even “flawed, fatally so.”¹²⁵ The union of Avignon and the first appearance of the principle in international relations confirm much of this contemporary analysis. The decree of union may have brought on “outbursts of joy” in Avignon and the Comtat, and 3 days of celebrations including “salvos of artillery, fireworks, dances, [and] cheers of *Vive la Nation! Vive l’Assemblée Nationale et le Roi des Français!*”¹²⁶ Nevertheless, a fuller investigation of the history shows that the revolution in Avignon and its legacy for international law were quite a bit more complicated than described by past historians, for whom the simple mantra of the virtue of national self-determination was enough.

Instead, at the time of the French Revolution, a devotion to the supposedly clear principle of popular sovereignty created a theoretical and practical morass in international law in which territorial claims became unmoored from their traditional bases. This problem was the result, to a certain extent, of the extraordinary difficulty of ascertaining both the “self” in national self-determination, as well as the desires of the nation, which were manifest in both the practical and theoretical difficulties associated with determining the will of the people in Avignon. This quagmire was also evident in the way that neither advocates of union nor supporters of the pope could monopolize any legal argument, especially that of the popular will. In the end, the union of Avignon provided a pretext by which later revolutionaries could ape the ideology of popular sovereignty and territorial transfer based on that idea of popular sovereignty, as had developed in Avignon, but as a means to justify new and potentially chauvinistic annexations. Starting in Belgium, the first territory the French conquered during the Revolutionary Wars, this is precisely what happened.

The difficulties experienced or identified at the time of the union of Avignon with respect to self-determination foreshadowed later complexities associated with nationality, sovereignty, and territory, and which continue to this day. Derek Heater has wondered “[i]f the pursuit of the ideal of national self-determination has caused such upheaval, surely the belief that

125. The latter two observations/conclusions are from Omar Dahbour, *Illusion of the Peoples: A critique of National Self-Determination* (Lanham, Md.: Lexington, 2003), x, and the first is from James Summer, *Peoples and International Law: How Nationalism and Self-Determination Shape a Contemporary Law of Nations* (Leiden: Martinus Nijhoff, 2007), xxxiii.

126. ADV: 1-J-44. *Révolutions de Paris*, September 17–24, 1791.

it is a panacea must be fallacious.”¹²⁷ The history of the union of Avignon shows that, at its origin, the principle was both already believed to be panacea, and already perceived to be the opposite.

127. Derek Heater, *National Self-Determination: Woodrow Wilson and his Legacy* (New York: Palgrave Macmillan, 1994), 209.