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CLAIMING TERRITORY IN AN ENTANGLED WORLD: ACTION-GUIDANCE AS A JUSTIFICATION FOR A FUNCTIONALIST APPROACH TO STATES' TERRITORIAL RIGHTS

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"The Road goes ever on and on
Down from the door where it began.
Now far ahead the Road has gone,
And I must follow, if I can,
Pursuing it with eager feet,
Until it joins some larger way
Where many paths and errands meet.
And whither then? I cannot say."

Bilbo Baggins

The Fellowship of the Ring,
Being the First Part of The Lord of the Rings.
(Tolkien, 1966)

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INTRODUCTION

At the time of writing this thesis, headlines such as "President Donald Trump renews his threat of using military force to annex Greenland" (Blackburn 2025; Helmore 2025), or "Prime Minister Netanyahu announces the plan to capture the Strip and hold the territories with a new plan to conquer Gaza" (Shear et al. 2025; Liebermann et al. 2025), appear in the news on an almost daily basis.

Naturally, within public opinion, many view such actions as fundamentally wrong. There is a widespread belief that President Trump does not possess the right to annex Greenland by force, just as Prime Minister Netanyahu – or, more broadly, the State of Israel – is not entitled to invade the Gaza Strip through military means. The use of force and violence, in particular, rarely gathers public approval or legitimacy.

Despite the possibility that declarations such as those made by Trump or Netanyahu are simply the result of the ability that certain actors on the global stage occasionally have to exploit a position of power, the diffusion and frequency with which such news becomes part of everyday reporting and divides public opinion suggest that, beyond political interests, important normative questions regarding the nature of territorial rights remain open.

Without necessarily focusing on high-profile cases, it is worth noting that unresolved territorial issues around the world can plausibly amount to several dozens (depending on how one defines and classifies a territorial conflict).[1] These issues include demands for secession, calls for independence, proposals for territorial reconfiguration, and claims aimed at collectively safeguarding land against the impacts of climate change.

Let us suppose for a moment that the use of force is entirely excluded from the picture, and that all ongoing territorial claims are to be resolved, for example, through voting procedures in which the concerned parties express their preferred outcomes. A specific feature of many territorial issues is that they are entangled: territorial claims are intertwined in such a way that

[1] There are no official sources for making this kind of count, nor does it seem particularly relevant to provide an exact number of ongoing territorial conflicts. Nevertheless, the approximate scale of the phenomenon can offer a useful indication of the magnitude of the issue. Across all continents, including cases involving demands for independence, secession, or outright conflicts over border redefinition, one can list numerous examples. A representative set includes, for instance, the following situations: in Europe, the independence movements in Catalonia, Northern Ireland, Scotland, and Kosovo; the Russian-Ukrainian war; and the ongoing dispute between Azerbaijan and Armenia, to name just a few. In Asia, notable cases include the aforementioned Israeli-Palestinian conflict, the territorial dispute between India and Pakistan over Kashmir, China's claims over Taiwan, and China's territorial disputes with Japan and the Philippines in the South and East China Seas. In Africa, one can point to the dispute over Western Sahara, the situation in South Sudan, and the conflict between Ethiopia and Somalia regarding control over Somaliland. And so forth, with comparable cases found also in the Americas and Oceania.

even if a group – such as a state or a region – were to express its preferences through a vote, it would still be highly likely that situations of instability or conflict would arise or persist with other states or regions that hold competing claims over the same territory.

Since, as mentioned above, the instability generated by territorial disputes does not represent a marginal factor among the various causes of precariousness in the contemporary world, it is certainly legitimate to ask how one might reduce, as far as possible, the sources of such instability. It is at this point that we encounter the central problem that has fundamentally motivated the research presented in this thesis: the kind of instability arising from the entanglement of territorial claims appears to be, in a certain sense, structural. It cannot be resolved – not only on the complex practical level, but also at the conceptual level. It is therefore necessary to clarify in what sense such instability should be regarded as structural.

When groups or states put forward claims to self-govern within a particular territory, or to alter territorial boundaries in order to incorporate additional land, they regularly do so by offering justifications – many of which are well-established and recur across different cases.

Such justifications tend to fall into a limited set of recurring categories. These include historical claims – based on prior possession or long-standing ties to the land; ethnic or cultural arguments –invoking shared identity, language, or tradition; functionalist appeals – pointing to administrative efficiency, security, or economic benefit; and other normative principles – such as the right to self-determination or democratic legitimacy. While these arguments often coexist within a single claim, they are also frequently in tension with one another, and with the competing claims of other groups or states over the same territory. To return to an example mentioned at the outset, Israeli Prime Minister Benjamin Netanyahu, in several speeches delivered in the last years, justified Israeli military operations and territorial expansion in Gaza by referring both to the biblical-historical connection of the Jewish people to the land and to Israel's security imperatives (Shezaf 2022; Jewish Learning Institute 2024). However, Palestinian claims to the same area are grounded in similar – or at least comparable – justifications, most notably the right to self-determination, a longstanding territorial attachment, and a continuous presence in the land over centuries, which has contributed to the formation of a distinct national identity – not only in Gaza, but throughout the broader Palestinian region.

A similar pattern emerged with Russia's annexation of Crimea in 2014, where the Russian government invoked a combination of historical, cultural, and functional justifications (Biersack and O'Lear 2014). In response to Ukraine and the broader international community's assertions regarding Crimea's historical, cultural, and territorial affiliation with Ukraine, Russian narratives emphasized Crimea's historical ties to Russia, the cultural and linguistic affinity of its population with the Russian Federation, and the strategic imperative of controlling the Black Sea port of Sevastopol (Biersack and O'Lear 2014). These claims were further reinforced by a self-determination argument, grounded in the controversial results of a local referendum conducted under conditions of military occupation (BBC 2014).

Likewise, the Chinese government's stance on Taiwan builds on similar justifications. It includes a historical narrative of national unity dating back to imperial times, a cultural argument about shared Chinese identity, and a functional claim that Taiwan's reintegration is essential to regional stability and national strength. China also frames its position within the principle of territorial integrity, rejecting Taiwan's democratic aspirations as illegitimate and secessionist (BBC 2022).

These examples illustrate not only the diversity of justifications used in territorial claims, but also how such justifications often conflict with one another when different actors invoke equally compelling – yet incompatible – principles. This entanglement of claims and rationales is precisely what makes territorial disputes so resistant to resolution and so prone to instability.

Nevertheless, it would be a mistake to oversimplify these conflicts by attributing all territorial controversies to a single underlying cause. In some respects, for instance, the previously mentioned case involving President Trump and Greenland diverges significantly from the other examples discussed. Trump appears primarily interested in "purchasing" Greenland, motivated by the strategic economic and military advantages that such control would afford the United States. Whether President Trump has any actual right to purchase Greenland raises an ethical question distinct from the one this thesis seeks to explore – namely, "can territory be bought?". At the same time, Greenland has a colonial history that saw it become part of the Danish colonial empire from the eighteenth century onward. In 1979, it was granted a wide degree of autonomy, which was further expanded in 2009 (Leclerc 2025). However, this has not made Greenland fully independent from Denmark, which continues to control the island's foreign policy, defence and national security, judicial and legal affairs. This situation raises broader questions regarding Greenland's potential liberation from Danish colonial rule – a theme the Trump administration occasionally echoed in rhetoric about the United States "providing freedom" to the island (Rankin 2025). In such a context, however, the actual will of the Greenlandic people should carry far greater weight than it appears to have been afforded.

The brief comparison between the three cases of Israel-Palestine, Crimea, and Taiwan, contrasted with that of Greenland, is meant to highlight how, within the broad theme of territorial rights, the present thesis is not primarily concerned with those territorial claims that might be described as purely instrumental, strategic, or interest-driven. Rather, it focuses specifically on the problem – so to speak – of entanglement: the widespread phenomenon in which different groups assert claims to the exclusive use and control of a given territory. Even when such claims may be supported by instrumental reasons, they are, for the groups in question, primarily motivated by "principled" considerations. Unlike instrumental justifications, principled claims are – or are meant to be – capable of grounding a people's unique and reciprocal attachment to a specific territory. Instrumental claims are for example those where the motivation is primarily based on the economic, military, or geopolitical advantages of controlling a certain land or territory. For instance, a state might seek control over a territory for access to natural resources, maritime routes, or strategic military positioning. These kinds of claims, while relevant in geopolitical analysis, fall outside the central focus of this work.

Rather, principled claims are grounded in notions such as historical occupancy – whether individual or collective – cultural identity, self-determination, and ancestral ties to the land, to name the most prominent justifications. In such frameworks, territory is not just a resource to be exploited, but a constitutive element of group identity, sometimes to be understood as political rather than cultural identity. Hence, when multiple groups invoke these kinds of principled justifications for exclusive territorial control – whether based on historical injustices, cultural continuity, or political autonomy – entanglement arises. The conflict becomes especially intractable because each party sees its claim not as negotiable interest, but as a matter of justice and identity.

It is clear that, in the face of the complexity of these situations – generated, as mentioned, by overlapping and incompatible claims – a first important step is to assess the validity of the various justifications, in order to assign greater weight to those claims supported by the most valid and well-founded justifications, in this thesis from a normative-ethical point of view. The different justifications for territorial rights, following a classification that can be considered classical in the literature, can be grouped into four categories: Lockean justifications, voluntarist justifications, nationalist justifications, and functionalist justifications. Lockean justifications derive from John Locke's theory of individual property rights and are rooted in the idea that collective territorial rights derive from individuals or groups that acquire rights over land through labour and improvement (Simmons 2016; Nine 2008a). Voluntarist justifications stress the importance of consent and mutual agreement: territorial rights are valid when they arise from voluntary associations or contracts, and they are essential for granting the right of collective self-determination (Moore 2015). Nationalist justifications argue that nations

– understood as historically, culturally, or ethnically distinct communities – have a special claim to the territories with which they share deep cultural and historical ties (Miller 2012; Meisels 2003). Finally, functionalist justifications hold that territorial rights are legitimate insofar as they enable the realization of given political functions, such as the protection of human rights or the maintenance of justice (Stilz 2019; Buchanan 2007).

Even before delving into this type of analysis (which will be carried out in Chapter 2) aimed at comparing and assessing the various available theories, one can reasonably anticipate that at least some elements of these four families of justifications will retain part of their validity. This is because, as will be explored in more detail in Chapters 2 and 3, there appears to be a pluralism rather than a monism of valid justifications for territorial claims. Therefore, a simple evaluative exercise – assessing and ranking the available theories and principles – is not sufficient to resolve the problem of entanglement described above, or at least not from a practical point of view.

While from a purely normative point of view one could reasonably accept the coexistence of all territorial rights justifications that are found to be valid, from a practical perspective, if different groups put forward claims over the same territory – or parts of it – based on different yet equally valid reasons, this leads to deadlock and instability. As previously noted, such situations cannot be resolved definitively even through legal means. In light of this, the present thesis aims to carry out an analysis of the various justifications for territorial rights, with the specific goal of assessing them in terms of their practical validity and applicability. In order to overcome the problem of entanglement, these theories must be evaluated using an external criterion – one that does not assess their soundness alone, but rather their soundness combined with their capacity to resolve, rather than exacerbate, situations of instability and entanglement across the broadest possible range of cases.

For the theory or theories capable of fulfilling this role, the present thesis adopts the term *action-guiding*, to refer – as will be discussed extensively in Chapter 3 – to those theories that, while pursuing goals situated at a medium-high level of ideality, are nonetheless constrained by considerations of applicability and feasibility.

In order for a theory to be applicable and feasible, a necessary condition appears to be the presence of one or more agents who either have the will or are in a position to implement it or ensure its implementation. This topic involves multiple aspects.

The first aspect concerns who holds territorial rights – that is, which actor or entity territorial rights belong to. This question will be explored in detail in Chapters 1 and 2. On the one hand, the aim is to clarify whether states – currently the entities to which territorial rights are entrusted

– should indeed be reaffirmed in their role as sovereign states, meaning entities with the highest degree of authority over a given territory. On the other hand, it is necessary to determine on whose behalf this authority is exercised by the state. Voluntarist and nationalist theories argue that states derive their legitimacy from collective groups or communities; Lockean theories (at least in their classical form) maintain that states derive their legitimacy from individuals, who have transferred their individual property rights to the state; finally, functionalist theories hold that state legitimacy depends on the ability of the state to fulfil the functions that are expected of it.

A second aspect, however, which depends on the first, is that if, as previously noted, territorial claims are entangled, then the authority that states hold over their respective territories will not, on its own, be sufficient to resolve territorial disputes. The fact that the relationship certain groups have with a given territory is intertwined with the relationship other groups have with that same territory necessitates envisioning a world in which states – if still regarded as the primary sovereign entities – consider themselves to hold absolute sovereignty over a territory only provisionally and conditionally. As a result, they must be prepared to engage in mediation with other states, particularly through the involvement of international or supranational organizations. Theories of territorial rights that are able to acknowledge and incorporate the complexity of territorial claims – and that allow for the idea that claims over a given territory may evolve over time and should therefore be regarded as provisional –are those most likely to qualify as action-guiding.

A third, final, and crucial aspect concerns compliance. I have so far referred to well-known territorial disputes, many of which are notable precisely because they have remained unresolved for extended periods of time. The central argument advanced here is that many territorial disputes persist because, both from a practical and a normative perspective, there coexist – at an equivalent level of validity – different criteria for justifying territorial claims. These criteria, in turn, confer legitimacy on multiple actors to contest control over the same portions of territory. Although this thesis does not examine any specific real-world case, it aims to identify a justification for states' territorial rights that enables the mitigation – rather than the exacerbation – of territorial disputes. This very capacity is taken as a criterion for evaluating the desirability of a given theory, though such desirability does not necessarily translate into compliance on the part of the actors expected to accept and implement it –namely, states, with the mediation of supranational organizations, but also individuals with their own preferences. This thesis defends a functionalist theory of territorial rights, based on the idea that states derive their legitimacy – and thus their territorial rights over a given territory—from their capacity to guarantee the fundamental rights and well-being of the citizens who reside there. As will be argued, states are not to be understood as identical to existing political entities; rather, they are to be seen as provisional and conditional entities, subject to revision when necessary and not necessarily aligned with national or cultural groups (Ypi 2014). Their legitimacy, therefore, would not stem from nationalist arguments or from a principle of collective self-determination, and would not entail exclusive claims. Although grounded in the structures of the real world – and thus practically realizable – this thesis proposes a rethinking of the relationship between individuals and territory. In order for such a project to be action-guiding, even from the standpoint of compliance, it is necessary to move beyond most classical justifications of territorial rights and embrace those approaches that recognize the non-exclusivity and provisional character of territorial "ownership".

This thesis develops its central argument across five chapters, each of which addresses a key dimension of the debate outlined above. Chapter 1 sets the stage by defending a vision of the global territorial order grounded in the continued relevance of sovereign states. Chapter 2 examines the main theoretical frameworks that seek to justify territorial rights on the basis of state sovereignty. Chapter 3 introduces the evaluative criterion of *action-guidance*, which serves as a normative and methodological tool for assessing these theories. Chapter 4 applies this criterion to the major families of territorial rights theories, evaluating their capacity to offer both normative coherence and practical applicability. Finally, Chapter 5 presents and defends a functionalist theory of territorial rights – one that anchors state legitimacy in the capacity to fulfil core political functions and to uphold the fundamental rights and well-being of those residing within a given territory.

The structure and thematic development of the thesis are outlined in greater detail in the following chapter summaries.

Chapter 1 lays the conceptual foundation for the thesis by critically examining the assumption that territorial rights must be grounded in state-based sovereignty. While acknowledging the profound influence of states in global politics and governance, the chapter challenges the idea that this structure is normatively justified merely because it reflects the status quo. It starts by identifying several critical issues associated with the existing state system – most notably, structural inequalities between states, a lack of accountability for transboundary harm, and the failure of states to adequately address global challenges such as climate change. These critiques suggest that alternative frameworks of sovereignty may be necessary.

The chapter then evaluates whether non-state or non-territorial models could provide a more desirable alternative. Two broad categories of alternatives are considered: non-territorial sovereignty and territorial but non-state-based sovereignty. Within the first category, the chapter analyses the theories of John Agnew (2005) and Aviezer Tucker (2016), who argue for models of sovereignty that are decoupled from territoriality. These include "networked sovereignty", panarchism, and global governance frameworks where authority is exercised through overlapping, non-territorial systems. While these approaches aim to overcome the failings of the state model, the chapter concludes that they are ultimately undesirable. They lack sufficient mechanisms for stability, accountability, and coordination, and could worsen inequality and legal fragmentation.

The second section addresses whether the idea of territorial sovereignty necessarily entails a commitment to state-based governance. It introduces a core definition of the state – a political entity characterized by a defined territory, a resident population, and a governing authority with a monopoly on legitimate coercion. The chapter argues that once one accepts territoriality as a relevant political concept (as is often required in theories of territorial rights), one is also implicitly accepting this basic form of statehood. However, this definition does not rely on common empirical features of modern states such as contiguity, cultural homogeneity, or historical stasis – allowing the theory to remain independent from status quo assumptions.

The final part of the chapter engages with cosmopolitan theories of territorial rights, particularly those proposed by Thomas Pogge (1992), David Held (2009), and Seyla Benhabib (2008). These theories aim to reduce the centrality of states by dispersing sovereignty vertically across multiple levels or by emphasizing universal principles of justice. While they advance compelling critiques of centralized state authority, the chapter argues that they either rely on implausible institutional arrangements or ultimately reproduce features of the existing state system, thus failing to present clearly preferable alternatives.

In conclusion, Chapter 1 defends a territorial and state-based conception of sovereignty, understood in a minimal and non-essentialist way, as the most normatively desirable framework within which to assess competing claims to territorial rights.

Building on this foundation, Chapter 2 offers a comprehensive reconstruction of the main normative theories that seek to justify states' territorial rights, with the aim of identifying which of these are best suited to support a principle of territorial justice. The chapter explores the central theoretical options available in the literature and serves as the analytical foundation for subsequent chapters, where the practical and normative implications of these theories will be critically assessed.

The chapter begins by distinguishing between three meta-approaches to territorial rights: monism, which seeks a single best justification; pluralism, which allows for context-specific justifications; and a hybrid approach, which the thesis ultimately favours. This hybrid view accepts the contextual relevance of multiple principles but argues that, to resolve real-world disputes, a further action-guiding criterion is necessary to prioritize among them. The chapter thus focuses on the theoretical dimension – mapping the main families of territorial rights theories – while later chapters will evaluate their practicability and normative desirability.

The core of the chapter is structured around four influential families of territorial rights theories. Lockean Theories derive territorial rights from property rights, particularly via labour-based acquisition. The chapter examines both individualist versions (e.g., John Simmons (2016)), which ground state authority in the voluntary transfer of individual land rights, and collectivist versions (e.g., Cara Nine (2022)), which argue that collectives can acquire territorial rights through collective labour and morally significant relationships with land. While these theories are action-guiding in principle, they face significant challenges – particularly the individualist variant, which relies heavily on historical entitlements. Additional difficulties include addressing commons and public spaces, providing clear criteria for territorial demarcation, applying the theory to complex real-world cases, and responding effectively to overlapping or competing claims.

Voluntarist Theories focus on collective self-determination, arguing that legitimate territorial rights arise when a group expresses and enacts its will to govern itself. The chapter explores Margaret Moore's (2015) political self-determination theory, which grounds territorial rights in the morally significant relationship between a people and a place, as well as alternative approaches like Paulina Ochoa Espejo's (2016) relational territoriality and Andrew Altman & Christopher Wellman's (2009) plebiscitary model. Key challenges include defining "peoples", managing overlapping claims, and protecting dissenting individuals or minorities.

Nationalist Theories posit that nations – groups defined by shared culture, history, and identity –have special claims to specific territories. The chapter discusses liberal-nationalist theories, especially David Miller's (2012) view that national identity justifies self-determination and territorial control. However, this approach is criticized for relying on fluid or mythic notions of nationhood and for failing to address resource inequality and exclusionary implications.

Lastly, Functionalist Theories claim that territorial rights are justified if and only if a state performs essential functions – such as maintaining order, securing justice, or protecting rights – within a given territory (Stilz 2019). They are evaluated in terms of their practical utility and compatibility with institutional realities.

Taken together, the theories examined in Chapter 2 define the main conceptual terrain of the thesis, highlighting the respective strengths and limitations of each approach. This paves the way for the normative and methodological evaluation that follows.

In direct continuity, Chapter 3 constitutes the methodological core of the thesis. It clarifies key theoretical categories – *utopian*, *ideal*, and *non-ideal* theories – and introduces the central evaluative criterion of *action-guidance*. The chapter builds on the insight developed in Chapters 1 and 2: that no single theory of territorial rights – whether Lockean, voluntarist, nationalist, or functionalist – provides a fully satisfactory or universally applicable account. This insight raises a practical challenge: how to normatively prioritize among plural and often conflicting justifications for territorial claims. The chapter contends that this challenge cannot be addressed through theoretical assessment alone and therefore proposes *action-guidance* as a secondary, yet decisive, criterion for theory selection.

The first section explains this shift in focus. The earlier comparison of theories was conducted within an *ideal-theory* framework, which abstracts from feasibility to imagine desirable outcomes, since all these accounts, broadly speaking, operate at the level of ideal theory. Yet, as previously noted, the aim of this thesis cannot remain confined to a purely theoretical evaluation of these frameworks (which, as will be discussed in Chapter 2, proves inconclusive). It must also consider their applicability. However, situating the analysis at an ideal level, broadly defined, immediately exposes an evident difficulty: what is normatively desirable is often not practically applicable. This difficulty is compounded by the ambiguity of the very notion of *applicability*, which requires careful conceptual clarification. The chapter therefore proposes a methodological framework to identify which ideal theories can still offer meaningful guidance for real-world action.

To examine the extent to which a theory's ideal assumptions are compatible with its applicability, the chapter introduces a spectrum of ideality, in which, for the purposes of this thesis, specific characteristics are attributed to each type of theory. *Utopian theories* are highly idealized and practically inapplicable, *non-ideal theories* prioritize applicability, and *ideal theories* occupy an intermediate position, balancing ideality and applicability. Drawing on theorists such as Valentini (2012), Estlund (2014), Mills (2005), and Lawford-Smith (2013), it distinguishes between three types of utopianism (focused on idealization, infeasibility, and temporal inapplicability) and maps them in contrast to both ideal and non-ideal approaches.

A central contribution of the chapter is the definition of action-guidance, a concept that is treated as distinct from strict feasibility. While feasible theories prescribe actions that can be implemented immediately, action-guiding theories define long-term normative goals and identify intermediate steps toward them. Action-guidance, for the purposes of the thesis, thus implies a second-order feasibility: the ability of a theory to orient agents toward a desirable future even if its prescriptions are not instantly realizable. Importantly, action-guiding theories must outline coherent and progressive paths toward their envisioned outcomes and must avoid producing contradictions or counterintuitive consequences when applied.

The chapter then establishes criteria for failed action-guidance, such as when a theory lacks the motivational force to ensure compliance, fails to provide clear or achievable steps toward its goals, or produces contradictions or undesirable outcomes when applied. These shortcomings help refine the spectrum of ideal theories, revealing that not all of them are equally effective in guiding action.

In doing so, Chapter 3 lays the necessary methodological groundwork for the selection and evaluation of territorial rights theories in Chapter 4. It equips the thesis with the tools to assess which theories are not only normatively robust but also capable of offering structured, progressive, and practically applicable guidance – thereby responding to the entanglement and conflict of competing claims discussed in earlier chapters.

Chapter 4 marks the core evaluative moment of the thesis. Drawing directly on the methodological framework developed in Chapter 3 – particularly the spectrum of ideality and the concept of action-guidance – it systematically reassesses the principal normative theories of territorial rights introduced in Chapter 2. While the preceding chapters mapped the theoretical landscape and clarified the conceptual apparatus, Chapter 4 applies these tools to evaluate whether, and how, each theory can serve as a viable action-guiding framework for resolving territorial disputes.

The chapter evaluates the four main families of territorial rights theories – Lockean, voluntarist, nationalist, and functionalist – according to two primary criteria: (1) their placement on the spectrum between utopian, ideal, and non-ideal theory, and (2) their capacity to be action-guiding in the sense developed in Chapter 3. The goal is to determine which theories, while retaining normative desirability, can also guide political decisions in a world marked by overlapping claims, historical injustices, and practical constraints.

Lockean theories are first examined in their individualist and collectivist forms. John Simmons's individualist Lockean theory is classified as utopian both in its assumption of a fully just world and in its reliance on historical processes that are no longer reconstructible. While its normative consistency is strong, its strict dependence on historical entitlements and perfect compliance renders it impractical. Cara Nine's collectivist variant shows greater sensitivity to overlapping claims and introduces the notion of sociability, but ultimately struggles with demarcation criteria and the ambiguity of what counts as a "morally valuable" relationship with land – making it vulnerable to failed action-guidance.

Nationalist theories, with David Miller as a key reference, are found to be weakly utopian, particularly in assuming a one-to-one correspondence between nations and territories and in their difficulty handling pluralistic or entangled claims. Nationalism is shown to be uniquely salient in public discourse and seemingly applicable, but this practical influence does not translate into coherent normative guidance. Nationalist frameworks risk promoting instability, over-relying on cultural essentialism, and ignoring dissenting groups, making them prone to internal contradiction and non-compliance.

Voluntarist theories, especially as articulated by Margaret Moore, are likewise shown to suffer from ambiguity, especially regarding how to define group boundaries without resorting to cultural criteria. Although they aim to avoid the risks of nationalism, their reliance on abstract notions like "we-intentions" and pre-institutional group identity render them highly utopian and lacking in action-guidance when applied beyond specific indigenous contexts.

In contrast, functionalist theories, particularly Anna Stilz's, are found to be the most action-guiding among those examined. Although potentially weak in resolving the boundary problem and in addressing historical injustices, functionalism anchors territorial rights in the moral function of states – namely, their ability to secure justice, autonomy, and rights. This allows functionalism to offer prospective, institutionally grounded guidance without falling into utopian assumptions, and to respond constructively to contemporary territorial challenges.

Thus, Chapter 4 argues that among the theories considered, functionalism holds the most promise for combining normative appeal with practical applicability.

Chapter 5 concludes the thesis by refining and defending a functionalist theory of territorial rights that is both normatively desirable and action-guiding at the ideal level. Building on the results of Chapter 4 – where functionalism emerged as the most promising framework among competing theories – the chapter develops a version of functionalism that explicitly addresses its limits and strengthens its applicability to real-world territorial challenges.

The chapter begins by reaffirming the methodological significance of the ideal level, situated between utopian abstraction and non-ideal contextualism. The ideal level, as defined in earlier chapters, requires theories to be normatively robust, practically realizable through intermediate steps, and universally applicable. Functionalist theories – especially the version articulated by Anna Stilz – best fulfil these requirements. However, the chapter acknowledges that even Stilz's account must be critically examined and partially revised to meet the standard of an ideal action-guiding theory.

Three key areas are addressed in the construction of this refined version of functionalism: legitimacy, representation and self-determination, and the boundary problem. First, regarding legitimacy, the chapter reaffirms that states must meet basic conditions – such as protecting security, subsistence, and autonomy rights – to be considered legitimate. These conditions are not utopian but establish a realistic threshold for legitimacy. The theory supports the idea that non-compliant states may face international sanctions, while individuals and states alike bear duties to support minimal justice.

Second, the chapter addresses representation and collective self-determination, recognizing critiques that functionalism may inadequately protect group identity or resist benign forms of colonialism. In response, the thesis advocates for a fully institutional understanding of self-determination, where political communities are formed within institutions rather than through pre-institutional cultural or historical bonds. This avoids the issues of exclusivist or nationalist logic and strengthens the theory's coherence and action-guidance.

Third, the boundary problem is examined from a functionalist perspective. Rather than asserting fixed territorial boundaries based on identity or ancestry, the kind functionalism defended in this thesis views borders as provisional tools for ensuring peace, stability, and justice. The chapter argues that just borders are those that foster these conditions, not those that satisfy historical or cultural claims. This approach also supports open borders and non-exclusive territorial claims, making functionalism particularly well-suited for addressing contemporary issues such as migration and climate change.

Finally, the chapter considers several objections to functionalism – ranging from its treatment of past injustices and group rights to its stance on ecological refugees and international institutions. It argues that, while functionalism may not offer comprehensive historical redress or cultural recognition, it provides a forward-looking, pragmatically grounded framework for navigating territorial disputes in a pluralistic world. Its flexibility allows it to accommodate the complexities of global justice without falling into unrealistic idealism or narrow particularism.

In conclusion, Chapter 5 presents a modified, ideal-level, action-guiding functionalist theory of territorial rights – one that balances normative ambition with practical applicability, and provides a coherent framework for addressing the persistent problem of entangled and overlapping territorial claims.

Remarks on The Use of Terms

In this thesis, an unconventional use is made of certain highly debated terms in the literature, with particular reference to the following: *utopian*, *ideal*, and *non-ideal theory*, and *action-guidance*.

This thesis is constructed and therefore closely depends on four families of territorial rights theories, each of which, in its own way, seeks to justify the reasons that states or groups of people might advance to claim the right to exercise exclusive control over specific territories. Since all four of these families of theories attempt to do so in a universal and generalized manner, abstracting from particular cases, and with the aim of indicating the origin of territorial rights – as in a world in which many territorial rights have historically been subject to obvious violations regardless of the most plausible ways of conceptualizing these rights – it is, in fact, possible and straightforward to classify all four families of theories as belonging to the group of so-called ideal theories.

Ideal theories, according to a broad definition that is often the standard interpretation in the literature, can be defined in a Rawlsian sense as those theories that aim to specify principles or norms of justice in a fully general and systematic way, abstracting from particular historical circumstances and practical limitations, and providing guidance about what ought to be the case rather than what actually is. Ideal theory, particularly, makes two types of idealizing assumptions about its subject matter. First, it assumes that all actors (citizens or societies) are generally willing to comply with the principles chosen. Second, ideal theory assumes reasonably favourable social conditions, wherein citizens and societies are able to abide by principles of political cooperation (Rawls 1971).

On the basis of these premises, non-ideal theory can instead be conceptualized, still following Rawls, as addressing situations where compliance with principles cannot be assumed and where social, economic, or political conditions may be unfavourable (Rawls 1971).

Up to Chapter 2, where I present and examine the four families of theories through their main arguments and weaknesses, all can be understood as instances of ideal theory in the classical Rawlsian sense.

A terminological difficulty arises, however, when the discussion turns to the relationship between ideality and applicability. In the preceding definition of ideal and non-ideal theory, the precise connection between these two and their applicability was left deliberately open. An ideal theory may be considered applicable insofar as it identifies – among many possible options

– a goal to be pursued. Yet if applicability is understood in such a broad sense, the term loses its discriminating power: applicability can no longer serve as a meaningful criterion for distinguishing between theories that are more or less ideal.

One might therefore assume that, given Rawls's premise of full compliance, concerns about applicability properly belong not to ideal theory but to non-ideal theory – the part of the framework that explains how to move from the ideal goal toward its realization. For my purposes, however, this interpretation proves unsatisfactory. It leaves the notion of applicability too vague, with the result that virtually any theory could be described as applicable merely because it posits an ideal end and delegates the practical steps to non-ideal theory.

My working assumption, by contrast, is that at least some theories can be genuinely applicable – that is, capable of being coherently put into practice rather than functioning solely as abstract normative models detached from real-world contexts. Moreover, each of the theories I discuss seems to contain elements that express, either explicitly or implicitly, a claim – or at least an aspiration – to applicability: a desire to provide a framework capable, under appropriate conditions, of guiding concrete political or territorial arrangements.

Yet this very assumption introduces a conceptual complication. If all theories present themselves as, in some sense, applicable, then the boundary between ideal and non-ideal theory becomes blurred. Both appear to make claims to applicability, though in different ways and to different degrees.

For this reason, it becomes necessary to clarify under what conditions a theory can be both ideal and applicable. This involves specifying what applicable means when attributed to ideal theory, and distinguishing between theories that are both ideal and applicable, and those that are either non-applicable or would cease to be ideal if applied. The aim, therefore, is to identify a conceptual space in which ideality and applicability can coexist coherently – without one undermining the other.

A direct consequence of this assumption is that the applicability of a theory should never come at the expense of its ideality. In simple terms, for a theory to be a serious candidate, it must first satisfy us as it stands – that is, as a coherent and normatively compelling construction at the ideal level, in the Rawlsian sense.

For this reason, the first part of the thesis (Chapters 1 and 2) focuses on evaluating the available theories exclusively in terms of their desirability as instances of classical Rawlsian ideal theory. In this framework, a theory is considered prima facie desirable if it articulates principles or norms of justice in a general and universal form – abstracting from particular historical circumstances and practical constraints – and if it provides guidance about what ought to be the case, under the assumption of full compliance.

A theory is desirable, at this initial stage, if it meets these conditions. As Chapter 1 will show, theories that propose organizing and regulating territory independently of the state fail to satisfy this first criterion of desirability. By contrast, theories of territorial rights that acknowledge or incorporate the role of the state – or of state-like institutions – will be shown in Chapter 2 to perform better. These theories correspond more closely to the Rawlsian conception of ideal theory and can therefore be regarded as prima facie desirable.

Consequently, up to and including Chapter 2, most of the technical terms I employ should be understood in their classical sense. This is a deliberate choice: at this stage, there is no need to complicate the analysis with a more elaborate conceptual vocabulary.

In this context, a theory may thus be regarded as ideal in the mainstream Rawlsian sense, and as prima facie desirable if it is internally coherent, universalizable, and free from contradictions at this preliminary level of analysis.

As already indicated, for the purposes of this thesis a theory is fully desirable only when its ideality is compatible with its applicability. Although Rawls's definition of ideal theory includes certain references to the applicability of a theory, these references are not sufficient to allow meaningful comparison among the territorial rights theories discussed in Chapter 2. It is therefore in Chapter 3 that the need arises to develop, building on the Rawlsian notion of ideal theory, a more refined and context-specific version of ideal theory—one capable of assessing which of the examined theories, if any, is most compatible with a successful application in practice.

The aim, as already emphasized, is to work from the Rawlsian framework to formulate a conception of ideal theory that can integrate ideality and applicability without compromising the former in the name of the latter. Ideality thus comes to be understood as a feature belonging to those theories that are both ideal in the Rawlsian sense and applicable—though the latter term still requires clarification.

Accordingly, in Chapter 3, ideal theories are understood as those that satisfy both conditions: they remain normatively ideal while retaining the potential for coherent application. Non-ideal theories, by contrast, are defined as theories that are applicable but not necessarily ideal, whereas utopian theories refer to those that are largely or entirely incompatible with applicability.

Finally, a clarification is needed regarding the notion of applicability.

The term applicability – and the broader conceptual field surrounding it – occupies a particularly delicate position in this thesis. It should be noted that the way in which applicability is defined directly affects how theories of territorial rights can be evaluated: depending on this definition, a theory may or may not be considered practically implementable. My aim, therefore, is to develop a definition of applicability that is sufficiently strong to prevent all theories from being regarded as applicable, yet not so restrictive that it becomes impossible for any theory to be both ideal and applicable without compromising its ideal character. For this reason, the criterion of applicability will be developed in greater detail in Chapter 3, once the theoretical conditions it must meet have been more precisely identified.

In Chapters 1 and 2, by contrast, the term applicability – as well as related notions – is employed in a more general and preliminary sense. At this stage, applicability refers simply to the possibility that a theory may be implemented in practice, or at least that it offers guidance that could, in principle, inform action within the constraints and conditions of real social and political contexts. This usage allows for an initial assessment of the theories of territorial rights under discussion, focusing primarily on their ideal features without yet fully resolving their practical potential.

In Chapter 3, the concept of applicability will be refined and articulated into three distinct senses, only one of which – that I will refer to as the "action-guiding sense" – will characterize the kind of ideal theories that this thesis seeks to defend. A theory will qualify as action-guiding when it succeeds in maintaining a balance between ideality and applicability: if it avoids both excessive concessions to practical feasibility, which would weaken its normative strength, and excessive abstraction, which would render it inapplicable in practice.

An action-guiding theory will thus be distinguished, on the one hand, from a feasible theory, which prioritizes practical applicability at the expense of ideality, and, on the other hand, from a utopian theory, which privileges ideality to such an extent that it becomes detached from any realistic possibility of application.

A theory is action-guiding, as it will be defined, when it is capable of directing our actions toward a desirable final outcome in the domain of territorial rights while remaining consistent with its own ideal principles. In simple terms, a theory is ideal and action-guiding if it is capable of leading toward the outcome it sets as its goal at the ideal level, even if this outcome is not realized immediately or directly. In other words, the theory may guide action through a sequence of intermediate steps or transitions, but it ultimately achieves the state of affairs that it prescribes as desirable, thereby reducing the gap between the current situation and the ideal one.

Chapter 1
A Defence of State-Based Territorial Sovereignty

Introduction

Notwithstanding the power that some international bodies now have, states remain the strongest source of authority for the citizens who live within their borders and for the territories on which they govern. Most theories of territorial rights focus on justifying state sovereignty and take into account a range of possible justifications. Yet, the assumption that territorial rights must be state-based requires further justification. One could argue that this assumption largely stems from a status quo bias, suggesting that there may be no strong substantive reasons – beyond the pragmatic and logistical challenges of restructuring territorial governance – to uphold state-based sovereignty. In fact, the desirability and effectiveness of the state-based system can be questioned, especially given its evident shortcomings, some of which are explored below.

(1) In a system where the states are the strongest source of power, it seems intuitively fair to assign equal value to each state, meaning that each state should be respected in its autonomy and no state should be in a position of power over another or other states.[2] The principle of state equality is recognized in various international legal documents and frameworks, including the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the Statute of the International Court of Justice, and several others. It generally refers to the idea that all sovereign states, irrespective of their size, wealth, or political influence, hold equal legal rights and obligations within the international system. However, it appears that the principle of

[2] The principle of state equality, as Habermas rightly observes, can indeed appear divisive, especially when contrasted with the principle of citizen equality. In an article specifically addressing the European Union – but whose conclusions can plausibly be generalized – Habermas (2017) highlights the intrinsic conflict between these two fundamental principles: citizen equality refers to the idea of ensuring that individuals enjoy equal rights and political participation regardless of their nationality; state equality, on the other hand, concerns respecting the sovereignty and equal standing of member states within the union.

The notion that a large and populous state, such as China, is considered equal to a small state, such as Tuvalu, Bahrain, or Iceland, might be seen as problematic. This equality among states could come at the expense of citizen equality, thereby undermining the principle of fairness at the individual level.

In line with Habermas's arguments, I would like to clarify that – although I do not intend to delve into the broader debate on state equality versus citizen equality in this context – I consider both types of equality to be critically important. For instance, a well-designed proportional system could allow for the serious consideration of both principles. As Habermas notes, the European Union employs a principle of degressive proportionality (Habermas 2017, 179), which favours smaller member states. This approach seems democratically justifiable as a means to prevent stronger states from excessively exploiting their power, which is often acquired through contingent historical circumstances.

state equality is frequently violated or, at the very least, that there are numerous ways to circumvent it. It seems possible to identify states in a dominant versus subordinate position, and these inequalities contribute to make the whole system unstable and violent. It also appears that some features that different states possess in different grades work as a sort of structural cause for this unequal system, because the states that are bigger in dimensions or owning more natural resources or states that inherited power of influence thanks to their historical background seem to be structurally advantaged. As a consequence of this, some states have enough power to control (potentially or really) other states, for example by influencing the candidates for elections, by influencing some political choices or by physically intervening in some extreme cases (and potentially with the purpose of unilateral annexation).

(2) States make decisions that significantly affect not only the citizens within their borders but also individuals who, for various reasons, seek to cross borders and enter foreign states, as well as individuals affected by the actions of foreign states, even without any intention of entering them. However, this extremely high level of power held by states does not seem to be accompanied by an adequate mechanism of control and protection for the benefit of citizens and, more generally, for individuals affected by state decisions. States are often implicated in severe violations of fundamental human rights, and the current global system lacks effective mechanisms to challenge or constrain their sovereign authority. The environmental crisis further underscores this issue, as state policies frequently contribute to global ecological damage, affecting not only their own populations but the entire planet, without adequate international frameworks to ensure accountability.

(3) A growing number of global challenges demand supranational cooperation, yet states often act as barriers to achieving lasting solutions. The climate crisis and global warming offer a compelling example: addressing climate change is a priority for most nations, yet their actions remain insufficient. Climate change is deeply intertwined with territorial rights in several ways, one of which involves the exploitation of natural resources. Such exploitation exacerbates global warming, which in turn diminishes the availability of other vital resources. In normative political theory, territorial rights have traditionally been understood to include control over the natural resources within a given territory (Hayward 2006; Miller 2007; Moore 2012).[3] Could a

[3] Asserting that states have the right to control natural resources does not necessarily imply full or unconditional control, nor is it incompatible with a redistributive principle. The key point here is simply that, in a state-based system, territorial rights are understood to include the right to exercise control over the resources within a given territory.

system that moves beyond state-based sovereignty offer a more effective and desirable framework for tackling these pressing global issues?

These examples appear to strengthen the position of those who reject the effort to develop a more compelling justification for state-based jurisdictional rights. Instead, they argue that normative theorists should focus on constructing entirely new frameworks for organizing territory, as state-based jurisdictional rights may ultimately be indefensible.

In the following section of this chapter, I will analyse the principal alternative approaches to the traditional concept of state-based territorial justice. The objective is to evaluate whether any of these alternatives can be considered desirable. As outlined in the introduction, my aim is to identify a theory that satisfies two key criteria: desirability at the ideal level, and subordinately applicability. The first criterion takes precedence over the second, as this thesis is less interested in pursuing a theory that is practically applicable if it fails to meet certain standards of desirability at the ideal level. In other words, if a theory proves to be undesirable, there is no adequate justification for investigating its applicability.[4]

This analysis is organized into two main sections, reflecting the two potential alternatives to state-based sovereignty. The first alternative posits that non-territorial forms of sovereignty are preferable to the traditional conception of sovereignty exercised over a defined territory with fixed borders. The second alternative, while maintaining the principle of territorial sovereignty, questions the assumption that states should be the sole legitimate holders of territorial rights.

Among the many scholars who have examined sovereignty, most emphasize the significance of territoriality both for humanity as a whole and for any viable model of sovereignty. However, it remains crucial to critically assess what territoriality entails and whether it is truly essential for fulfilling fundamental human needs.

Advocates of the first alternative contend that the assumption of sovereignty being inherently territorial lacks sufficient justification. In this section, I will analyse the theories of John Agnew and Aviezer Tucker, two leading proponents of non-territorial sovereignty. I will explore their critiques of territorial sovereignty – both as an undesirable and unnecessary framework – before presenting their alternative models, which reconceptualize sovereignty in the context of globalization. Their critique of territorial sovereignty suggests that it is both negative and non-

[4] One might consider this statement as incorrect, as it appears to hold true only within the same level of ideality. To clarify: if action x, situated within a given level of ideality L_1, is applicable but not desirable, we could consider transitioning to the next level of ideality, L_2, where another action, y, might be deemed desirable. However, if action y at level L_2 proves to be infeasible, it is plausible to contend that, in many instances, pursuing action x remains more desirable than refraining from action altogether. Therefore, for the argument I am presenting to remain valid, it is necessary to add the condition that we operate within the same level of ideality, which will be more precisely defined in Chapter 3.

essential. In response, I will argue that while territorial sovereignty can be negative, it is, nonetheless, necessary. Therefore, my final assessment of the theories advocating for non-territorial sovereignty will be that they are ultimately undesirable.

After establishing the necessity of a concept of sovereignty rooted in territoriality, I will address the second question: whether territoriality inherently requires state-based sovereignty. My position will be that territoriality implies at least a core form of state-based sovereignty, according to which for an entity to be considered a state it is sufficient that it possesses three ingredients: a group of people, a particular territory and a governmental body with the monopoly on the legitimate use of coercion and law enforcement. In other words, by accepting the idea that sovereignty must be territory-based, we are already implicitly endorsing at least some of the characteristics that define a state. These characteristics, which together provide a core definition of the state, constitute the essence of what a state is – meaning that all characteristics that may belong to a state but do not constitute its essence must, if they are to be defended, be further justified. For instance, according to my core definition, the essence of a state does not rely on elements such as territorial contiguity, territorial immobility (stasis), or cultural homogeneity. As a result, it is not subject to a status quo bias.

These or other features could potentially be added to the definition of state, but it seems that we would need further and ad hoc justifications in order to argue that a state cannot be considered as such unless it occupies a contiguous territory, constitutes a stable entity in both the past and the future, and exhibits identifiable factors of cultural homogeneity within its population.

State-centred conceptions of sovereignty are not the only way to interpret the idea of territorial sovereignty. In the second part of the second section of this chapter, I will examine cosmopolitanism as another possible alternative.

The cosmopolitan approach presents a particularly significant challenge to my project because it may be viewed as a good compromise between state-based and anti-state-based perspectives, thereby posing a critique to both. To address this challenge, I will engage with cosmopolitanism seriously, showing that it encompasses a diverse range of positions that cannot simply be reduced to the notion of replacing states with a single global entity. I will also set aside the issue of its feasibility to focus, instead, on its desirability – with the aim of assessing whether cosmopolitanism can be considered appealing at an ideal level.

By concluding that cosmopolitanism is not fully desirable, I will arrive at a preliminary conclusion, marking the end of this chapter: a territorial, state-based conception of sovereignty provides a strong foundation for examining the subject of my inquiry – namely, theories of territorial rights.

In the final section of this chapter, I will offer a brief preview of Chapter 2. If state-based sovereignty is deemed more desirable than non-territorial or non-state-based alternatives, the next task – that will be undertaken in Chapter 2 and further developed in the following chapters – is to identify a theoretical framework that is both normatively compelling and practically viable for guiding action and informing policy. To this end, I will outline a conceptual roadmap of potential alternatives, providing the analytical tools necessary to evaluate these theories according to the dual criteria of desirability and applicability. The analysis will first address the normative desirability of these models in Chapter 2, before turning to their practical applicability in Chapter 3.

1.1 Territorial vs. Non-Territorial Sovereignty

As previously mentioned, the first part of this chapter will examine the role of territoriality in relation to sovereignty. Specifically, it will explore whether sovereignty can be conceptualized independently of territorial boundaries and, if so, whether this alternative framework is preferable to the current territory-based model or offers solutions to some of its inherent challenges, including those discussed earlier.

The concept of territory itself can be ambiguous, as it may refer either to specific geographical areas with distinct characteristics – such as borders, resources, or size – or to the more abstract notion of "territory in general". Margaret Moore provides a valuable distinction, noting that "land is that part of the earth's surface that is not covered by water, whereas territory is a political and geographic concept" (Moore 2024).

This distinction is valuable, as it emphasizes that "territory" inherently implies a specific political context. However, the central question remains: which of these concepts – territory or land – is more pertinent when discussing territorial rights?

If territory is considered "a political and geographic concept", it follows that territory inherently generates borders, as politics and geography are typically understood within the framework of boundaries. Accordingly, some theorists (Allen 2003; Agnew 2005; Krasner 2011) criticize the concept of territory due to the borders it typically entails within traditional frameworks. These critics argue that borders are inherently violent: they negatively affect the lives of those residing within or outside them and force a distinction between *inside* and *outside*.

In contrast, the concept of "land" (or "terrain" (Elden 2010)) appears less burdened by such preconceptions. Rethinking the concept of land opens up possibilities for exploring alternative organizational models beyond the dominant Westphalian framework, which ties sovereignty intrinsically to territory and structures it on a state-by-state basis. As highlighted in the introduction, it is precisely the problems arising from this framework – such as severe inequalities, human rights violations, abuses of power, and the lack of international cooperation and coordination – that drive the search for alternative models.

To evaluate alternative models that move beyond the traditional concept of territory and instead embrace the idea of a border-free land, we must delve deeper into the arguments advanced by two prominent scholars in the field of non-territorial rights: John Agnew and Aviezer Tucker.

Agnew's argument begins with a critique of the notion of "territory". He observes that theorists often take this concept for granted, failing to define it rigorously or question its validity as a potentially unfounded and ambiguous assumption. According to Agnew, we are inclined to conceptualize sovereignty as inherently territorial, not because of any well-founded justification, but due to a bad habit inherited from dominant theories of territorial rights (Agnew 2005, 437). Moreover, he argues, the assumption that sovereignty must be territorial often leads to the further assumption that it must also be state-based – another notion that lacks sufficient justification.

Agnew's point is not just to challenge these assumptions but to suggest that we can – and should – consider different ways of thinking about territoriality and sovereignty, beyond the state-centred model.

Agnew begins by highlighting evidence that sovereignty can operate beyond state-based territorial boundaries. Environmental issues ignore state borders; currencies are increasingly denationalized; migrants and refugees cross borders despite regulations; terrorist networks exploit the weaknesses of territorial sovereignty; and judicial systems are becoming reliant on supranational or international courts (Agnew 2005, 438). These examples suggest that sovereignty is not necessarily confined to the fixed territorial boundaries of individual states.

Although these examples illustrate that sovereignty can extend beyond the state, they primarily reflect circumstances made possible by the wide scope of action that states enjoy. They do not, in themselves, directly challenge the state-centric model of sovereignty. In contrast to earlier cases – such as those highlighting inequality, human rights violations, and abuses of power – these observations do not challenge the structural problems inherent in state-based sovereignty. Agnew, however, takes the critique further, arguing that this traditional model is not only outdated but also harmful and no longer necessary.

The assertion that state-based sovereignty is harmful is grounded in the idea that it perpetuates an unequal hierarchical system. Although states are theoretically equal in their value and autonomy[5], they wield vastly different levels of power. The claim that state-based sovereignty is unnecessary is supported by Agnew's proposal of an alternative: he suggests a form of sovereignty that is neither tied to states nor reliant on territorial borders. In his words:

> "Sovereignty may be exercised nonterritorially or in scattered pockets connected by flows across space-spanning networks. […] In the former case, authority is centralized, whereas in the latter, it is essentially shared across the network" (Agnew 2005, 441).

In Agnew's view, this perspective suggests two possible interpretations of sovereignty: a *soft* version and a *hard* version. The *soft* version envisions a centralized authority that operates across points over long distances and connects various territorial blocks globally. The concrete implication of adopting the soft model would be the creation of a networked form of power, with a central authority but no single territorial block holding privileged status.

The second, *hard* version is more radical but finds its foundation in an already existing model: globalization. In today's globalized era, we observe the coexistence of diverse and often competing sources of authority operating across various sectors. International organizations, such as the United Nations, play roles in global governance; international courts, like the International Criminal Court, oversee legal disputes beyond state boundaries; NGOs and social movements advocate for rights and environmental issues; and the business world wields significant economic and political influence. This multiplicity of actors demonstrates that authority is already dispersed and does not strictly depend on the territorial framework of centralized sovereignty.

Additionally, competing sources of authority have always existed, even in historical contexts. History, in this sense, offers further evidence that territoriality and centralised sovereignty are not indispensable for organizing authority.

The core idea of this "hard" version is a vision of global governance where every source of authority operates on a worldwide scale but is limited to its specific functions and objectives.

[5] On the topic of the equal value of states, I have already offered a clarification in footnote 2, specifying that I do not intend to defend any specific principle of equality among states – certainly not one that, in emphasizing state equality, overlooks the importance of equality among individuals. The notion of state equality I have in mind should represent a reasonable compromise: one that avoids both an excessive emphasis on state equality at the expense of citizen equality, and the complete absence of constraints on the power that stronger states might exercise.

For instance, international health organizations would focus solely on global health, while trade organizations would govern commerce. This model rejects the idea of a singular centralized power in favour of a networked and distributed form of governance. Power, in this framework, becomes non-territorial and reticular, diffused through social and market-based associations rather than confined to territorial borders (Agnew 2005, 442; see also Macdonald 2008; Fung 2013).[6]

Similar in many ways to Agnew's proposal is the theory whose defenders, Aviezer Tucker and Gian Piero de Bellis, have defined "panarchist" (Tucker and De Bellis 2016), a term coined in 1860 by the Belgian political theorist Paul Émile de Puydt to describe a political system in which individuals could freely choose their form of government and switch between different governments at will, without being compelled to adhere to the state in which they reside (Gunderson et al. 2022).

Panarchy, as defined by Tucker and De Bellis, is "a normative political meta-theory that advocates non-territorial states and explicit social contracts between citizens and states, formalized as constitutions" (Tucker and De Bellis 2016, 1), and "an uncompromising form of political cosmopolitanism that avoids the despotic and inefficient possible drawbacks of other types of cosmopolitanism by avoiding political monopolies of any kind and limiting the political realm to the contractually defined relations between non-territorial states and people" (Tucker and De Bellis 2016, 5).

Panarchy, like Agnew's theory, promotes the idea that relationships between citizens and states should be voluntary and independent of an individual's place of birth – a factor that often perpetuates inequality. In this model, citizenship becomes a formalized, voluntarily agreed-upon contract, detached from geographical location.

De Bellis and Tucker's approach is grounded in the belief that just as a free economic market is often seen as more democratic and efficient than other economic systems, a political market would similarly promote efficiency and foster innovation.

The panarchist model differs from Agnew's "soft" and "hard" models in a key way. Panarchism envisions a system of authority that resembles the traditional state in terms of its functions – each entity would provide the full range of services typically associated with a state.

[6] Terry Macdonald and Archon Fung defended positions similar to Agnew's hard version. MacDonald, in particular, proposed a model that emphasizes the democratic nature of a system like the one Agnew envisioned, where nongovernmental organizations, transnational corporations, and international organizations would be accountable, in their specific functions, to different overlapping democratic constituencies (Macdonald 2008). Fung, for his part, argues for a form of overlapping membership, where each specific issue and organization would have its own relevant voting public (Fung 2013).

However, it does so without relying on a territorial basis. In contrast, Agnew's "hard" model, influenced by the globalized market, is characterized by the existence of multiple sources of authority, each offering specific services. In this latter framework, "citizens" are able to enter into contracts with different organizations or companies based on the particular services they require, resulting in a more decentralized and specialized system of governance. This allows for a broader distribution of authority, in contrast to the centralized model proposed by panarchism.

For the purposes of my analysis, Tucker's model and Agnew's so-called "hard" model can be treated as broadly equivalent, as they share similar underlying assumptions and face comparable criticisms. Accordingly, many of the considerations raised in this section will apply to both theories. Where a particular objection pertains specifically to one of the two, I will indicate which model it refers to.

A preliminary clarification is needed regarding the role that this discussion of non-territorial forms of sovereignty plays within the broader scope of my research. The overarching aim of this thesis is to identify a theory of territorial rights that satisfies two core criteria: desirability and applicability. I have also established that, given a comparable level of ideality, the desirability criterion takes precedence over the applicability one. That is, there is limited value in proposing a theory that may be easily implemented if its outcomes are normatively undesirable. Accordingly, the first step in my analysis involves assessing whether sovereignty – traditionally understood as territorially embedded – has any viable normative alternatives, with a particular focus on non-territorial models of sovereignty.

Scholars such as Agnew, Tucker, and De Bellis address this issue from a perspective that differs from the one that drives my analysis in this chapter. Their work primarily investigates whether it is feasible to conceptualise sovereignty beyond territorial boundaries, often in response to the shortcomings of the state-centric model. In contrast, my concern here is not feasibility in the narrow sense, but rather normative desirability: I aim to evaluate whether non-territorial models offer a more compelling alternative to territorially grounded theories of sovereignty, in light of the broader normative goals that guide this thesis.

We can begin by analysing Agnew's soft theory, which proposes a centralized authority operating between points over long distances and across territorial blocks worldwide, with no single block possessing more power than the others. This model envisions a kind of global governance where central authority coordinates across regions, but with an explicit effort to avoid giving any one region disproportionate influence or control. However, the initial observation to make is that this version of the theory does not fundamentally challenge the concept of territorial sovereignty. While it envisions a more decentralized form of political authority, the central feature of sovereignty – its grounding in territorial boundaries – remains intact. This suggests that Agnew's theory still operates within the conventional framework of territoriality, albeit with an attempt to equalize power among regions. It may still be worthwhile to explore whether organizing territorial sovereignty in this manner could offer a promising approach to mitigating inequalities among different "states" or "blocks," or to prevent the consolidation of unequal power relations. In principle, such a model could be seen as a step toward a more equitable distribution of power, where regions or states are less likely to dominate one another simply by virtue of their territorial size or resources. However, this model appears to replicate the dynamics of the traditional state-based system, where states are formally regarded as equal, but structural differences place certain states in positions of greater power. In other words, even if formal equality were maintained, disparities such as access to resources or economic strength derived from strategic positioning, can still perpetuate unequal power dynamics.

This highlights a potential limitation in Agnew's theory, as it does not seem to address the root causes of inequality that are often tied to territorial advantages, such as resource control or geographic location, which continue to influence the balance of power on the global stage.

The ideal of sovereign equality, embedded in the United Nations Charter, asserts that all states, regardless of their size, wealth, or military power, should have an equal voice in international matters (United Nations 1945, Article 2). This principle seeks to prevent domination by any one state or group of states, fostering an international order based on mutual respect for sovereignty. However, in practice, inequality often emerges from the fact that some states hold greater power than others, with power being significantly influenced by territorial factors. For example, states with vast natural resources, such as oil, gas, or water, are often in a position to leverage these resources for economic or political gain, perpetuating disparities in influence. This dynamic underscores the difficulty of achieving true equality in the current international system, even when legal frameworks espouse the principle of sovereign equality.

Agnew's proposed model of political organization, while aiming to move beyond the limitations of the state-based system, does not appear, in this soft version, to offer a substantially more effective response to the structural inequalities that are deeply rooted in territorial arrangements. Although his vision seeks to reimagine how political authority and space are configured, it lacks a clear mechanism for mitigating the forms of inequality that stem from uneven territorial distribution – such as inequalities in access to resources, geopolitical influence, and mobility. These territorial factors are not merely by-products of the state system but are entrenched features of the global order that transcend state boundaries. In this respect, Agnew's soft model risks reproducing, rather than dismantling, the very dynamics of exclusion and hierarchy it sets out to challenge.

If, up to this point, it has been argued that the more moderate or "soft" version of Agnew's theory does not present a substantive challenge to the desirability of the territorial model of sovereignty, then the more radical formulation of his theory – alongside the panarchist proposal – warrants closer examination. These models diverge more sharply from traditional assumptions about the relationship between sovereignty and territory, and thus raise distinct normative questions.

As before, the focus here is on assessing whether either of these alternative frameworks can be considered desirable. Both are grounded in the foundational premise that states – or analogous entities such as corporations or administrative authorities – should no longer be territorially defined. Instead, these entities would operate by offering social contracts that individuals are free to accept, subscribe to, or reject, irrespective of their geographical location. At first glance, such proposals present a more direct and radical challenge to conventional understandings of territorial sovereignty and state-based political organization.

However, their apparent innovation demands careful scrutiny. It remains necessary to ask whether these models are, in fact, normatively preferable to territorial sovereignty once their broader implications are fully considered. This analysis therefore considers not only the conceptual appeal of these models but also their potential consequences, with particular attention to whether they offer a more just and practicable alternative to territorial sovereignty.

Whether one takes the well-being of individuals or communities as the ultimate normative concern, it is reasonable to argue that stability constitutes a foundational objective for any legitimate governance structure (Hobbes 1991; Locke 1966; Mill 1859; Walzer 1983). Stability is not merely an instrumental good, but a precondition for the reliable protection of rights, the resolution of conflicts, and the promotion of long-term justice. It typically emerges from a balanced equilibrium between rights and duties – elements that are not only interdependent but mutually reinforcing. Crucially, such stability is sustainable only when the allocation of rights and responsibilities is clear, coherent, and consistently upheld. This clarity rests on three essential conditions: (a) the nature and scope of rights and duties must be precisely defined; (b) the individuals or groups who hold these rights and bear these duties must be clearly identified; and (c) the institutional authorities charged with enforcing these norms must be unambiguously established. Without these conditions, a governance model risks producing uncertainty, fragmentation, and ultimately instability (Rawls 1971; 2001).

In what follows, I will outline four main problems: the first two represent structural challenges common to both Agnew's and Tucker and De Bellis's models, while the third concerns Agnew's "hard" model specifically, and the fourth applies to Tucker and De Bellis's proposal.

1) The first significant problem concerns wealth, prosperity, and equality. Both Agnew's companies and Tucker's non-territorial states would require funding to function effectively. Historically, two primary sources of revenue for governance structures have been the exploitation of natural resources and the collection of taxes or fees from citizens. In the proposed non-territorial systems, it is reasonable to expect great competition among entities – whether states or companies -- for control over natural resources. The need to compete for resources seems to be a likely source of conflict, that would undermine global stability and the conditions for fostering equality, particularly in the absence of territorial boundaries to mediate jurisdiction over such resources.

Additionally, De Bellis and Tucker's model presents a particularly acute concern in this regard. In a system where individuals voluntarily subscribe to social contracts, states may begin to offer differentiated contracts designed to attract citizens. Some states might provide more attractive, "premium", contracts, that might be only accessible to the wealthy. This dynamic risks entrenching the very inequalities that Tucker's model ostensibly seeks to overcome. Instead of creating a more equitable and just world, such a system might exacerbate existing disparities by allowing wealthier individuals to access better services and protections, while leaving poorer individuals to navigate less favourable contracts.

2) The second general issue is about coordination and cooperation among different entities. In both models, individuals would interact and share physical spaces while being subject to different authorities or subscribing to contracts with distinct companies or states. Territorial divisions have traditionally served the practical purpose of delineating where one set of laws ends, and another begins. Removing these territorial boundaries while maintaining shared physical spaces introduces significant risks of legal and social instability. Without clear jurisdictional lines, disputes over the applicability of laws and the enforcement of rules are likely to proliferate, potentially leading to frequent conflicts and undermining social cohesion. The concept of non-territorial governance presents substantial challenges in ensuring effective coordination among different legal and administrative entities. The absence of clear territorial jurisdictions can lead to overlapping authorities, creating confusion in law enforcement and legal obligations. This complexity is further compounded by the potential for conflicting

regulations, as different governing bodies may impose divergent rules upon individuals sharing the same physical space.

Moreover, the lack of territorial boundaries complicates the establishment of accountability mechanisms. In traditional territorial systems, governance structures are clearly defined within geographic limits, facilitating the identification of responsible authorities. Non-territorial models, however, are likely to undermine the chances of holding specific entities accountable for governance failures or disputes, and some individuals may end up exploiting or benefitting from choosing jurisdictions with more lenient regulations, thereby undermining the rule of law.

3) A third problem, this time specific to Agnew's "hard" model, concerns the nature of competition in a non-territorial governance framework. While competition can be beneficial in economic markets – insofar as consumers can freely choose among different products or services – it is not easily transferable to matters of governance and justice. For example, when purchasing a product like a pair of jeans, consumers can compare options and switch between providers without relevant consequences. However, when it comes to legal systems and enforcement of the rule of law, such flexibility is neither feasible nor desirable. Individuals need to know which laws apply and which authorities have the legitimacy to prosecute or adjudicate disputes.

One might propose the establishment of a single international tribunal (or a network of tribunals) to handle such matters. However, this raises significant practical and ethical concerns. First, the centralization of judicial authority on a global scale is likely to be unworkable and undemocratic[7], as it would concentrate enormous power in the hands of a single institution or a few elite actors. Second, in a system with multiple sources of authority, it becomes unclear how disputes over jurisdiction and enforcement would be resolved. Without a definitive criterion for determining which entity has the ultimate authority, the risk of conflicting judgments and legal uncertainty appears inevitable.

4) Turning to Tucker and De Bellis's model, a particularly challenging issue arises regarding the enforcement of duties that remain connected to physical territories. Even in a non-territorial organization of power, territories will continue to exist as physical spaces where people live,

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[7] This observation may seem less relevant at this stage, as I am not yet fully addressing either the feasibility of the proposals or the issue of democracy. However, since the goal of this section of the chapter is to assess the desirability of non-territorial sovereignty proposals as a potential remedy for the shortcomings of state-based sovereignty, it still seems appropriate to highlight a possible anti-democratic outcome of the Agnew theory under examination, which would likely render it undesirable: the establishment of a single international tribunal would be undemocratic because it concentrates judicial power in a centralized institution, potentially diminishing the representation of smaller or less powerful states. The risk of bias and partiality in decision-making arises, as powerful states may influence judicial appointments. This undermines the legitimacy of decisions, as they would not fully reflect the diverse interests of global citizens.

work, and interact. Consider a hypothetical scenario: a group of Muslims wishes to build a mosque in a predominantly Catholic area, but the Catholic majority opposes the construction and has the numeric power to enforce its decision. In a territorial system, local governance structures would mediate such disputes, often through legal frameworks that balance the interests of different groups. In Tucker's model, however, it is unclear who would have the authority to resolve such conflicts, particularly when no territorial governance structures exist.[8]

Agnew's model offers a potential, albeit imperfect, solution: companies could be established to regulate territorial rights and mediate disputes. These companies might operate with varying degrees of inclusivity, allowing citizens in a given area to participate in decisions that affect their local environment. However, this approach introduces its own challenges, as multiple companies could claim equal legitimacy to operate in the same territory, leading to overlapping jurisdictions and further instability.

De Bellis and Tucker's model lacks even this suboptimal solution. The only way to resolve disputes in such a framework would be for states to converge on shared values and principles, ensuring consistency across all social contracts. However, this is highly implausible, given that the voluntary nature of social contracts allows for significant variation in values and priorities. The mosque example illustrates how deeply entrenched cultural and religious differences can obstruct consensus, making the absence of territorial governance a potential source of conflict rather than harmony.

The problems outlined so far seem to be sufficient to cast doubt on the desirability and feasibility of both the two (or three, if we include Agnew's "soft" option) models presented. Sovereignty appears to require territorial boundaries and a minimum level of consensus regarding the rule of law within a given community. The absence of these features risks undermining the stability and clarity necessary for effective governance.

Finally, while there is a growing trend in the globalized era to delegate certain powers and functions to international or supranational entities, this does not imply that extending this trend to all aspects of individual life would result in a more just world. On the contrary, the complexities and challenges associated with non-territorial governance suggest that territoriality remains a foundational element of effective sovereignty.

[8] An additional consideration is whether Tucker's theory allows for the preservation of national or group identity. Does this framework risk losing important socio-political aspects of citizenship? This question remains open for now, as its resolution requires further investigation.

1.2 State-based Sovereignty vs. Other Territorial Models of Sovereignty

Thus far, I have defended a territory-based conception of sovereignty against non-territorial models of sovereignty. However, it remains uncertain whether this necessarily implies a commitment to a state-based understanding of sovereignty. The purpose of this section is to examine whether endorsing a territory-based notion of sovereignty inherently entails endorsing a state-based framework, or whether it is possible to conceptualize territorial sovereignty without relying on the traditional state-based model. Resolving this question partly depends on exploring whether territorial entities other than states can serve as the foundation for territorial sovereignty and on defining the specific type of territorial sovereignty that will be under consideration in the next chapters. This inquiry, in turn, hinges on how we propose to define and conceptualize the state, even if only at a preliminary or embryonic level.

1.2.1 A Justification of "Core" Statehood

To begin, I will briefly revisit the three theories discussed in the first section – Agnew's "soft" and "hard" models, as well as panarchism – in order to assess whether they articulate specific critiques of the concept of the state itself. While the earlier analysis focused primarily on how these theories challenge traditional understandings of territorial sovereignty, it is now necessary to examine more closely their potential implications for the relationship between territorial sovereignty and statehood.[9]

Agnew's hard theory appears to offer little insight into the relationship between territory and state-based sovereignty, as it entirely excludes the concept of the state or analogous entities. Consequently, this theory does not seem to present a direct critique of state-based sovereignty.

By contrast, the panarchist theory introduces entities referred to as "states", albeit cleared of their territorial dimension. In the previous section, I argued in favour of maintaining the territorial dimension of sovereignty and statehood. Since panarchism explicitly employs the notion of "state", it does not seem to challenge the concept of the state in itself. Instead, its

[9] An argument against territorial forms of sovereignty does not necessarily undermine state-based theories of sovereignty. Critiquing territory-based sovereignty does not automatically equate to rejecting state-based sovereignty altogether, as some versions of state-based sovereignty may be compatible with non-territorial frameworks. Tucker's theory supports this possibility, which explains the relevance of this section.

critique focuses on the territorial dimension of sovereignty. In light of this, panarchism does not appear to generate specific objections to state-based sovereignty specifically.

Finally, in Agnew's soft theory, which envisions "disaggregated sovereignty", states are conventionally regarded as mechanisms for safeguarding rights within defined boundaries (Stilz 2009). However, the precise organizational form of the state is not necessarily a defining characteristic. Agnew's soft model does not fundamentally oppose the concept of the state but rather encourages a re-evaluation of its potential configurations. If anything, this model prompts a broader discussion about the possible forms that states might assume while preserving their core function of ensuring rights and governance.

Having argued that theories advocating for non-territorial sovereignty do not present specific objections to a particular model of territorial sovereignty – and thus not even to a state-based model –, it is now worth examining whether we can, in fact, conclude that territoriality and statehood are inherently linked or, alternatively, if there are other forms of territory-based sovereignty that may be considered more desirable than the traditional state-based sovereignty.

The thesis I aim to defend is that advocating for the concept of territorial sovereignty inherently implies, albeit indirectly, an almost implicit acceptance of some form of state-based sovereignty. As stated at the beginning of this chapter, territory is a political concept, particularly because it delineates specific boundaries (Moore 2024). By demarcating particular boundaries, it also defines groups of people who can be identified based on whether they reside within or outside those boundaries. A territory, therefore, inherently entails both a group of people and a place with defined borders.[10]

For a territory to meet Margaret Moore's definition – as a political concept referring to a specific piece of land with clearly defined borders – it appears that a degree of recognition is required.[11] This recognition, whether explicit or implicit, must come both from actors within

[10] The question of how, specifically, it is appropriate to demarcate the boundaries that separate one territory from another will be a central theme of this thesis and will be addressed in the following chapters, starting from Chapter 2. Each of the various theories on the territorial rights of states offer a specific answer to this question. Some consider culture and national identity as criteria for drawing territorial boundaries, others rely on historical factors and/or valid titles, while for others it is difficult to identify a specific criterion. In this chapter, I do not intend to investigate which criterion should be preferred. Instead, I will start from the assumption that, based on some criterion, distinct territories have been delineated.

[11] The recognition of a territory, whether internal or external, seems necessary for the existence of a specific territory to be acknowledged. In the absence of any superior authority that organizes various territories and determines their legitimacy, recognition must come first from those who are part of a given territory and, subsequently, from those outside it. Recognition can manifest through symbolic or concrete acts: for instance, naming a territory, refraining from invading it, or even invading it while still acknowledging it as such. Interacting with a territory while recognizing it as an entity generally serves as external confirmation of the existence of that territory (in the sense outlined by Moore (2024)). If a group of 5, 6, or even 3,000 individuals were to decide tomorrow to fence off their territory, the recognition of that territory – whether explicit or tacit – by the people

the territory and from those outside it. In both cases, the acknowledgment of a boundary – beyond which a different set of rules and a distinct authority apply – seems to presuppose, even in embryonic form, the existence of a governing body that holds a monopoly on the legitimate use of coercion.

Consequently, it seems legitimate to argue that defending the idea of territorial sovereignty inherently entails defending at least a rudimental notion of state-based sovereignty. Naturally, the state I refer to at this stage should not be understood as the legitimate or ideal state, but rather as the state defined by its essential characteristics, which, in my framework, are threefold, and constitute what I call a "core definition of state": a group of people, the specific territory on which that group resides, and a recognized governmental body with the monopoly on the legitimate use of coercion and law enforcement.

It is important to emphasize that this definition of a state is deliberately minimal and, therefore, excludes certain elements we would typically expect to find in a more comprehensive definition of statehood. These elements include, for instance, contiguity, which refers to the idea that a state qualifies as such only if its territory constitutes a single, territorially contiguous unit; stability, the notion that a state exists only if it has a historical continuity where sovereignty, territory, and population have remained consistent over time and are expected to remain the same in the future; and finally, cultural homogeneity, the concept that a state must possess a clear criterion for delineating its population, such as shared culture or identity.

Concerning contiguity, it is often argued that modern political theory tends to understand geography as divided up into contiguous units (Agnew 2005, 441; Stilz 2019, 56). While it is true that some states' sovereignty can extend to distant territories – as in the case of the French Antilles – such instances are rare and do not address the core of the objection. In France's case, the French state remains the dominant entity, and its relationships with the Antilles primarily reflect the interests of the central French government.

In principle, nothing prohibits states from comprising non-contiguous portions of land. Whether this is conceptually acceptable largely depends on the specific theory of territorial rights one adopts. However, I would argue that arguments favouring contiguity arise more from empirical reasoning than from any logical deduction inherent in the definition of a "state". Intuition and empirical observation suggest that managing a contiguous territory is generally

within it and by entities external to it would constitute the two fundamental elements necessary to determine whether or not that territory can effectively be acknowledged as such.

more straightforward than managing a non-contiguous one. Nevertheless, this does not preclude valid reasons for considering non-contiguous states as a possibility.[12]

The second element that I have listed as something often thought of as logically dependent on the notion of state is immobility, *stasis*. Some authors, particularly those aligned with traditions that justify territorial rights through the concept of self-determination (Moore 2015; Miller 1999), tend to argue that a state must possess a historical background – a history of cooperation as a people – and a forward-looking perspective of stability to qualify as such. Earlier in this chapter, I argued in favour of stability, and one might indeed think that stability necessitates stasis as a precondition. However, for the very sake of stability, a state and its corresponding territory must be capable of evolving over time, or at the very least, they need not remain unchanging (Ypi 2014). I will elaborate on this point further in Chapter 5 of the thesis, while for now I will limit myself to argue that the immobility of a state over time is not a condition that identifies or defines a state.

The third and last element that I want to exclude as a precondition for the existence and definition of a state is culturally homogeneity. Once again, what I am doing for now is not arguing against the requisite of cultural homogeneity: at this stage, I am merely excluding that cultural homogeneity, or any other identity-based aggregative characteristic, is a prerequisite for defining a state. Identifying a criterion to distinguish one territory from another, and consequently one state from another, is certainly one of the objectives of this thesis. However, I reject the idea that any specific criterion of demarcation should be part of the definition of a what a state is.

The discussion conducted so far regarding the concept of a "core state" can be summarized as follows: the acceptance of territorial sovereignty implicitly entails state-based sovereignty, though this implication is limited to a minimal set of defining characteristics – specifically, a clearly defined territory, a population residing within it, and an authority recognized as holding the monopoly on the legitimate use of force. These three characteristics are both necessary and sufficient: necessary because the concept of a state without territory, a population, or governance loses its meaning or, as previously argued, becomes undesirable; sufficient because,

[12] The element of contiguity encompasses the notions of both "shape" (in its strict sense) and dimension. While seemingly trivial, it is worth clarifying for the sake of completeness that all state dimensions and shapes are, in principle, acceptable. No specific dimension or shape can be logically derived from my minimal definition of a state.

A potentially problematic exception might arise in the case of a shape and dimension corresponding to "the entire world". However, I will address this issue shortly in the context of cosmopolitanism.

regardless of the diverse forms of government or state structures, the presence of these three foundational elements allows an entity to function as an independent state.

At this stage, it is important to consider potential objections, with special attention to two in particular. The first, a relatively modest challenge, questions whether nomadic societies or other forms of social organisation grounded in communal ties and dynamic relationships with the environment might offer viable alternatives to the classical, state-based model of territorial sovereignty. The second objection is more substantial and concerns cosmopolitanism as a theoretical framework that, while acknowledging the relevance of territoriality, fundamentally contests the legitimacy of state-based sovereignty. For cosmopolitan theorists, this challenge arises from the many shortcomings of the existing state system, including rising global inequalities, persistent injustice, and the recurrence of violent conflict. The following section (1.2.2) is devoted entirely to an in-depth examination of the cosmopolitan theories.

Concerning the first challenge – nomadism – it is worth considering whether there are models of territorial organization that could function without fixed boundaries. Robert David Sack, for example, posits that territoriality is not an innate human instinct (Sack 1986, 19), arguing that it is not a fundamental necessity but rather a strategy for maintaining power and control. From this perspective, a relationship with land that is more fluid – less constrained by rigid boundaries – could be seen as a more just or equitable way of organizing human society. In analysing the three non-territorial models of sovereignty, I have argued previously that simply identifying an alternative model is insufficient. What truly matters is whether the alternative is not only plausible but also more desirable than the prevailing state-based approach.

To anticipate my conclusion, I argue that – much like the case of non-territorial rights – the adoption of a nomadic or pseudo-nomadic model of social and political organisation is neither practically viable nor normatively desirable, particularly when applied to large-scale populations. This is primarily due to the undeniable fact that land constitutes the main source of essential resources for human survival, and that these resources are fundamentally scarce. As a result, the notion, advanced by authors such as Sack, that territoriality is not an inherent human instinct appears increasingly difficult to sustain. Equally implausible is the idea that communities could function effectively without some form of stable territorial boundaries. In a densely populated world, the scarcity of vital resources naturally gives rise to the impulse to claim, regulate, and defend access to land where such resources are located. Moreover, the sustainable management of these resources generally presupposes a sedentary way of life. Even nomadic societies, though mobile, remain dependent on the resources available within certain territories and, in practice, maintain a form of territoriality – albeit one that is more flexible and less rigidly defined.

As for the question of whether nomadic groups can offer a viable alternative model of territorial sovereignty, the answer may be affirmative in very specific and limited contexts, particularly for communities that have historically maintained such lifestyles. However, this model cannot be meaningfully scaled up to accommodate broader societal needs or preferences. Given the pressures of population density and environmental constraints, nomadic forms of organisation, while appropriate for certain communities, cannot serve as a universally applicable or normatively superior alternative to state-based territorial sovereignty.

1.2.2 Cosmopolitanism as a Challenge to State-Based Theories

Cosmopolitanism can be understood as a middle ground between pro-state and anti-state positions. This compromise arises because, on one hand, cosmopolitans acknowledge the importance of states and territories, sometimes envisioning a global state as an extension of individual states. On the other hand, they address the critiques of state-based sovereignty by proposing a global order that diminishes (or even eliminates) current power hierarchies and takes seriously the principle that every human being has equal moral worth.

This perspective is central to my discussion as it offers a potential reconciliation between pro-state and anti-state views, making it a position that deserves serious consideration.[13]

It is important to clarify that the cosmopolitan position is sometimes reduced to the concept of a so-called "global state" – a single state governing the entire world. However, interpreting cosmopolitanism as the belief that the ideal state would encompass the entire world, with a global population as its demos, is a simplistic and naïve understanding. Even some of the proponents of cosmopolitanism, such as Thomas Pogge, argue that a "global state" could lead to significant risks of oppression due to the dangerous concentration of sovereignty at a single level (Pogge 1992). Moreover, it is unlikely that a global state would be able to preserve social and cultural diversity as effectively as smaller political units.

Another common objection to cosmopolitanism concerns its feasibility. Critics argue that, while cosmopolitanism is an appealing theory, it is overly ambitious and unlikely to yield tangible results. The idea of a global state seems both unachievable and nearly impossible to

[13] It is important to emphasize that cosmopolitanism is not merely a theory of territorial rights; it is also a theory centred on the equal moral worth of every human being. This principle is grounded in the idea that all individuals possess the capacity for active agency and the ability to make choices with equal dignity (Johnson 2006, 174).

govern. Similarly, while the claim that every human being has equal moral worth is largely uncontested, as David Miller notes, it “does not entail anything very straightforward about what particular agents should do” (Miller 2002, 81).

However, as stated earlier, the focus of this part of my work is not on the feasibility of cosmopolitanism but on assessing whether, if implemented, its implications would be desirable. For this reason, I find the critique that cosmopolitan principles are overly idealistic and lack practical outcomes to be an unproductive perspective for starting an assessment of cosmopolitanism. The purpose of the following analysis is to determine whether cosmopolitanism offers a more desirable solution to the challenges posed by the current state system, which appears unable to adequately address issues such as inequalities, conflicts, and the environmental crisis.

Cosmopolitan theories do not fall under the category of non-territorial sovereignty theories, nor do they oppose the idea that specific territories are under the responsibility of their respective inhabitants and governed by authorities that exercise power within defined and bordered areas. However, cosmopolitan theories do challenge, in various ways, the dominant role attributed to states in the current system. Some argue that states should not hold more power than other territorial entities, while others contend that the very concept of the state, as we currently understand it, should be reimagined and replaced with new entities designed to meet our specific needs.

In what follows, I will briefly outline three cosmopolitan theories that represent the main perspectives on cosmopolitan approaches to territorial rights.

The first theory, proposed by Thomas Pogge, is centred on the idea of dispersing governmental authority along the “vertical dimension”. This would involve dividing authority among various political units of different sizes, ensuring that no single entity dominates or occupies the traditional role of states (Pogge 1992, 61–62).

Pogge identifies four key advantages of his approach compared to the current state system:

1. Enhanced global peace and security: the theory would reduce interstate rivalries, leading to a decline in the production of nuclear, biological, chemical, and conventional weapons.
2. Reduction of inequality and oppression: the division of authority across multiple levels would function as a "checks and balances" system to prevent injustices, address inequalities, and report violations.
3. Support for global economic justice: Pogge envisions a system that includes a “global resources tax” (Pogge 1994, 200), a levy on natural resources imposed only on agents

who profit from their exploitation. This tax would address the unequal distribution of natural resources among states and promote fairness.

4. Improved ecological outcomes: less competition between states would likely diminish economic rivalries and foster collaborative negotiations. This, in turn, would encourage reliable commitments to environmental conservation efforts.

In practical terms, Pogge's theory does not advocate for the abolition of states. Instead, it envisions a system where neighbourhoods, towns, counties, provinces, and regions hold authority equivalent to that of states (Pogge 1992, 58). This vertical dispersion of power is expected to reduce conflicts and rivalries between governing entities while providing individuals with stronger guarantees for the protection of their human rights.

The second theory I will discuss is proposed by David Held and, in collaboration, by David Held and Daniele Archibugi. Similar to Thomas Pogge's interpretation of the cosmopolitan ideal, this theory is based on the idea that states should no longer be regarded as the sole centers of legitimate power within their borders. Moreover, citizenship should no longer be limited to exclusive membership in a territorial community tied to a specific place (Held 2009, 541).

However, unlike Pogge, Held and Archibugi advocate for a redefinition of the concepts of "state" and "citizenship" to align them with the creation of a new global order.[14] In this vision, all individuals would possess equal rights and obligations within a universally inclusive decision-making framework (Held 2009, 541). While their approach retains the idea of dispersing sovereignty and power vertically across multiple levels of governance, it also introduces an additional dimension: the establishment of entirely new institutions and agents. These new entities would enable global citizens to actively participate in world politics independently of the local or national governments to which they might traditionally belong (Archibugi and Held 2011, 449–54).

The most significant distinction between Pogge and Held lies in Held's suggestion to create political communities without fixed boundaries. These communities would not replace existing institutions but would instead integrate with and complement them, fostering cooperation and inclusivity. In Held and Archibugi's vision, key contributors to these global political communities would include migrants, the dispossessed, global political parties, trade unions, and labour movements.

[14] See also Habermas's post-national cosmopolitan proposal (Habermas 2001), in which he advocates transitioning from the nation-state model to a supranational framework that maintains democratic legitimacy (thus avoiding the idea of a single world state) while addressing global issues, following the model of the European Union.

The anticipated benefits of this cosmopolitan project include a reduction in violence, greater political equality, and enhanced public participation in global decision-making. By fostering collaboration across borders and empowering traditionally marginalized voices, this approach aims to transform global politics into a more equitable and inclusive system.

The third and final cosmopolitan proposal I will discuss comes from Seyla Benhabib, and is grounded in her influential concept of "democratic iterations" (Benhabib et al. 2008, 45). At the heart of this interpretation of cosmopolitan ideals lies the idea that global society is not merely awaiting the implementation of a formal cosmopolitan project; rather, it is already in the process of evolving toward a cosmopolitan conception of justice. Benhabib argues that, even in the absence of a unified institutional framework for global justice, the meaning and practice of democracy itself is undergoing a transformation. This transformation reflects a gradual but significant shift toward a universalistic ethical framework – one that increasingly transcends the limitations of national sovereignty and territorial boundaries (Benhabib et al. 2008).

A key expression of this shift is the changing nature of citizenship. In some national contexts, particularly in parts of Scandinavia, access to certain rights – including, in some instances, the right to vote – is no longer strictly tied to formal citizenship status. Instead, rights are being distributed on the basis of residence, contribution, or "shared humanity", indicating a move toward a more inclusive and post-national understanding of political membership.

This development, according to Benhabib, signals a broader trend: the transition from a system of international justice – structured around relations between sovereign nation-states – to one that is more cosmopolitan in character, embedded in everyday legal, linguistic, cultural, and political practices. Rather than imagining cosmopolitanism as a top-down imposition, Benhabib emphasizes its emergence from within democratic societies themselves, through repeated acts of interpretation, contestation, and reform – what she calls "democratic iterations." Our normative task, then, is not to impose an abstract cosmopolitan design from above, but to support, sustain, and critically engage with these iterative democratic processes that are already underway, helping to shape their direction toward greater justice and inclusivity (Benhabib 2014, 702).

The cosmopolitan theories presented share a common ambition: to transcend traditional state-based sovereignty by proposing a global framework grounded in shared principles of justice. However, they face significant challenges that raise doubts about their desirability when compared to state-based alternatives. In the following analysis, I will focus on these critiques, highlighting the limitations of cosmopolitan theories and explaining why a system based on legitimate sovereign states remains a more viable and effective option for addressing territorial rights.

While some critiques of cosmopolitanism focus on its alleged lack of feasibility (Miller 2002; Young 2000; Carens 2013), I contend that feasibility is not its main problem. If we consider the three options just described, none appears overly abstract or inherently unreasonable. For example, under Pogge's theory, an Italian citizen already participates politically at multiple levels – local, regional, national, and international, such as through elections to the European Parliament. A cosmopolitan perspective would elevate the importance of participation across all these levels while challenging the traditional dominance of state authority. Likewise, Benhabib argues that political reality is already shifting toward what she terms a "cosmopolitan reality", and that our role is to support and advance this process.

It is worth observing that cosmopolitanism represents a fundamentally different approach from the two non-territorial models of sovereignty discussed earlier. While cosmopolitan and anti-territorial theories share many ultimate goals – such as reducing inequality, limiting exclusion, and mitigating violence in the international context – proponents of anti-territorial sovereignty would likely reject a cosmopolitan reorganization of global politics (Agnew 2005, 439). This is because, despite its universalist aspirations, cosmopolitanism remains anchored in territorial frameworks. Each of the three versions of cosmopolitanism examined still relies on traditional normative structures of consent and legitimacy that are tied to territorial boundaries. Territoriality, by definition, generates borders – and even if cosmopolitan borders might be less restrictive or harmful than those enforced by traditional nation-states, they would continue to create distinctions between insiders and outsiders.

Nevertheless, cosmopolitan theories seek to challenge the inequalities and forms of violence sustained by the current state system by reimagining the role of states, limiting their supremacy, and reducing the symbolic weight traditionally attributed to state borders and sovereignty. In contrast, I will present four key criticisms of the cosmopolitan theories examined. My aim is to show that we ultimately lack compelling reasons to favour a cosmopolitan account of territorial rights over state-based models of sovereignty. While some of these objections apply across all three versions of cosmopolitanism discussed, others are directed at specific proposals and highlight their internal limitations.

1. Dispersal of sovereignty

A central concern with cosmopolitanism lies in how it handles the distribution of sovereignty. On one hand, excessive concentration of power at the supranational level – such as in the idea of a single "global state" – raises serious risks. As previously discussed, such centralization could result in unaccountable authority and systemic abuses, especially in the absence of robust mechanisms for democratic control and redress. On the other hand, dispersing sovereignty too widely across multiple layers of governance – local, regional, national, and global – introduces another set of challenges. In particular, overlapping jurisdictions and unclear lines of authority can generate conflicts between institutions, making it difficult to determine which decisions should prevail. While we already operate within a multi-level system of governance, the existing framework relies on a relatively clear hierarchy that helps manage jurisdictional disputes. Without such structure, cosmopolitan models risk fragmenting authority in ways that could paralyze decision-making and undermine their own goals of promoting peace, stability, and nonviolence (Habermas 2001; Miller 2007). In short, cosmopolitanism must grapple with the tension between avoiding authoritarian centralization and preventing the dysfunction that can arise from excessive institutional fragmentation.

An alternative approach could involve an inverted hierarchy, which might take two forms – one counterintuitive, the other controversial. In the first scenario, local institutions would hold authority over regional, national, or international bodies – and the local institutions would end up having effective power over any higher level. The second, more feasible interpretation of an inverted hierarchy involves dismantling national and international institutions entirely, leaving smaller political entities to govern smaller territories. However, this approach faces two major issues. First, it replicates the dynamics of the current state system on a smaller scale, offering no clear solutions to its inherent problems. Second, the dispersal of power contradicts cosmopolitanism's aims: as autonomy increases and power becomes more fragmented, smaller communities are more likely to impose localized principles, perpetuating inequalities among various micro-states.

A third potential approach entails maintaining a hierarchy akin to the current system, where larger institutions hold overarching authority over smaller, local entities. However, this model would also grant substantial autonomy to local institutions in specific areas of governance. This approach can be divided into two distinct variations. The first simply replicates the existing state-centric system, where power remains fundamentally organized around nation-states. Such a model, however, clearly would not meet the criteria for qualifying as a cosmopolitan proposal, as it preserves the supremacy of the state as a political unit. The second variation envisions a transformation in which states evolve into larger entities that resemble international organizations. These entities would presumably function with broader, more integrated mandates, potentially mitigating the traditional nation-state's sovereignty. Nevertheless, even in this configuration, these entities align closely with the minimal definition of a state discussed in Section 1.2.1 . They retain the essential characteristics of states, including territorial governance and hierarchical authority structures. As a result, this variation offers limited innovation when compared to the existing model and struggles to distinguish itself as a genuinely cosmopolitan alternative. Consequently, while these adaptations might slightly shift power dynamics, they ultimately fail to address the fundamental aspirations of cosmopolitanism, such as the dismantling of state supremacy or the reimagining of political organization beyond states' territorial boundaries.

A fourth and final option considers the establishment of a single "global state," where the progressive expansion and consolidation of international organizations ultimately result in a unified global entity that encompasses all humanity within its jurisdiction. This model envisions a comprehensive political and administrative structure that transcends national borders, aiming to unify governance on a planetary scale. However, as previously noted, this concept faces substantial criticism from most cosmopolitan theorists, who highlight its inherent risks. The central concern lies in the over-concentration of power at a singular global level, which could create significant vulnerabilities to oppressive governance. With all sovereignty centralized, checks and balances essential for preventing abuses of authority could be undermined, leaving individuals and communities without effective recourse in the face of injustice. Additionally, this model risks imposing a homogenized framework of laws and policies that may fail to account for the rich diversity of cultural, social, and legal differences, potentially marginalizing minority voices. Although, in this context, I am more concerned with the desirability of the options I consider from an ideal standpoint, a single global state would probably also be inefficient from a practical perspective: the mechanisms required to ensure equitable representation, effective decision-making, and the protection of individual and collective rights on a global scale would be extraordinarily complex.

In summary, the primary issue with cosmopolitanism is that any framework involving the vertical dispersal of power either proves undesirable, less preferable, or ultimately indistinguishable from the existing system.

2. Disagreement on Principles of Justice

Another shared feature of the three cosmopolitan theories is their emphasis on achieving universally accepted principles of justice. However, it is equally important to recognize the widespread disagreements regarding what constitutes a just principle or law. This forms the basis of my second critique of cosmopolitanism. While it is possible (though still not obvious) to reach broad agreement on fundamental rights and duties – such as the right to life, freedom, equality, dignity, education, and non-discrimination, or the duty to act responsibly and respect others' freedoms – many legal and ethical issues remain deeply contentious. Examples include debates over abortion rights, privacy, voting obligations, tax policies, and criminal penalties, among others. Even universally acknowledged rights can become divisive when it comes to their implementation. Disagreements are as prevalent in small communities as they are in larger ones, and they would inevitably arise within a global demos.[15] A global demos with substantial local autonomy might encourage localized lawmaking, while a centralized global demos would likely implement decisions that satisfy only a limited portion of the global population.

3. Legitimacy of authority

Another significant challenge for cosmopolitanism concerns the identification and justification of legitimate sources of political authority. As discussed earlier, the vertical dispersal of authority across multiple levels – from local to global – not only complicates conflict resolution but also undermines the coherence and transparency of political legitimacy itself. Yet this difficulty extends beyond questions of institutional design or procedural coordination. As Paulina Ochoa Espejo (2014) insightfully argues, a demos must not only express its collective will through democratic mechanisms such as elections but also possess the prior capacity to define its own membership and the criteria by which its boundaries are drawn. Without such self-defining power, the very foundations of democratic legitimacy are compromised.

This raises a fundamental normative question: if most individuals are born into a demos without ever having consented to its formation, what justifies its legitimacy? While the existing system of nation-states does assign citizenship at birth, it also allows for a range of (albeit constrained) alternatives – such as migration, naturalization, or political mobilization for reform – through which individuals may contest or change their political affiliations. One of the central aims of this work is to examine and refine the criteria by which a demos can be constituted in a way that remains both just and workable within a state-based framework.

Cosmopolitan proposals, by contrast, often leave vague or unaddressed how a global demos would be constituted or governed. Many cosmopolitan models do not clearly articulate whether

[15] The problem becomes even more significant if we consider that when we refer to "universal principles", we may actually be including only certain parts of the world – specifically, those where Western-exported democratic traditions have taken root. This implies that, in the pursuit of cosmopolitanism, some may feel compelled to impose their own conception of "universal justice", assuming it to be truly universal.

this political transformation would result from bottom-up democratic processes or from top-down institutional engineering. As the scope of the demos expands to the global level, individuals may paradoxically lose rather than gain options for meaningful governance. A global polity, by definition, forecloses external alternatives, thereby weakening one of the core elements of democratic legitimacy: the possibility of exit or dissent.

As discussed earlier (see point 2), and as also noted by scholars such as John Rawls (1993), Chantal Mouffe (2000; 2013), and Jeremy Waldron (1999), democratic societies are marked by deep, persistent, and often irreconcilable disagreements over fundamental values. This kind of pluralism is not a temporary obstacle to be overcome through global consensus but a structural feature of modern political life. Attempts to universalize political authority under a global demos risk suppressing or marginalizing these persistent disagreements in the name of unity. In particular, Mouffe's argument for agonistic pluralism (Mouffe 2013) underscores that conflict and contestation are not pathologies but essential to democratic legitimacy; without space for genuine disagreement, the demos loses its capacity to reflect political plurality.

From this perspective, the formation of a global demos without prior consent, exit options, or mechanisms of internal differentiation would risk not only centralizing authority but also erasing legitimate pluralism. In the absence of a supranational institutional framework equipped to provide checks and balances – akin to those found in federal or confederal systems – a global demos could become more susceptible to domination and exclusion than existing state-based models. Consequently, the establishment of a global demos may itself be viewed as undemocratic, potentially even more so than the legitimacy deficits already present within the current state system. By failing to adequately engage with the realities of pluralism and persistent disagreement, cosmopolitanism may inadvertently reproduce the very inequalities and exclusions it seeks to overcome.

4. Benhabib's "democratic iterations"

A final observation – rather than a direct critique – pertains to Seyla Benhabib's cosmopolitan theory and its relationship to territorial rights. Although firmly grounded in cosmopolitan ideals, her framework does not offer explicit or direct prescriptions regarding territorial claims. In this respect, her theory can be characterized as both cosmopolitan and statist: it integrates universal principles of justice and human rights while remaining compatible with state-based theories of territorial legitimacy. This compatibility enables Benhabib's approach to avoid many of the criticisms commonly levelled at more radical strands of cosmopolitanism – particularly those that advocate for the erosion of state sovereignty or the creation of a supranational global state. By upholding core cosmopolitan commitments – such as global justice, equality, and the protection of human rights – without demanding the dismantling of the existing state system, her theory demonstrates a pragmatic flexibility. This moderation insulates it from critiques that focus on the impracticality or undesirability of stateless global governance. Nonetheless, Benhabib's work remains firmly within the cosmopolitan tradition. Her advocacy for universal norms that transcend national boundaries reflects a deep commitment to cosmopolitan values, even as she affirms the continued relevance and authority of sovereign states.

1.2.3 One Preliminary Conclusion

In this chapter, I have aimed to explore plausible alternatives to the state-based sovereignty model that currently structures our world. This investigation serves as a foundation for the central question of this thesis: which theory best justifies the territorial rights of states? While much of the existing literature often assumes territorial rights of states as a given starting point, such an assumption risks overlooking the desirability of other models. To avoid this presupposition, I have evaluated the desirability of various proposals as ideal political arrangements – that is, proposals that, if ideally implemented, would result in a more just world than the one we inhabit today.

It is important to clarify that my focus is on desirability rather than applicability, the latter being considered only insofar as it is subordinate to the former at an ideal level. In other words, I compare these theories according to the normative ideals they promote, not primarily by how likely they are to be realized. This approach follows Steiner's (2017) framework of ideality levels, where applicability becomes a decisive factor only when comparing theories of equal desirability. The question of applicability, though central to my project, will be the focus of Chapter 3. For now, my purpose is to determine which ideal theory offers the most just and coherent framework, before turning to practical considerations.

The analysis undertaken so far yields three main conclusions, which serve as the first key findings of this chapter. First, the examined alternatives to territorial state sovereignty – such as non-territorial sovereignty as envisioned by Agnew's "private companies" model and the panarchic pluralism proposed by De Bellis and Tucker – fail to overcome the inherent limitations of the current territorial order. These non-territorial models, and the broader category of sovereignty separated from fixed territory, do not offer a more desirable political structure. Consequently, they must be classified as undesirable on normative grounds.

Second, cosmopolitanism, while morally appealing in its commitment to universal justice and human rights beyond borders, ultimately falls short as a normative alternative to a state-based territorial model. It presents itself as a middle ground between pro-state and anti-state positions by advocating for a global framework grounded in justice and equality, yet it ultimately struggles to transcend the limitations of the current state-based system. Attempts to vertically disperse sovereignty either replicate existing hierarchies or lead to undesirable fragmentation, failing to achieve the structural transformation cosmopolitanism aspires to. Furthermore, the lack of consensus on what constitutes just principles complicates the implementation of universal laws, and the ambiguity surrounding the formation and legitimacy of a global demos undermines democratic credibility. Without clear mechanisms for consent, representation, and the accommodation of pluralism, cosmopolitan proposals risk becoming either undemocratic or ineffective. Despite its normative appeal, cosmopolitanism does not offer a more desirable or viable alternative to the existing model of state sovereignty.

Third, the defence of sovereignty fundamentally linked to territory appears to implicitly reaffirm a state-based sovereignty model. The concept of the state that arises from territoriality is minimal but coherent, anchored in three core elements: a defined territory, a collective population, and an authority holding the legitimate monopoly on coercion. This "core state" model, though basic, provides the conceptual groundwork for any justifiable theory of territorial rights.

It is therefore reasonable to ask whether my proposal ultimately reinforces the status quo and reflects a conservative position. While it acknowledges the many problems of the existing state system, it simultaneously reaffirms the central role of states – the very entities often criticized as sources of injustice and conflict. However, as clarified in Section 1.2.1, my conception of the state differs from the conventional understanding in three important respects.

First, states are not necessarily territorially contiguous. This challenges the traditional geographical assumptions about sovereignty. Second, I reject the primacy of demarcation criteria such as nationality and culture, which have historically dominated territorial claims but need not be privileged if they conflict with broader principles of justice. Third, and most importantly, states are not static or immutable entities. Guided by the theory of territorial rights I will defend, states are capable of evolving – merging or restructuring over time to better fulfill their normative roles.

This flexibility – particularly the acceptance of non-contiguity – opens the door for transformations such as the voluntary merging of distant states, challenging rigid territorial boundaries. Boundaries need not be fixed by ethnicity or self-determination alone; rather, they must be reconsidered within the comprehensive normative framework I propose, which I will elaborate in subsequent chapters. This theory, though grounded in a state-based model similar to the present one, should thus not be interpreted as conservative in a conventional sense but rather progressive and forward-looking.

In sum, none of the alternative sovereignty models I have explored so far – non-territorial sovereignty, panarchism, or cosmopolitanism – demonstrate a normative superiority over this flexible "core state" conception. The state, understood minimally but normatively robust, remains the most desirable framework for organizing political authority and territorial rights.

Having established this foundational argument, the next chapter will turn to a detailed review of the main theories justifying the territorial rights of states.

Conclusion

In this chapter, I have argued that the justification for assigning territorial rights to states is not rooted in a mere attachment to the status quo. Rather, it reflects the shortcomings of alternative models, which – despite their theoretical appeal – fail to offer normatively compelling or practically viable replacements for the state-based system. These alternatives tend to fall short when measured against the complex and persistent challenges posed by real-world territorial disputes.

It is crucial to clarify that what I have called the "core state" is not, in itself, a legitimate political entity. The purpose of offering a core definition is twofold: first, to distinguish the existence of a state from a condition of anarchy or a state of nature; and second, to establish a conceptual baseline for further normative evaluation. A state that meets the minimal criteria – defined by a fixed territory, a resident population, and a governing authority with a monopoly on legitimate force – is not thereby legitimate. Legitimacy must be earned by satisfying further moral and political principles, which vary depending on the theory of justice one adopts.

John Rawls's account in *The Law of Peoples* (2001) offers one influential account of legitimacy. According to Rawls, a legitimate state must respect basic human rights and ensure fairness and equality for its citizens domestically, while also adhering to principles of peace, cooperation, and international justice. While some may seek a broader conception that accommodates deeper pluralism or alternate notions of justice, Rawls' framework broadly aligns with most territorial theories in its understanding of state legitimacy.

The real point of divergence among these theories is not their understanding of what makes a state legitimate once it exists, but rather how they justify the origins and boundaries of state authority. That is, they differ not so much in describing how a legitimate state should function, but in determining where its authority should apply, and why. The key question is: who has the right to rule over a specific territory, and on what basis can that authority be considered legitimate?

This fundamental problem is often introduced in the literature through a hypothetical scenario: imagining a world before the existence of states, what process would justify the emergence of state authority over particular territories? In response to this question, three major families of theory have been developed:

1. Lockean Theories, which hold that territorial rights originate in individual property claims, acquired through labour and consent, and that legitimate states emerge from individuals voluntarily pooling their rights (Simmons 2016).
2. Nationalist and Voluntarist Theories, which maintain that territorial rights belong to *peoples*, understood either as cultural nations or political communities that have a right to collective self-determination (Miller 2012; Moore 2015).
3. Statist or Functionalist Theories, which begin from the assumption that land initially belongs to no one and becomes subject to legitimate control through the formation of institutions (states) capable of securing justice, peace, and order (Stilz 2019).

These models are all based on idealized assumptions that abstract from the historical processes by which actual states have developed. The following chapter will examine whether – and to what extent – these theories can be reconciled with our non-ideal world. This inquiry is essential because any theory that hopes to guide practical action must do more than articulate abstract principles; it must also be capable of dealing with the challenges of global political dynamics. Accordingly, the next chapter will assess how each of these theoretical models can be translated into a coherent account of legitimate state formation. Beginning with the idea of a pre-political world, the goal will be to evaluate each framework's consistency, normative attractiveness, and practical relevance. In doing so, I aim to determine whether a principled preference for one theory of territorial rights over the others can be justified – not only on philosophical grounds but also in terms of its capacity to guide action in a world marked by deep normative disagreement and enduring geopolitical conflict. This analysis will begin in Chapter 2 and will be further developed in the following chapters.

CHAPTER 2

THEORIES OF TERRITORIAL RIGHTS OF STATES: AN OVERVIEW

Introduction

In chapter 1 I have argued that territoriality is an essential component of sovereignty. By "essential", I mean that understanding sovereignty as being tied to territory is more desirable than adopting any non-territorial approach to reorganizing power. Moreover, I defended the view that, if sovereignty is to be organized around territory, states are the most fitting entities on the basis of which sovereignty should be suitably organized. Of course, stating that states are the entities best suited for organizing sovereignty does not, in itself, explain how sovereignty should actually be structured. My thesis, however, does not attempt to provide a definitive answer to that question. Instead, it focuses on the relationship between sovereignty and a specific territory, as well as the criteria that should be considered when deciding how to organize sovereignty territorially in one way rather than another. In this chapter, in particular, the various possible criteria will be explored, and the aim, by the end of the thesis, will be to narrow down to just one of these criteria.

Before delving into the specific purpose of this chapter, I want to recall the core definition of state that I defended in the previous chapter. This is important to reaffirm and clarify that, when I refer to "states" in my work, I am not advocating for a conservative position where states, and institutions in general, are entirely aligned with those we currently know. I have argued that supporting a conception of sovereignty centred around states as sovereignty-holders does not necessarily mean accepting all the criteria used to define present-day states. In Chapter 1, I pointed out that dismissing non-state-based theories of sovereignty leads to a core definition of state. This definition includes three key conditions that distinguish a state from other forms of power. First, against non-territorial theories of sovereignty, states must possess a specific territory with defined borders. Second, from this territorial condition follows the necessity for each state to have a corresponding population residing within its borders. Third, against cosmopolitanism and other non-state-based theories, each state must have its own governmental body with a monopoly on the use of coercion and law enforcement over both territory and population. As argued in Chapter 1, it may appear that these three conditions describe states as they exist in the real world. However, it is important to note that these conditions do not include certain features commonly attributed to states, such as stability over time in terms of territory, population, identity, and form of governance. They also do not account for the idea that states typically occupy a compact and contiguous space, or that the population of a state often shares a common national culture.

These features – along with others – are not included in the three criteria because they do not appear to be necessary conditions for the existence of a state or for its proper functioning. At the same time, the three conditions I outlined to define a "state" do not address how a state could come into existence legitimately or when an existing state can be considered legitimate.

As noted in Chapter 1, defining the full conditions for a state's legitimacy is not an objective of this thesis. In other words, the aim is not to establish all the guarantees a state must provide to its own citizens or to external individuals in order to be considered legitimate.[16] Instead, the focus here is fundamentally on understanding what ties – or should tie – a state to a specific territory: which particular territory and which specific borders should be assigned to a given state. This is, in part, a question of legitimacy, but it is also a search for an organizational criterion.

This type of inquiry makes sense both in an imaginary world – where people have already lived for several generations, but we can imagine having to decide how to draw state borders as if creating them anew from a state of nature and having to assess the different claims – and in the real world, where states already exist but where questions still arise about the legitimacy of their claims over territories and borders, the actions states can legitimately take within their territory and at their borders, and how these actions affect both their own citizens and others.

A legitimate concern at this point is whether it is truly possible to identify a single answer to the question: "what justifies a state in claiming rights over a given territory?".

Three possible approaches can be identified. The first is a pluralist approach, which holds that various justifications for states' territorial rights are acceptable and should simply be assessed on a case-by-case or context-specific basis. The second approach, which is certainly common – albeit implicitly – in the literature, could be described as monistic. This view asserts that among all the different justifications for states' territorial rights, one is superior to the others, with fewer inconsistencies, and can be applied in most cases (real or hypothetical) as the most satisfactory and least problematic option. The third approach, which I favour but which has been less explored in the literature, is a hybrid model that combines elements of the first

[16] Fully establishing the conditions of legitimacy of a state is not the focus, partly because it would fall outside the scope of this thesis and would require a dedicated investigation, and partly because theories that have attempted to define a single way to determine a legitimate state have been criticized for being biased – often Eurocentric, Western-centric, or anti-pluralistic – and for neglecting the possibility of multiple interpretations. I believe that this type of objection holds merit.

two. This approach acknowledges that different cases and contexts often call for a specific principle of territorial justice that aligns best with the situation. The fact that these principles may sometimes conflict is not, in itself, objectionable; theoretical tension between competing moral claims is both inevitable and, to some extent, analytically productive. The practical difficulty arises, however, when such conflicts must be resolved in order to guide concrete political decisions. Because the compatibility between a case and a principle is rarely clear-cut, it is therefore crucial to identify an additional criterion – beyond legitimacy itself – for determining which principle should prevail when conflicts occur.

This third approach, which I have already indicated is my preference, is neither fully monist nor fully pluralist. It is not entirely monist because, as will become clear by the end of this chapter, it acknowledges the impossibility of prioritizing a single principle of territorial justice – both from a theoretical perspective (i.e., the formal soundness of the principle) and from a practical perspective (i.e., the principle's compatibility with the various real-world cases to which it may be applied). However, this approach is also not entirely pluralist – or rather, while it is pluralist in recognizing the potential validity of multiple principles of territorial justice, it seeks to avoid falling into relativism, especially when the choice of a specific principle of territorial justice is necessary to address a concrete practical issue.

The extra criterion I intend to use to constrain my analysis is thus implicitly emerging, which I will broadly define at this stage as the criterion of action-guidance or applicability. In other words, I am not simply interested in conducting a theoretical analysis of the best justification for states' territorial rights. I am also – and above all – concerned with identifying a principle of territorial justice that is appicable, implementable, and desirable in its various practical implications.

This analysis is therefore developed on two levels – a theoretical level and a 'so to speak' practical level – that must intersect. In this chapter, the focus is theoretical, and the goal is to reconstruct the most important justifications for states' territorial rights available in the literature, conducting a primarily theoretical analysis of their acceptability as principles of territorial justice. In the next chapters, the action-guidance constraint will be more precisely defined, and the various theories examined here in Chapter 2 will be reassessed based on their capacity to provide action-guidance. The aim will be to identify a theory that is both theoretically robust and applicable with the fewest possible drawbacks in all cases where issues of territorial justice arise. The ultimate goal, therefore, becomes avoiding relativism and arriving at a theory that works better than the others without necessarily excluding their prima facie validity. My thesis is that we can only address real-world problems related to territorial rights effectively if we identify a single theory of territorial rights that better satisfies the desiderata we have established compared to its alternatives. Such a theory should provide a coherent framework for understanding what territorial justice requires at an ideal[17] level. Currently, however, the absence of a clear priority among competing theories or principles of territorial justice leaves us[18] unable to resolve territorial issues effectively, as different theories prescribe conflicting solutions.

In order to identify the theory that best satisfies the two criteria of being desirable and action-guiding, the first necessary step is to present the available alternatives – this will be, as said, the main focus of the present chapter.

Therefore, in this chapter, my primary goal will be to reconstruct the existing debate on the territorial rights of states in order to clarify: (1) which options are available, (2) what justifications each theory offers for states' rights over territory, and (3) what implications each theory has for today's territorial justice.

This chapter will therefore be organized into four sections. In Section 2.1, I will discuss the so-called family of Lockean theories, which argue that states' rights over territory derive from the Lockean principle of land acquisition through labour, combined with the constraints of the Lockean proviso. In Section 2.2, I will explore the family of voluntarist theories, which includes a diverse set of theories based on the idea that states' territorial rights are legitimate when the state respects the right to self-determination of the group (or groups) that legitimately occupy its territory. In Section 2.3, I will examine the family of nationalist theories, which, similar to voluntarism, argue that states' rights over territory are legitimate when the state represents a group of people with a special (historical) attachment to a particular territory and shares a common culture. Finally, in Section 2.4, I will address the family of functionalist theories, which assert that states' rights over territory are primitive, not derived from prior attachments to land by specific groups or individuals, and legitimate only on the condition that the state is capable of performing a set of essential functions. This, for the sake of clarity, is a traditional approach in the literature for reconstructing this debate.

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[17] A useful clarification, which will be further explored in Chapter 3, is that when I refer to the theoretical level and the practical level, I am not establishing a connection between an ideal theoretical level and a non-ideal practical level. My analysis takes place entirely, so to speak, within the ideal level. From a theoretical perspective, I ask which principle of justice best justifies states' territorial rights. From a practical perspective, I ask how applicable a given principle is –how effectively it can be translated into practical guidance and how consistently it could be applied to a range of different cases without producing undesirable outcomes.

[18] I use the word "us" to indicate that the issue I address seems to concern both philosophers and politicians (or citizens, broadly speaking). The problem of competition between different, yet incompatible, principles of territorial justice remains a dilemma (strictly speaking) at both the philosophical and practical levels. Moreover, it seems to be one of those cases – though this moves into another domain – where philosophy can help clarify the issue and, in doing so, influence politics and personal preferences.

2.1 Lockean Theories of Territorial Rights

As outlined in the introduction, all the theories of territorial rights considered in this chapter move from a fundamental question: what is the basis and the justification for states' claims over their respective territories? These territories are not merely abstract or general spaces, but must be understood as particular territories. This means that any justification of a state's territorial rights must provide an account of that states' rights over their specific geographical domain – not just over territory in a general sense. The emphasis on particularity highlights the need for precision in explaining why a specific state, and no other, has legitimate claims to govern a given territory.

Lockean theories, the focus of this first section, are based on the Lockean idea that states' territorial rights derive from the individual property rights of those who have (voluntarily) transferred their rights to the state. In their more classical versions, such as those of John Simmons (2016) and Hillel Steiner (Steiner 2018),[19] states' territorial rights are grounded in individual property rights. However, Cara Nine (2008; 2012; 2022), whose Lockean theory will be analysed at the end of this section, views states' territorial rights as grounded in collective, group-based rights.

The first part of the analysis, in Section 2.1.1, focuses on John Simmons' prominent and comprehensive individualist Lockean theory. Simmons argues that a state's territorial claims depend on its legitimate authority over the individuals who reside, work, and interact within its geographical boundaries. For Simmons, territorial rights are intrinsically linked to the relationships between individuals and the state, framing his theory as a "Lockean-individualist version of voluntarism"[20] (Simmons 2016, 116). His approach builds on Locke's concepts of

[19] In this thesis, I will focus primarily on the work of Simmons, as he has devoted more sustained attention than Steiner to the development of a comprehensive theory of territorial rights – one that engages directly with other classical approaches. Steiner's position on territorial rights is embedded in his broader commitment to left-libertarianism, a framework that combines strong individual rights (particularly property rights) with an egalitarian view of natural resources. This orientation leads him to place particular emphasis on questions of global distributive justice (Steiner 2018, 145). He shares with Simmons the view that individuals acquire legitimate titles to territory through a valid-title theory. For this reason, Simmons's analysis in this area also offers valuable insights for assessing Steiner's account.

[20] Voluntarism will be discussed in more detail in the next section of the chapter. For the moment, however, it is useful to note that voluntarist theories argue that the legitimacy of a state's authority stems from the collective political will of its citizens. In this view, political authority is not inherent or based on a natural right to rule, but is instead created through explicit or tacit consent of the governed. To understand why Simmons classifies his own theory as an individualist version of voluntarism, it is important to recognize that he emphasizes the role of individual consent and autonomy, distinguishing his approach from other forms of collectivist voluntarism.

property and consent, highlighting the importance of individual choice and the moral foundations of political authority in justifying territorial claims.

In Section 2.1.2, I will explore the alternative Lockean theory developed by Cara Nine. In two of her most important works, Cara Nine has significantly adjusted her theory of territorial rights. In its initial formulation, her theory could certainly be classified as collectivist Lockean, whereas in its later version, it might no longer fit strictly within that framework. The analysis carried out in section 2.1.2 will take this evolution in Nine's thought into account.

2.1.1 An Individualist Lockean Theory of Territorial Rights

Simmons' Lockean theory is based on three key claims. The first is that only those who willingly submit to a state's authority – which is why Simmons partially characterizes his theory as "voluntarist" – are legitimately subject to it. The second claim is that a state can rightfully assert territorial rights over a specific geographical area only if those rights pertain to land that has been lived on and worked by the state's willing subjects. The third claim is that if a state's territorial acquisitions violate the rights in land of one or more individuals, those rights remain valid and cannot be overridden by more powerful entities, such as the state. Thus, a state's territorial rights are legitimate when they arise from the free choices of individuals to submit both themselves and the land they inhabit and work to the state's authority (Simmons 2016, 116).

In Locke's *Second Treatise of Government* (1966), the meanings of "willing consent" and "subjects willingly subjected" are examined, particularly because we all live in states that we did not explicitly choose or consent to. The idea that Simmons, and likely Locke, presents is that consent can be tacit, applying only to what is necessary for the functioning of a just society. Subjects, therefore, are expected to give tacit consent to what is essential for maintaining peace and stability. This includes: (1) incorporating their rightful landholdings into the state, which will then have exclusive legal jurisdiction over that territory, (2) obeying the law, but only to the extent justified by the consent that led to the transfer of land rights to the state, and (3) accepting majority rule (Simmons 2016, 118).

A common objection to Lockean theories is that they fail to explain why states should have continuous boundaries, "and not just legitimate chunks of land" (Simmons 2016, 119). Simmons provides two Lockean responses to this famous objection. The first is that dissenters, when surrounded by consenters, would eventually become consenters themselves. The second suggests that dissenters and consenters would have reasons to exchange land in ways that would allow both groups to maintain continuous boundaries for their political societies. However, what I think is more important to emphasize for the purpose of my analysis in this chapter is that a state made up of non-contiguous, separate "chunks" of land would still be compatible with my core definition of a state. While it may seem counterintuitive and inefficient to imagine a state composed of several small, disconnected pieces of land, such intuitions aren't necessarily well-founded. Further demonstrations would be required to show that states with non-contiguous territories are inherently problematic. For this reason, I do not consider this objection one of the most substantial.

Another point worth clarifying about Lockean theories is how to account for the fact that states include some common space or common land. This land was not acquired through the classic Lockean process of individual labour and physical occupation of land. Simmons, however, provides an explanation for these commons. Importantly, he does not consider vast, uninhabited areas that states claim for purposes like future expansion or defence to qualify as legitimate commons. Instead, Simmons defines commons as modest shared spaces intended for the exclusive use of society members for activities like gathering, recreation, and communal purposes (Simmons 2016, 121). These spaces, which seem to exist in every state and culture, lack an individual owner who could assert private property rights over them. They also serve important public purposes, such as providing areas for common worship, public assembly, shared services, or other collective activities that benefit society as a whole.

To regulate the amount of common space – and natural resources – that each state can rightfully claim, as well as the maximum overall holdings of such resources, the theories within this family (including Simmons's, as well as those of Steiner and Nine) typically rely on the constraints set by the "Lockean proviso". This principle, originally formulated by Locke in two versions, essentially prescribes that no one is allowed to claim more than their fair share of resources. A fair share is understood as a distribution that ensures everyone has enough resources and access to sufficient goods to meet their needs.

Given that global resources are not fixed – and are, in fact, rapidly declining – it follows that the territorial boundaries of states, as we know them, are not necessarily permanent. Simmons argues, in line with the Lockean proviso he upholds, that territories can be legitimately expanded or reduced over time. This perspective aligns with my broader claim that there is nothing intrinsic to the definition of a state that implies states are fixed and unchanging entities, or that they are such only if they have a long political history of cooperation behind them.

Having outlined the key features of Simmons's Lockean theory, it is important – before moving on to the analysis of the critical points of this theory – to highlight the four main virtues Simmons attributes to his theory. For the purposes of this chapter, it is worth noting that all four virtues are tied to the idea that the theory is (or has the potential to be) action-guiding, meaning that, according to the author, it could be employed to address real-world problems and suggest practical solutions. I will soon examine whether it is truly accurate to claim that Lockean theories possess this action-guiding quality, partly in this chapter and mainly in Chapter 4.

The first virtue Simmons identifies is that, unlike, for instance, statist theories (as we will see shortly), his approach can account for particularity (Simmons 2016, 122). In other words, his theory offers an explanation for why a specific state holds territorial rights over a particular piece of land rather than over others. This capacity stems from the theory's emphasis on tracing a state's current territorial possessions back to the original acquisition of those lands. A state's rights over its territory, at least at the ideal level, are legitimate only if the land within the state's boundaries was lawfully occupied, transformed, and rendered more valuable by the individuals who later transferred those lands – and the corresponding territorial rights – to the state.

The second virtue of Simmons's theory is that it provides a straightforward response to the problem of the supersession of rights and past injustices committed by states. Simmons argues that past injustices cannot be superseded: those whose rights were violated in the process of a state's creation or territorial expansion retain their right to have those wrongs rectified. This, he contends, makes his theory's approach to historical injustices both simple and morally robust (Simmons 2016, 122).

The third virtue that Simmons identifies is the theory's ability to address the problem of trapped minorities. According to his theory, these minorities should not be subjected to political authority without their consent. Just as a minority cannot disrupt the political arrangements of the majority, those living near a minority also cannot interfere with the political rights of the minority if they do not wish to consent to the majority's authority.

The fourth and final virtue Simmons highlights is that his theory aligns with our intuitions about how territorial rights should be justified. Essentially, the theory fits with our common-sense understanding of territorial justice and seems to reflect how we naturally think about the legitimacy of state boundaries and the rights of states over their territories.

Simmons is clearly aware of one problem following from this last virtue, that is the fact that conjectural history (a theoretical, idealized history imagining how territorial rights and property could have been established under perfect Lockean conditions) does not match the actual history of any modern state. Therefore, if we try to formulate hypotheses about the legitimacy of real-world states, nothing straightforward follows about their current legitimacy. There thus seems to be an inconsistency between what was said regarding the fourth virtue identified by Simmons – that his theory appears to align with our basic intuitions about the legitimacy of states – and the fact that these ideal conditions rarely occur in reality. Simmons reiterates that the strength of his theory, as well as Locke's, lies in the principles they propose – ideal principles, the core of Locke's ideal theory (Simmons 2016, 121).[21]

At this point, we can consider some of the main objections that are generally raised against Lockean theories, and in particular against Simmons's theory as well.

The first challenging objection is that in both Simmons's and Locke's theory, property rights in land precede the creation of the state, which, however, is necessary to regulate and make sense of property rights. According to the theory, property rights in land already exist in the state of nature and can be acquired through labour, occupation, and productive modification of land. These rights can then be transferred to the state, which becomes the holder of territorial rights and is responsible for regulating and enforcing property rights. This appears problematic in more than one way. Firstly, despite the fact that the theory does not specifically address issues of distributive justice (apart from the Lockean proviso), it is likely to perpetuate structural injustices, even at the ideal level. Certain categories of people will never be able to become property owners. In the state of nature, property rights can be maintained only by the strongest, and over time, all the land will be claimed by a landowner. Given the special relationship between landowners and the state (since the state emerges as a trade-off between landowners and the state's authority), even if those without property could be compensated for the monetary value of the land they lack, part of the intrinsic value of being a landowner cannot be replaced by monetary compensation.[22] The Lockean proviso applied to a theory of individual property rights in land cannot rectify this injustice: there will always be a group of individuals excluded from property ownership. Additionally, it is unclear what it means to "have a right" in the state of nature. Simmons, for instance, defends his theory by acknowledging that property rights in

[21] While in this chapter it is precisely the ideal principles and their desirability that are under examination, later (mainly in Chapters 3 and 4), I will delve deeper into both the role of ideal theory and the ability of Simmons's theory to transcend this purely theoretical level in order to offer insights on the legitimacy of real-world states and real-world claims.

[22] This argument also challenges Steiner's position. While Steiner emphasizes the importance of compensating individuals for the loss of land through monetary compensation, my criticism here suggests that his framework overlooks the deeper structural inequalities that arise from the historical and ongoing accumulation of property. In Steiner's view, landowners and the state can reach an equitable arrangement through compensation, but compensation cannot fully replace the social and intrinsic value of property ownership, particularly in a system where only the strongest can secure and maintain property rights. This critique highlights that, even in an ideal theory, the structural injustices resulting from unequal access to property could persist, undermining the very foundations of Steiner's proposed solution. See (Steiner 2009).

the state of nature may be vague regarding the precise boundaries of each piece of land (Simmons 2016, 127). However, in the state of nature, more people are likely to compete for the same piece of land, resulting in conflicts over property transfers, and these rights can hardly be enforced. These points suggest that the theory might lead to undesirable implications even at a non-realistic or, in Simmons's terms, "ideal" level.

Given that no real-world state formation has strictly followed the Lockean principles of property acquisition and state establishment, it is difficult to pinpoint the concrete implications of Simmons' theory for contemporary territorial justice.

The Lockean proviso itself does have practical implications, as it prescribes not taking possession of more than what will leave enough resources and good for others. It remains unclear whether the proviso should be understood in collective or individual terms, but it seems that both are true: individuals in the state of nature cannot claim more than a certain amount of resources, and states cannot claim more than a certain amount of valuable land. As mentioned earlier, Simmons supports a theory in which states are modifiable and non-static entities, meaning that the borders of current states can be adjusted to satisfy the Lockean proviso.

The more challenging aspect of applying Simmons' theory lies in identifying the rightful claims to specific territories. Simmons argues that a virtue of his theory is its alignment with our intuitions and common sense about when a state's claim to territorial sovereignty is legitimate. However, the theory can only truly claim this if we are very conservative and focus on a relatively recent period of time. We must be conservative because most contemporary states, which appear to be legitimate holders of territorial rights, acquired their territories through violent or controversial means. If we disregard this, we will undoubtedly treat most current territories as rightful, but we will lack a useful framework for addressing conflicts in which the possession of land is contested. The theory is meant to be particularly useful for addressing and seeking redress for past territorial injustices. However, for this purpose, we can only consider recent history, not only because it is challenging to trace back events beyond a certain number of decades, but also because it remains unclear how much responsibility contemporary citizens bear for injustices committed by their past counterparts.

Ultimately, when applied to modern cases, Simmons' theory demonstrates a clear strength in identifying potential sources of injustice, particularly with regard to the dynamics of political authority and territorial claims. However, it falls short when it comes to prescribing practical, clear, and desirable solutions for addressing these issues in real-world contexts. While the theory successfully highlights the moral implications of territorial rights and state authority, it struggles to provide concrete guidance on how to resolve the complex, often contentious, territorial disputes that arise today.

Furthermore, Simmons argued that his theory was particularly effective in addressing the issue of "trapped minorities" – groups who find themselves subjected to a political authority without their consent. In his view, such minorities should not exist in a just system because no group should be governed without the explicit or implicit consent of its members. This perspective offers a strong moral stance in favour of autonomy and self-determination, with important implications for cases of minority groups who are politically marginalized or oppressed. However, while this aspect of Simmons's theory offers a seemingly clear application, it is problematic in practice. Trapped minorities often occupy disputed and contested territories, territories that are ambiguous within the framework of Simmons's theory. The inherent uncertainty in determining the rightful claim over such territories means that Simmons's approach may fail to adequately resolve the plight of these minorities. In these cases, the theory's reliance on individual consent and the legitimacy of territorial claims becomes less effective, as it does not fully account for the complexities and historical entanglements of territorial disputes in modern geopolitical contexts. This gap in Simmons's framework underscores the challenge of applying his theory to the realities of contemporary territorial and political conflicts. Chapter 4 will be entirely dedicated to analysing the implications of the theories presented in this chapter, and will also provide an assessment of the applicability of the various theories.

2.1.2 A Collectivist Lockean Theory of Territorial Rights by Cara Nine (and Its Recent Evolution)

An overview of existing and prominent Lockean theories would not be complete without mentioning Cara Nine's collectivist Lockean theory and its subsequent developments. Like Simmons, Nine starts from the foundations of Lockean theory, aiming to preserve its structure while moving away from the concept of individual property rights in land. In order to understand why, it is worth pointing out that territorial rights are different from property rights (Nine 2008a, 149). The primary function of property rights is to grant the owner the benefits derived from the use of that property, along with the right to exclusivity. On the other hand, the function of territorial rights is the establishment and conservation of justice over a given territory, which includes the meta-jurisdictional power to create or modify jurisdictions. As

Allen Buchanan (2003, 233) has pointed out, since meta-jurisdictional rights embody a specific conception of justice – which can vary – they also ground (and therefore logically precede) individual property rights. In other words, territorial rights cannot be grounded in individuals' consent because the specific rule or conception of justice that an individual is consenting to is decided at the state level at a logically subsequent time. The priority of meta-jurisdictional rights over property rights is one of the issues that an individualist Lockean theory struggles to resolve, and is part of the reason why Nine advocates, instead, for a collectivist Lockean theory.

Nine's collectivist Lockean theory does not rely on consent to explain states' territorial rights. However, it still relies on the Lockean principles according to which (1) agents must have a capacity to change the land in a way that a special relationship between the agent and the land is created (Nine 2008a), and (2) the relationship between the agent and the land must be morally valuable, where by "morally valuable" Nine means, as Locke had also argued, that there must be adherence to the principles of desert, efficiency and autonomy (Nine 2012). In Lockean terms, these three principles apply to individuals. As anticipated, however, Nine believes that a Lockean theory of territorial rights cannot be fully endorsed in its individualistic version, and contends that the optimal approach is not to discard a Lockean theory of territorial rights entirely, but to instead reshape it into a collectivist version. The primary claim, in Cara Nine's version of the theory, becomes the following: collectives can directly acquire territorial rights over a specific area through the collective labour of the land.

She claims that collectives can directly fulfil the aforementioned conditions (1) and (2): indeed, collectives can change the land via labour, and they can have morally valuable relations with territory (Nine 2012, 82). The principle of desert is respected if the value that a particular territory has acquired can be attributed to a collective labour. It is worth noting that what Nine has in mind here is the value of the establishment of justice, that is specifically accomplished by collective entities. The principle of efficiency is imposed by the theory to the institutions: in order for a collective entity to be legitimate, its institutions must make and enforce the most efficient use of land. Lastly, the principle of autonomy is respected because territorial rights are a condition for the exercise of collective self-determination and self-determination – it is argued (Nine 2012, 31) – is fundamental for some human basic needs such as the sense of belonging, respect or self-expression (and these count as aspects of autonomy that cannot descend from individual property rights).

According to Nine, not every collective can have a claim to a particular territory, but only collectives whose members share a common conception of justice and that have a potential capacity to meet minimal standards of justice. A people can be recognized as such when it can be perceived as an enduring and transgenerational entity, in which current members can recognize themselves and feel a deep sense of belonging (Nine 2012, 51). When these two conditions are respected, if the two Lockean conditions (namely having the capacity of changing the land via labour and in a morally significant way) are also respected, it is possible to claim that a collective has a direct claim to territorial rights over a particular piece of land. Instead of using labour to establish property rights, this version of the theory uses labour to establish collective territorial rights, that will serve the fundamental function of establishing justice over that particular territory.

At a later stage, as anticipated, Nine revises her theory to address a specific issue that the earlier version failed to tackle: in the real world, there is often no one-to-one correspondence between a people and a territory – the so-called "desert island model" (Ochoa Espejo 2020). Instead, there are overlapping claims, partly because certain types of resources (such as rivers) frequently cross state boundaries and must be shared. The "desert island" model is therefore supplanted by Nine with a "river model", in which collectives are understood as being "interdependent and overlapping" (Nine 2022, 3). Under this view, having a right to occupy a particular geographical area does not equate to an exclusive right to exploit the resources of that territory, but instead to a right to ensure access to the basic resources necessary for the group's sustenance. Access to potable water, the ability to participate in the social and political life of the collective, access to essential local resources (such as river basins), and the right to protection against displacement and removal are, according to Nine (2022, 5), fundamental rights that must be guaranteed to every collective with legitimate claims to a territory. As a result, it is conceivable that the same set of resources may be shared among multiple collectives, leading to self-determining groups becoming interdependent in the exercise of control over overlapping territories (Nine 2022, 25).

In this 2022 development of Nine's theory there is also a shift towards focusing almost exclusively on the idea that the most fundamental natural law is sociability, which she considers even more fundamental than the natural law of self-preservation. Following Simmons (1994), Nine argues that it is possible to focus on a single fundamental natural law and use rule utilitarianism to derive more specific natural law rules (Nine 2022, 34). According to Simmons's (and Locke's) interpretation, self-preservation was the fundamental natural law, and by prioritizing the rule of maximizing self-preservation, other strong individual freedoms, such as property rights, could be derived. While Nine acknowledges Locke's and Simmons's view that self-preservation is a fundamental natural law, she contends that when self-preservation is at risk, it becomes exceedingly difficult to maintain the conditions necessary for sociability. If we regard self-preservation as the core natural right, humans would primarily focus on securing basic needs rather than truly realizing the conditions for building peaceful societies. Consequently, Nine argues that sociability must be considered the fundamental natural law, serving as the basis from which all other specific rules are derived.

Lastly, Nine incorporates the two formulations of the Lockean proviso into her theory. Both the formulations are intended to place limits on the acquisition and use of property by individuals. The first version, known as the "enough and as good proviso" (Nine 2010, 363), requires – as mentioned before – that individuals, through their labour, may not appropriate more land and resources than would allow an equivalent amount, equally good and productive, to be left for others. The second proviso, which Nine refers to as the "spoilage proviso" (Nine 2010, 363), concerns the requirement that the use of land and its resources must be done without waste, as waste is incompatible with natural law, even in Locke's original theory. According to Locke, only certain ways of using the land were compatible with the preservation of the humankind and just as a system of private property promotes the preservation of the human species by allowing each individual to fulfil some basic needs, natural law, which imposes a duty to preserve humanity, also dictates that even within a system of private property, there must be limits placed on the use of land by individuals. Nine applies the same principles to her collectivist version of the Lockean theory, with the only difference that individual property rights are replaced by collective territorial rights.

Territorial rights, as illustrated in the previous pages, will typically serve to place the group that legally holds these rights – which, for Nine (2022), does not necessarily have to coincide with a state but can also be a smaller political or foundational unit – in a position to establish justice within a specific territory and exercise the right to self-determination.

Compared to the "original" individualist version, this collectivist version of Lockean theory becomes stronger in some aspects but more vulnerable in others.

While Simmons highlighted the primary virtue of his theory as its ability to account for the particularity of territorial claims, Nine – particularly in the initial version of her theory – does not appear to fully address this issue. She asserts that collectives can claim territorial rights based on the right of self-determination, yet she does not clarify the criteria by which these collectives can be distinguished from one another or what justifies their particular relationship to a specific territory. In the later development of her theory, both of these concerns are acknowledged, though not entirely resolved: the concept of sociability suggests a potential criterion for demarcation, though it remains underdeveloped in Nine's work. Meanwhile, the notion of overlapping claims partially addresses the issue of particularity, as Nine seems to imply that such particularity may not always need to be explicitly identified. This critique suggests that Nine's theory presents uncertainties both in its theoretical framework and in the practical implications it proposes. Furthermore, if we remain faithful to the second version of the theory, much remains to be clarified regarding how to regulate interactions between multiple entities operating within the same territory: given the overlapping nature of these territorial claims, a valid objections would be that, without adequate supranational regulation or legislation involving the interconnected collectives, adopting such a theory could lead to highly contentious scenarios, that would not ultimately contribute to the desired goal of sociability. In practice, more powerful groups might impose their control, and the distinction between what constitutes basic needs and what does not might remain a perpetually unclear source of conflict. Nine addresses these objections by arguing that, for her model to function, each state (or smaller political unit) must have the capacity to perform certain functions and adhere to a set of conditions. However, as we will see, this solution would bring Nine closer to the family of functionalist theories and leave little room for the concept of self-determination, which, however, appears to be of great importance to her.

In preparation for Chapter 4, where I will discuss the practical implications of various theories, it's important to note that Nine's theory aligns with the minimal definition of the state presented in Chapter 1. Her concept of states includes political units that may not be stable over time or contiguous in space. Nine uses this flexibility to address contemporary issues, such as natural resources crossing borders or the problem of sinking islands (Nine 2010).

2.2 Voluntarist Theories of Territorial Rights

The family of voluntarist theories of territorial rights encompasses a variety of perspectives that share the fundamental idea that groups – rather than individuals – are the ultimate holders of territorial rights, similarly to the Lockean collectivist theory by Nine.[23] Voluntarist theories do not focus on the regulation of "property rights" because they reject the notion that territory is equivalent to "property" (Moore 2015, 6) or the idea that territories are merely artificial entities that exist for pragmatic purposes. Instead, voluntarist theories assert that territories are

[23] There are many similarities between Nine and voluntarist theories, particularly the idea that collectives, rather than individuals, are the ultimate holders of territorial rights by virtue of a collective right to self-determination. As we will see shortly, however, for voluntarism, it is self-determination itself that does most of the work, allowing collectives to be defined even in a pre-state phase.

significant because they form a part of the identity of the groups that inhabit them – and these identities are inherently collective.

This family of theories is fittingly called "voluntarist" because its proponents argue – in different ways – that territorial sovereignty is justified when it reflects and respects the collective will and the collective right to self-determination of the groups that have legitimate claims over their territories.

Understanding and upholding voluntarism requires a deeper exploration of two key issues: (1) refining the concepts of "group" and "people" to determine when it is appropriate to describe a group as "a people," and (2) explaining how and when a particular group is justified in asserting a legitimate right to occupy a specific territory.

One way to address question (1) is by proposing that groups can be identified and distinguished from one another based on the shared cultural characteristics and defining traits of their members. These traits may include common language, traditions, history, or a shared sense of belonging, which collectively contribute to the distinct identity of a group. This approach for distinguishing "a people" from other collective entities plays a central role in a specific subgroup of voluntarist theories, often referred to as "nationalist" theories. Nationalist theories build upon many of the fundamental principles of voluntarist theories, particularly the importance of collective self-determination. However, what sets nationalist theories apart is their explicit emphasis on the concept of "nation." Because of this particular emphasis on nations and their cultural identity, I prefer – as is often done in literature – to treat nationalist theories as distinct from the voluntarist theories examined in this section. The relationship between nationalism and territorial rights will be analysed more thoroughly in section 2.3.

In the first section, 2.2.1, I will begin the analysis of voluntarist theories by exploring Margaret Moore's "political self-determination theory" (Moore 2015, 35). This theory is widely regarded as one of the most comprehensive and influential versions of the voluntarist approach to territorial rights and collective self-determination. Following this, in section 2.2.2, I will turn to two alternative voluntarist theories that present distinct perspectives on the topic. One of these is Paulina Ochoa Espejo's theory (2018), who essentially argues that peoples are created through the interactions that occur within a specific location, meaning that their identity and existence are both rooted in and shaped by the physical and temporal context of that place. The other is the combined work of Andrew Altman and Christopher Wellman, who defend a "plebiscitary theory" (Wellman 2008) based on the idea that, even with regard to membership in a state, reference should be made to the individual's freedom of association.

2.2.1 Moore's "Political Self-Determination" Voluntarist Theory

A fundamental claim to start from when reconstructing Margaret Moore's voluntarist theory is the assertion that individuals are involved in morally significant relationships with others, relationships that are independent of any institutional framework. These relationships are also not contingent on cultural affinities among group members. In certain cases – that will be clarified shortly – the groups of individuals in these morally important relationships can be classified as "peoples". According to Moore, the members of a people share not only a morally significant connection with one another but also a normatively important relationship with a specific place.

Moore is somewhat vague about the precise meanings of the terms "morally important" and "normatively significant" (Moore 2015, 5–6). However, for the purposes of her argument, it is sufficient to understand that relationships between individuals are "morally significant" when they are integral to shaping the individuals' identities. The relationship between a people and a place is considered "normatively significant" because it provides the basis for the people's right to sovereignty, and thus their territorial rights over that place.

The core of Moore's theory can be divided into two main components. First, she tackles the "problem of attachment", which refers to the challenge of explaining why individuals and groups are morally justified in occupying and claiming rights over a specific area. Second, she addresses the criteria for identifying a people, distinguishing one people from another, and differentiating a people from other types of collective entities.

Once these two issues are clarified, Moore's theory rests on the claim that when a group qualifies as a "people" under her framework and holds occupancy rights to a specific area, its relationship with that place produces a valuable outcome: the good of collective self-determination (Moore 2015, 35). This double relationship – between the people and its members, and between the people and its territory – forms the foundation of Moore's argument.

According to Moore, the so-called "problem of attachment" requires defining two place-related moral rights: "a moral right of residency, which attaches to individuals, and a moral right of occupancy, which attaches to groups" (Moore 2015, 38).

Starting with the right of residency, Moore defines this as a right that belongs to individuals and encompasses both the liberty to settle in an unoccupied area and the right to stay in that area. This includes a right of non-dispossession from the place where an individual has established projects, goals, and relationships. Furthermore, Moore argues that this right includes a right to return to a place from which an individual has been unjustly excluded.[24]

While this definition appears clear in its scope and implications, certain questions can still be raised in response to Moore's framework. For instance, what exactly constitutes an "unoccupied area"? Additionally, what happens if an individual's life plans and projects are tied to a place different from where they are expected to exercise their right of residency? It seems that Moore's reference to "unoccupied areas" pertains specifically to groups, implying that an individual belonging to a particular group cannot settle with their group in an area already occupied by another group. However, Moore does not explicitly address cases where individuals, as independent agents, wish to occupy areas already inhabited by other groups. Similarly, a sympathetic interpretation of Moore's argument suggests that her theory likely allows for individuals to pursue their life plans in places other than their current residence.

The individual right of residency, however, is only one part of Moore's argument and must be paired with the collective right of occupancy. Unlike the right of residency, the right of occupancy is a group-based right that goes beyond individual claims. This collective right belongs to groups and includes the authority to control the geographical area where a people is settled and where the members of that group have established a special connection or interest. Moreover, the collective right of self-determination can only be exercised within the boundaries of the area over which the group holds occupancy rights (Moore 2015, 36).

Once the individual right of residency and the collective right of occupancy are defined, the theory must address two additional challenges. First, it must clarify the mechanism by which individual rights transform into collective rights. Second, it must resolve the so-called "attachment problem" or "boundary problem"[25]. Specifically, if a group's occupancy rights grant them control over a particular geographical area, how should the boundaries of that area be determined? Moore's theory must provide a coherent account of how these boundaries are to be circumscribed, since, unlike in Simmons's individualist voluntarism, the criterion of individuals transferring their property rights to the state does not come into play here.

[24] This undoubtedly raises an issue of the feasibility of this claim, which will also be revisited in Chapters 4 and 5 when discussing the broader topic of the rectification of past injustices. Here, however, the focus remains primarily theoretical.

[25] Terminological note: in this work, I use the term "boundary problem" to refer specifically to what John Simmons (2016) identifies as the issue of particularity – that is, the difficulty territorial rights theories face in justifying why a state's legitimate borders should correspond to one specific set of established boundaries rather than another. This should not be confused with the democratic boundary problem, as discussed for example by Robert Goodin (2007), David Owen (2012), and Eva Erman (2014), which concerns the criteria for determining membership in the demos. Unless otherwise indicated, all references to the boundary problem should be understood in this particularist sense.

Regarding the first question, Moore argues that, alongside individual identities, people also possess collective identities. These collective identities, which differentiate her theory from nationalist perspectives, do not necessarily have to be cultural (although they can be) but must be fundamental components of an individual's sense of self and aspirations. These identities should not only connect individuals to their group but also tie individuals and their group to a specific territory.[26] This is because, in Moore's view, territory plays a crucial role in shaping group identity. Importantly, this holds true even for "urban people" living in liberal democratic societies, who may rely on their territories in a less "spiritual" sense, focusing instead on the organization of their physical spaces and the cultural, economic, and institutional frameworks that define them (Moore 2015, 42).

As for the "attachment problem", Moore explains that groups primarily have jurisdictional rights over the areas where their individual members hold residency rights. However, she emphasizes that the key issue is the connection between groups and specific territories. These territories, as previously noted, are integral to both individual and collective identities. Consequently, the territory over which a group should have territorial rights is the area the group is most interested in controlling and shaping to preserve and sustain its collective identity.

The final issue to clarify in Moore's framework is the definition of a "group" and a "people". According to Moore, groups are essentially collective agents whose agency is distinct from and irreducible to the agency of individual members. This collective agency is expressed through a shared intention, which Moore refers to as "we-intentions" (Moore 2015, 47).

However, not all groups qualify as "a people" with the right to collective self-determination. For a group to be recognized as a people, it must meet three key conditions. First, the group must share a conception of itself as a unified collective. Second – and this is the crucial condition – the group must have the capacity to establish and maintain political institutions.[27] Third, the group must have a history of political cooperation that is temporally extended. This history must not only include meaningful past political relationships but also encompass future expectations of sustained collective and productive collaboration.

What seems to be particularly important to emphasize – especially to highlight the fundamental distinction from a nationalist perspective – is that the concept of "a people" in

[26] Moore cites, in this regard, empirical evidence related to cases where Indigenous communities that were relocated (sometimes even for benign reasons) within larger political communities proved problematic. Such relocations – for example, the relocation of the Inuit from Labrador in 1968 and 1969 – led to social issues and various social ills (Moore 2015, 41).

[27] For completeness, it is important to emphasize that, according to Moore, peoples who do not currently meet the criteria to satisfy this requirement can be assisted in doing so – by other political entities that should help them achieve the essential requirements needed for those peoples with a political project at hand (Moore 2015, 52).

Moore's theory is defined by its members' political, rather than cultural, identity. In other words, the key factor for qualifying as a "people" under this framework is not cultural commonality but the presence of a group united by a political project, with members who see themselves as "proper members" based on their shared political identity.

As I mentioned in the introduction to this chapter, my aim is not only to clarify the specific justifications for territorial rights put forward by each theory, but also to assess the ability of these theories to generate coherent, concrete, and desirable implications at both the ideal and applied level.

So far, the theory appears coherent and solid. If there were no overlapping or conflicting territorial claims, and if there were only groups with clear political identities and significant, indispensable relationships with the territories they occupy, Moore's theory could convincingly justify granting territorial rights and the right to collective self-determination to those groups that meet the criteria laid out in the theory. However, the theory faces two main challenges. The first is defining group rights and handling the complexities of group identities and responsibilities. These concepts often prove difficult to define, especially for theories that do not centre on individual rights, as they must handle collective claims, the boundaries of group membership, and the allocation of responsibilities within the group and between the group and other collectives. The second challenge concerns the broader difficulties faced by any theory grounded in collective self-determination. Specifically, conflicts can arise when a group's right to self-determination clashes with other individual or collective rights, raising ethical dilemmas. These issues become particularly pressing when the theory is applied to real-world situations. In what follows, I will address these two types of challenges separately: first, the challenge of defining and demarcating groups and group identities; and second, the potentially undesirable implications of the theory.

The first set of problems, broadly speaking, stems from the difficulty of addressing group identities and group rights, rather than focusing on individuals and individual rights, as seen in Simmons's Lockean theory. Moore argues, in contrast to both nationalism and functionalism, that a group can be distinguished from another and that its members can recognize themselves as belonging to the group due to a particular political identity. This identity, according to Moore, is not subjective but somewhat "objective" (Moore 2015, 55; Young 1990a, 46), relatively stable over time, and serves an "individuation function" (Moore 2015, 55). That is, it allows both members and non-members to identify a specific group and its members. Against nationalism, Moore contends that these identities are not contingent on cultural characteristics, and against functionalism, she asserts that these identities are independent of any institutional or state-based structure. In fact, Moore argues that group identities must predate the state, as they serve as the basis for a proper attribution of territorial rights to states. However, from both a strictly theoretical point of view and a practical point of view, it seems difficult to speak of pre-state objective group identities, and several specific reasons contribute to this observation.

It is challenging to define the boundaries of a group, especially if we exclude cultural characteristics as criteria for distinguishing members from non-members (Barry 2001, 74). If a group is defined purely by its political identity, it seems that, from a theoretical standpoint, there must be a higher authority (or body) that decides who qualifies as a member and who does not. However, this authority or body itself is subject to the same challenges regarding its legitimacy and criteria for decision-making.

From a more practical point of view, another challenge is that most individuals have multiple overlapping identities. Moore attempts to address this by asserting that the group identities she refers to are "morally significant" and rooted in "morally significant relationships" (Moore 2015, 53). However, such distinctions are difficult to make in practice. As Kukathas (2003, 79, 83) suggests, group identities in reality are often shaped by the strength and influence of various institutional layers to which individuals belong, such as family, nation, and social class. These multiple affiliations complicate the process of identifying which aspects of a person's identity are "special" or politically significant, and there is a possibility that even when these political affiliations are very strong, they may tie an individual to a transnational social group rather than a national group. As a result, the boundaries that traditionally define national groups – such as citizenship or territory – might be less relevant in the face of stronger ties to larger transnational groups.

It should also be emphasized that, because multiple identities often coexist within a given territory – some of which (identities) may even conflict with one another – the protection of group rights, such as the right to self-determination, does not necessarily address the needs of individuals or protect individual rights, nor does it safeguard the identities of minority groups. Kukathas (2003, 247) and Taylor (2009, 43) caution that treating groups as homogeneous entities risks ignoring the diversity within communities and imposing a false unity. Similarly, Phillips (2009, 14) argues that group-based rights often solidify rigid understandings of culture and identity, failing to recognize the dynamic and contested nature of cultural belonging.

Despite these observations, Moore's theory can certainly still remain valid, at least for certain types of groups. Indeed, she points to cases such as certain Indigenous groups and the Kurdish people (Moore 2015, 55), suggesting that these groups have distinct political claims related to demands for territorial rights, self-determination, and collective autonomy. Without delving into the specifics of these cases, at least for now, it should still be noted that Moore's theory seemed to be designed to address a broader objective – namely, to provide a general justification for states' territorial rights. This broader ambition is evident in her inclusion of "urban people living in liberal democratic societies" (Moore 2015, 42) within the analysis. She argues that even these groups' territorial rights are justified in the same manner as others, relying on the significant relationships between these groups and the territories they occupy.

This creates a tension within the theory. For urban groups, it is difficult to apply the stringent requirements Moore outlines, such as the presence of a robust group identity, a shared political project that predates the state's institutional phase, and a distinctive bond with a particular territory. As a result, the theory struggles to explain why the same implications for territorial justice and sovereignty should apply both to groups that seemingly fulfil the theory's premises (e.g., indigenous groups or the Kurds) and to groups that do not (e.g., urban populations in liberal democracies).

There is, however, a second set of problems that must be addressed, which I distinguish from the first group of issues discussed earlier. This second set includes four potentially undesirable implications of Moore's theory.

The first concern relates to resource rights. It is often assumed by theorists of territorial rights (with the partial exception of Nine (2022) and Stilz (2019), but including Moore (2012)) that a state's territorial rights comprises control over the territory, its natural resources, and its borders. Given that the value placed on territorial rights in Moore's theory is rooted in the principle of collective self-determination, it seems that most peoples would be justified in exploiting natural resources as part of their self-determination. However, this raises two interconnected issues: one environmental and one related to distributive justice. From an environmental perspective, the theory seems insufficient to prevent overconsumption or environmental degradation by states. In terms of distributive justice, the theory does not seem to propose a fairer method of resource distribution.[28] Moore suggests that resource-rich states should redistribute their wealth to some extent, but even if such a principle were applied, it is well known that some of the world's most resource-rich states are among the poorest. This raises the question of whether Moore's theory can adequately address the inequalities in resource distribution.

The second issue concerns exclusion and border control. As mentioned earlier, border control is one of the three key components of territorial rights. Since the theory places significant value on collective self-determination, it logically follows that groups have a strong

[28] Lockean theories, both individualist and collectivist, protect themselves from this type of implication through the use of the Lockean proviso, which, however, does not seem compatible with Moore's theory.

interest in excluding outsiders from joining their group. While this is not necessarily undesirable, it also implies that groups may wish to exclude individual members whose claims conflict with the group's political identity and priorities.[29] This leads to the third concern : Moore's theory seems to overlook or neglect the rights and claims of individuals who do not share the political aspirations of the group. Moore refers to this as "the problem of the individual dissenter" (Moore 2015, 61) – representing those individuals whose residency rights are within an area claimed by a group, but who do not identify with the group's political identity. Moore contends that political authority does not need unanimous consent. However, this response seems inadequate when it comes to addressing the individual's claims and rights, as well as minority claims.

Finally, the fourth point stems from the fact that in most real-world situations, more than one group often has legitimate claims to a particular territory, and Moore's theory appears ill-equipped to address this. While different group identities emerge at different points in history, many groups can demonstrate a history of cooperation sufficient to justify territorial claims. Moore's theory clearly supports the idea that when multiple groups occupy separate territories, each group with the capacity to establish political institutions has the right to form an autonomous state. However, conflicts often arise when more than one group claims the same territory. Moreover, there may be situations where a small group of individuals, despite lacking the capacity to establish political institutions, still has strong claims to participate in the decision-making processes that affect their lives and the land they inhabit.

These challenges are not unique to Moore's framework. Cara Nine's collectivist theory, though distinct in structure, similarly relies on pre-institutional group attachments and shared claims to land, and as such, it inherits the same ambiguities surrounding group boundaries, minority dissent, and overlapping claims. More broadly, these difficulties affect all theories grounded in collective self-determination: while normatively compelling, they often struggle to define who qualifies as a legitimate claimant, how territorial boundaries should be drawn, and how to fairly adjudicate between overlapping or conflicting claims – especially in contexts where multiple identities coexist and contest the same space.

[29] Naturally, this type of objection also applies to nationalist theories, which will be addressed shortly.

2.2.2 Alternative Approaches to Voluntarism

Considering the challenges highlighted in analysing Moore's theory – specifically the difficulty of establishing clear criteria for demarcating peoples and their corresponding territories – it is worth briefly exploring two additional proposals. These proposals also originate from a voluntarist framework for justifying state authority but propose alternative approaches to addressing the problem of defining the boundaries of the demos.

The first of these proposals is developed by Paulina Ochoa Espejo, who, like several of the theorists considered in this chapter, begins with the foundational and seemingly paradoxical question: "who are the people who should govern themselves?" (Ochoa Espejo 2014, 466). This question is inherently circular. On the one hand, we appear to need clearly defined borders in order to identify a people. On the other, a clearly defined people seems necessary to establish legitimate borders. This conundrum points to the absence of any definitive, morally neutral criterion for determining where the people begin and end, and it reveals the conceptual possibility that *demoi* could remain, in principle, unbounded (Ochoa Espejo 2014, 476).

Despite this conceptual ambiguity, Ochoa Espejo insists that borders matter, because they define the territorial scope of political jurisdiction. Borders determine who is entitled to participate in political decision-making, who enjoys the rights and protections of citizenship, and who is excluded from these privileges (Ochoa Espejo 2018, 74). For this reason, she seeks to move beyond static or essentialist understandings of either "the people" or "territory" and instead reimagines their relationship in fundamentally relational terms.

According to Ochoa Espejo, neither a pre-existing people constitutes a territory, nor does a pre-existing territory define a people. Rather, she proposes a co-original conception of peoples and territories: each emerges through the other. People are constituted through patterns of interaction that are both physically and temporally situated, while territory gains its political significance through these same interactions (Ochoa Espejo 2018, 75). This view emphasizes the dynamic, evolving nature of political communities, as well as the moral importance of the relationships that are forged in particular places over time.

Central to this account is the idea of active participation. Ochoa Espejo argues that those who participate in the social, economic, and political life of a place play a role in shaping its identity and, consequently, its legitimate political boundaries. These interactions give rise to shared practices and obligations that are not abstract or universal, but deeply rooted in the particularities of place. In this sense, the *demos* is not a static population defined by ancestry or culture, but an evolving political community shaped through ongoing, place-specific engagement. Such interactions, she contends, provide a more concrete and morally grounded basis for delineating democratic institutions and deciding who ought to be included in the polity.

Nonetheless, the proposal gives rise to several objections and challenges that require careful consideration. First, the assumption that place-specific interactions give rise to binding duties and obligations invites contestation. Individuals and groups may disagree on what those duties entail, how they ought to be prioritized, or even whether such obligations exist at all. This leads to practical concerns about how to mediate conflicting interpretations and what standards to apply in resolving them. Second, although the theory seeks to avoid essentialist and exclusionary definitions of identity, its focus on localized interaction risks unintentionally echoing nationalist logics. If prevailing cultural norms heavily influence local practices, the framework may replicate the very cultural homogeneity it aims to avoid, making it vulnerable to criticisms of veiled ethnonationalism. Finally, the theory must also confront the challenge posed by dissenters – individuals who, for principled or pragmatic reasons, choose not to participate in the practices that supposedly constitute the demos. How such individuals are to be included, excluded, or otherwise accommodated remains an open question, particularly in pluralistic or conflict-prone societies.

In sum, Ochoa Espejo's theory offers a compelling and original approach to the problem of territorial demarcation, one that grounds political community in the lived realities of social interaction and shared experience. However, the practical implementation of this account, particularly in contexts marked by deep disagreement, mobility, or cultural diversity, raises important normative questions. Further refinement is needed to ensure that the theory can accommodate dissent, avoid exclusion, and offer clear guidance in complex, real-world scenarios.

The second alternative to Moore's voluntarist account that is worth considering is the "plebiscitary theory"[30] of state legitimacy, as developed by Andrew Altman and Christopher Wellman. This approach grounds the state's right to self-determination in the principle of individual freedom of association. Wellman, in particular, maintains that just as individuals have the moral liberty to form, join, or leave voluntary associations, so too should groups of individuals be entitled to determine their political affiliations. This analogy underpins a robust

[30] The term "plebiscitary theory" was introduced by Anna Stilz (2019, 136). She uses it to refer to the account of political legitimacy grounded in voluntary association and secession, set out by the authors under examination in this section, Christopher Wellman and Andrew Altman.

defence of both the right to secession and the right to control borders. On this view, territorial states function analogously to voluntary clubs: individuals may choose whether to associate with a given state, and the collective has the moral authority to determine the terms of membership and the exclusion of outsiders (Wellman 2008, 110; Altman and Wellman 2009, 45). The moral appeal of this theory lies in its clear normative foundation: that true political legitimacy must rest on voluntary consent, both individually and collectively.

This framework contributes, on one hand, to clarifying a persistent issue in theories of self-determination: the lack of a precise criterion for identifying who "the people" are. By focusing on voluntary association, the plebiscitary theory bypasses the unclear and disputed issues involved in justifying the demos based on history or culture, proposing instead that political communities should be constituted by those who choose to associate with one another. In this respect, it provides a more procedural and arguably egalitarian foundation for self-determination than theories that rely on more substantive or identity-based criteria.

However, despite its theoretical robustness, the plebiscitary theory faces a number of important objections. The first stems from the analogy between states and voluntary associations. While individuals may indeed freely enter or exit clubs, religious communities, or other voluntary organizations, the same cannot be said of states. States exercise compulsory jurisdiction over all individuals within a defined territory, irrespective of whether those individuals have chosen to associate with the state. In practice, individuals rarely – if ever – have the option to completely disassociate from the state under whose authority they reside. The coercive and pervasive nature of state power complicates the notion that membership is voluntary in any meaningful sense.[31] This raises questions about whether the ideal of free association, which works well in the private or civil domain, can be transposed into the realm of public, territorially grounded political authority.

Second, while the theory provides a relatively clear standard for demarcating the demos – namely, through voluntary consent – it fails to provide an equally coherent method for demarcating territory. The plebiscitary model focuses on the moral rights of individuals and groups to associate or secede, but says little about how to establish or justify territorial boundaries, particularly in cases involving shared spaces, public lands, or contested regions. In this respect, the theory appears to privilege the right to self-determination without adequately dealing with the complex material and historical realities of territorial claims. Questions arise

[31] Naturally, to support a plebiscitary theory, one might consider altering the reference framework – either by substituting the modern state with an alternative model or by reconceptualizing the modern state itself. However, as I argued in Chapter 1, these alternatives remain ultimately undesirable.

about how a seceding group might claim territory that others also inhabit, use, or contest, and what normative criteria could adjudicate such claims.

Third, the plebiscitary theory runs into a structural dilemma when applied to real-world scenarios. If the right to associate or secede is taken as fundamental and unrestricted, this may lead to the phenomenon of "hyper-balkanization" (Angell and Huseby 2020), a proliferation of increasingly fragmented and disjointed political units, producing highly disaggregated and potentially unstable territories, . As noted in Chapter 1, such a scenario would render effective governance nearly impossible, as states would be constantly reconfiguring and redrawing their borders to reflect shifting group preferences. On the other hand, if the theory is constrained to prevent constant secession and fragmentation, it begins to lose its grounding in the ideal of voluntary association. The theory must therefore strike a delicate balance between respecting individual and collective autonomy and maintaining viable, contiguous, and governable political entities. In either case, it faces the challenge of articulating a realistic and normatively defensible account of how political communities can coexist within shared or overlapping territories.

Moreover, the theory raises practical questions regarding the inclusivity and feasibility of constant democratic negotiation. If secession and re-association are treated as ongoing options, political life becomes contingent on the ability and willingness of groups to continually renegotiate their boundaries and obligations. This model presupposes a level of deliberative capacity, institutional responsiveness, and mutual tolerance that may be difficult to sustain, particularly in conflict-prone or deeply divided societies.

In sum, the plebiscitary theory contributes valuable insights to contemporary debates about secession, association, and the moral basis of state legitimacy. It offers a compelling account of the normative importance of voluntary consent in political association. However, it also leaves several foundational issues unresolved – most notably, the question of how to demarcate territory in a way that is both fair and practicable, the difficulty of genuinely voluntary state membership, and the potential instability that widespread secessionist rights could produce. As such, while the theory is philosophically attractive, its practical implementation remains deeply problematic, especially in the context of territorially grounded political institutions.

2.3 Nationalist Theories of Territorial Rights

Nationalism can be seen as an adaptation of a voluntarist theory, with the relevant groups characterized not only by a shared political commitment and identity but also by a culture. Sharing the same culture implies that group members share certain social attributes such as language, history, customs, lifestyle, and, crucially, a particular territory (Meisels 2003). Consequently, many of the foundational principles of voluntarist theories may also apply to nationalist theories. While this overlap is partially true, my focus in this section will be on the distinct features and implications specific to nationalist theories.

Nationalism, however, is not merely a theory of territorial rights. It can be defined as an ideology (Gellner 1983, 123) – a system of doctrines, beliefs, and movements that emphasizes the importance of the concept of the nation and, more specifically, the idea that nations should be defended and celebrated.

Given the centrality of the concept of the nation within nationalist theory, it is useful to establish a working definition. A nation, simply put, is a group of people who share a set of characteristics and values that allow any individual within the group to identify others who share these traits as part of their fundamental personal identity. One of the most essential components of "national identity" is culture: members of a nation share significant cultural traits, such as language, customs, lifestyle, values, tastes, and sensibilities (Miller 1993; Meisels 2003). Another key component is territory. The specific features of a territory influence the culture of the group living there, while, conversely, the group's culture shapes and transforms the territory, adapting it to meet the needs of its inhabitants. Territories that might have been naturally or geographically similar can thus become uniquely shaped by the cultures of the peoples who inhabit them.

Because of the importance of the relationship between nations and their territories, nationalism provides an independent justification for states' territorial rights. Nationalism can therefore be included among the families of territorial rights theories that is worth analysing in this chapter for a comprehensive understanding of the available alternatives.

Unlike other families of theories discussed in this chapter – which included a diverse range of constructions warranting clear distinctions – the nationalist theories I will consider share a broadly unified set of intuitions, arguments, and claims. As a result, I will present a single nationalist theory, synthesizing contributions from multiple authors for the forthcoming analysis.

2.3.1 A Liberal-Nationalist Theory of Territorial Rights

The first point to clarify is that all the nationalist theories considered here fall within the tradition of liberal nationalism[32]. Historically – and occasionally even today – nationalism has included violent expressions, sometimes aimed at defending the notion of "race" rather than "culture". Liberal nationalism, by contrast, aligns with liberal values and premises, emphasizing individual rights and well-being while also endorsing group rights specific to the theory (Meisels 2003, 33).

To defend a nationalist justification for states' territorial rights, three distinct aspects must be addressed. First, the concept of nation and nationality requires a more precise definition. Second, as Moore highlighted in her account, it is necessary to outline how and when a nation possesses a right to collective self-determination. Third, the justification of nation-states' territorial rights must be developed.

David Miller is one of the most prominent scholars advocating for a nationalist theory of territorial rights. Miller's principle of nationality consists of three key propositions: personal identity, nations as ethical communities, and collective self-determination (Miller 1993, 5). First, nationality is presented as a fundamental aspect of personal identity, exerting a pervasive influence on people's behaviour. Even when individuals struggle to articulate the defining traits of their national identity, they typically recognize these traits when encountering others who differ from them.

Second, nations function as ethical communities. According to Miller, the obligations owed to fellow nationals differ from those owed to humanity at large. Nationality, he argues, is also the primary source of social solidarity (Miller 1993, 5, 9).

Finally, people who form a national community within a specific territory hold a claim to political self-determination. This right enables the community to establish an institutional framework for making collective decisions on matters that primarily affect their own members (Miller 1993, 5).

Since the right to self-determination primarily sustains the right to self-government, it is crucial to determine the conditions under which self-government should be granted. David Miller, along with Avishai Margalit and Joseph Raz in separate works, proposed a similar set

[32] In this context, I focus exclusively on liberal nationalist theories, setting aside more radical forms of nationalism. The latter tend to advance overly rigid and exclusionary conceptions of collective identity, which are difficult to reconcile with the democratic and pluralistic principles underlying this work. Accordingly, any subsequent references to nationalism should be understood as referring specifically to liberal nationalism.

of criteria for when a group qualifies for self-determination (Miller 1993; Margalit and Raz 1990).

One condition, as previously mentioned, is that the group must share a common culture and defining characteristics that shape significant aspects of life. These traits may include national cuisines, language, literary and artistic traditions, architectural styles, music, customs, dress, and holidays (Margalit and Raz 1990, 443–44). While none of these traits is strictly necessary on its own, at least some are typically present in any national identity. Both Miller and Margalit and Raz agree that such traits can be adopted by non-members. In this context, Miller asserts that immigration does not pose a challenge, provided immigrants embrace the essential elements of the national character (Miller 1993, 7).

Another condition is mutual recognition. Ernest Renan famously described a nation as "a daily plebiscite" (Renan 2018, 261–62), meaning that nationality exists as long as its members collectively believe in it and recognize each other as belonging to the group.

The first and second features might appear contradictory: on one hand, the concept of culture is presented as "concrete", consisting of an open list of traits; on the other, the existence of a national identity seems to hinge on the subjective feelings of belonging or not belonging among its members. Liav Orgad resolves this apparent tension by arguing that the concept of national culture encompasses two complementary meanings: an anthropological one, where culture exists in the lived, everyday experiences of the nation's members, and a normative one, where culture represents a concrete and bounded set of beliefs (Orgad 2015, 9).

The third feature is that national identities require historical continuity. In most cases, the origins of national identities are rooted in myths and tied to significant events, such as wars marked by famous victories or defeats. Furthermore, the history of a nation should be active, characterized by collective actions, decisions, and achievements.

Margalit and Raz propose a fourth feature, not explicitly considered by Miller but implicitly included by Moore: the "group dimension" (Margalit and Raz 1990). This feature requires that nations not be small familial groups. This ensures that the shared identity of the group members transcends personal relationships and is rooted in a collective, distinctive character. Additionally, as Moore suggests, the group must possess the capacity to establish and sustain political institutions.[33]

[33] Although Miller does not explicitly address the issue of group dimensions, he likely agrees with it, as he has explicitly rejected the idea that nationalism poses a risk of an infinite regression into progressively smaller national groups. He probably doesn't frame it strictly in terms of size, but rather believes that size influences a national group's ability to evolve into a fully-fledged state institution. Beyond a certain level, therefore, there could be no regression into smaller national communities (Miller 1993).

The fifth and final feature – closely tied to the forthcoming discussion on the nationalist justification of territorial rights – is that national identity connects a group of people to a specific territory. As Miller states, "a nation must have a homeland" (Miller 1993, 7) and the history of a nation must include actions that demonstrate control and administration of that territory.

With these elements in place, we can now introduce the proper nationalist justification of territorial rights. According to Miller, a successful justification requires three key components: (1) an explanation of what makes a particular group the kind of group that is entitled to territorial rights; (2) an explanation of the connection between a particular group and a specific territory; and (3) an explanation of why this connection justifies full rights to control and organize the territory, rather than merely a right to occupy it (Miller 2012, 258).

The first explanation was provided earlier, when I discussed the importance nationalism places on the concept of the nation, its transhistorical character, and the significance of national identities for community members.

The second challenge for the theory is addressing the "particularity problem" (or "boundary problem" (Simmons 2016)), which concerns justifying the specific connection that grants territorial rights to one national group over a particular territory.

As previously mentioned, Miller believes that this connection is justified through the material and symbolic transformation that a territory undergoes over time when occupied by a specific group. The national group and the territory mutually influence each other, but it is primarily the land that becomes valuable to the occupying group. This is because the land reflects the group's needs and cultural values, while also acquiring symbolic importance through the meanings members attach to certain places and features within the territory. From this relationship, we can also derive the third explanation: for a national group to maintain its connection with a territory, mere occupancy rights are insufficient; the group requires a more robust right to control the land (Miller 2012, 258–59).

At this point, one might object that while this explanation offers a valid justification for territorial rights based on the particular connection between a group and land, it fails to address how the group originally earned or deserved these occupancy rights.

Tamar Meisels offers two possible responses to this objection. The first draws on the Lockean concept of "mixing one's labour" with the land, according to which individuals acquire rights over unowned resources by incorporating their effort and agency into them. Meisels suggests that this notion can be extended to a nationalist theory of territory: just as Locke argued that individuals come to own objects by mixing their labour with them, a nation may be said to acquire a special relationship to a territory through its collective occupation and transformation

(Meisels 2003, 35). However, Locke's theory can also been interpreted in a different light – one that emphasizes not the physical mixing of labour, but rather the act of labouring to *enhance* and *create value*. Under this second interpretation, territorial claims may be justified not because a people has infused the land with its labour, but because its productive and cultural activities have increased the land's moral and material worth. On this reading, national attachment becomes a function of the community's ongoing contribution to the territory's improvement, rather than a metaphysical extension of self-ownership (Angell 2019).

The second interpretation is more specifically nationalist. It emphasizes that national groups do not merely settle or occupy a territory; they actively shape it according to their national culture (Meisels 2003, 36). The people who inhabit a given area over time alter its physical landscape in ways that make it a key component of their national identity, thereby increasing its perceived value through the cultural and symbolic significance they attribute to it. In this context, Yael Tamir contends that it should be legitimate for national groups to demand their territorial rights not necessarily in areas with a long history of occupation, but in places of particular symbolic significance (Tamir 1996).[34] This view, similar to Meisels', suggests that territorial rights need not be deeply rooted in historical occupation, but rather in the role that a territory plays in the history and identity of a nation (Meisels 2003, 36).

2.3.2 Some Objections to Nationalism

Having outlined a nationalist justification of territorial rights by integrating the contributions of various, though broadly aligned, authors, this section systematically examines objections to the theory. The purpose of this analysis – as was done in the preceding sections – is to evaluate whether the theory is, at first glance, solid and desirable at the level of its implications.

The main objections can be divided into two categories: those that challenge the fundamental concepts of "nation," "culture," or "national identity," and those that critique the justification of territorial rights. The analysis begins with the first category.

A classic critique of the concept of national identity concerns its fluidity over time, which makes isolating the defining features of identities like "Italian," "French," or "Canadian" highly challenging (Kukathas 2003). For instance, a twenty-year-old Italian today might share more cultural traits with a twenty-year-old Canadian than with an older Italian or an Italian from

[34] Tamir's explicit reference in this case is to the situation of Israel (Tamir 1996, 73). It is not certain that Miller would fully agree with this claim: in Chapter 4 of *Strangers in Our Midst* (Miller 2016b), he seems to argue instead that a group cannot occupy a territory that is already occupied or expel the current inhabitants.

several generations ago. Traits such as values, tastes, and sensibilities – highlighted by Miller as essential to national cultures – often evolve in ways that seem to align contemporary generations across nations more closely than members of the same national community over time.

Second, the origins of national identity are often rooted in myths or events whose historical authenticity is unverifiable, yet these narratives frequently underpin real claims to territorial rights, particularly in cases of contested territories. While it is true that nationalist movements have historically served as a powerful force for liberation during the colonial era, such mythic narratives may be insufficient grounds for territorial claims when disputes over territories arise. Serbia's territorial claims over the territory currently occupied by Kosovo provide a vivid example of this case: on June 28, 1389, the Ottomans, led by Sultan Murad I in their conquest of the Balkans, defeated the Serbian army at the Battle of Kosovo Polje, near present-day Pristina. This historic defeat transformed into legend, becoming a symbol of the hopes for the resurrection of a people who considered Kosovo "the most Serbian of Serbian lands", a symbol of independence to be rebuilt, and ultimately a symbol of Serbia itself, which celebrates its national holiday on June 28. This event, steeped in legend and difficult to reconstruct historically, continues to underpin (at least from Serbia's perspective) the Serbian claim to consider Kosovo as part of Serbia (Morozzo Della Rocca 1999, 22).

Third, the value placed on national identity may at times conflict with the justification of territorial rights. While territorial rights create both symbolic and material value, national identities often tend toward fragmentation, giving rise to smaller, more localized nations. For example, if the Catalan independence movement met all the criteria for territorial rights under a nationalist framework, one might argue that the increasingly narrow definition of national identity could reduce opportunities for broader territorial cooperation, leading to a loss of material value.

Fourth, and perhaps most significantly, it is unclear why the borders of nations should necessarily align with state borders. If this alignment is essential, nationalist theories should better explain why. Typically, these explanations hinge on protecting and preserving national cultures. Orgad, for instance, argues that not only minority rights but also majority rights need greater protection, particularly against the cultural "contamination" often attributed to immigration (Orgad 2015). However, this reasoning implies that protecting cultural identity is a top priority – perhaps even the main reason for the existence of state borders. Nationalist theories of territorial rights often stop short of addressing whether the right to self-determination could be safeguarded within state structures that balance this priority with other obligations and goals.

Turning to the second set of challenges, which focus more specifically on the nationalist justification of territorial rights, four key points arise.

First, the two explanations provided by Meisels for how groups "earn" or "deserve" occupancy rights over a territory merit closer scrutiny. The first draws on Locke's notion of "mixing one's labour" with the land, according to which legitimate possession arises from the act of incorporating one's effort and agency into an unowned resource. The second, by contrast, shifts the emphasis from physical appropriation to the idea of "labouring to enhance and create value" – that is, of transforming a territory through sustained cultural, economic, or symbolic activity. Both interpretations, however, rest on the assumption that nations, through their collective practices, enhance the value of the territories they inhabit. Yet this assumption is empirically contestable and normatively problematic, as many national communities have historically engaged in over-exploitation or over-occupation of land and resources, often without satisfying any limiting condition such as Locke's proviso that one must leave "enough and as good" for others.

Second, a key concern raised earlier in relation to Moore's theory – and similarly relevant to Miller's perspective – concerns the exploitation and unequal distribution of natural resources. In *National Responsibility and Global Justice*, Miller contrasts two ideal states: the virtuous *Ecologia*, where citizens and institutions are morally upright and efficient, and the less virtuous *Affluenza*, marked by consumerism and ecological harm (Miller 2007, 185). He argues that the ability of a state to provide well-being primarily depends on the virtue and efficiency of its citizens and institutions. However, as discussed in section 2.2.1, this argument oversimplifies the situation by overlooking crucial factors such as ecological constraints and global inequalities and injustices in resource distribution. While virtue and institutional efficiency are important, they are not the sole determinants of a state's well-being. This observation leads to a counterintuitive conclusion for nationalist theories: by insisting on the issue of state responsibility in how they interpret self-determination, nationalist theories like Miller's ultimately lead to emphasizing not only virtuous states, but also non-virtuous ones that have negatively interfered with the self-determination of other states. What is counterintuitive for nationalism is that, because many states have accumulated negative responsibilities, there is a need to strengthen distributive and redistributive justice, as well as hospitality. This, evidently, requires renouncing some of nationalism's core priorities.

Third, as with voluntarism, nationalism faces significant challenges when addressing cases of contested territories. The issue becomes particularly complex in situations where territorial claims are disputed by different groups, each asserting their right to a particular area based on history, culture, or other factors. Nationalism, in emphasizing the sovereignty of nation-states, struggles to offer a clear and fair resolution in these instances, as competing national identities often lay claim to the same land, each with their own sense of entitlement.

Lastly, this difficulty is further compounded by the notion that the symbolic value attached to a place can justify territorial rights. Nationalist theories sometimes argue that the creation of symbolic meaning – through cultural, historical, or emotional attachments to a territory – can provide a legitimate basis for claims over that territory. However, this raises significant questions about the extent to which symbolic transformations can be used to justify territorial ownership, especially when multiple groups have similarly strong and often conflicting symbolic attachments to the same land. In such cases, the symbolic value assigned to a territory may not provide a clear resolution to the dispute, leading to potential injustices or the escalation of conflicts.

2.4 Functionalist or Statist Theories of Territorial Rights

The final family of theories I will examine in this chapter is the functionalist (or statist) approach to territorial rights.

While classical Lockean theories ground states' territorial rights in individual property rights, voluntarist theories in the collective self-determination of groups sharing a political project, and nationalist theories in the self-determination of groups sharing a national identity, functionalist theories take a different approach: they ground territorial rights in the state itself.

These theories build upon a Kantian principle, which holds that a state's claim to jurisdiction over a given territory is justified if the state meets certain fundamental conditions of legitimacy (Stilz 2009). By exploring the conditions under which a state's authority is legitimate, functionalist theories are also compelled to consider the inverse – when a state's authority is illegitimate. In my view, this is one of the key strengths of functionalist theories: they do not merely defend state sovereignty but also establish its limits.

Allen Buchanan is perhaps the earliest proper functionalist in contemporary literature. He argues that a state is morally justified in exercising political power over a territory and population if two conditions are met: (1) a state's territorial claim is valid only if it upholds and protects the fundamental human rights of those living within its borders. A government that systematically violates human rights loses its legitimate claim to territorial authority; (2) a state must have a legitimate political structure, meaning that it should be accountable to its citizens, provide fair governance, and uphold democratic principles. Territorial rights are not simply about control over land but about the ability to govern justly, through processes, policies, and actions that themselves respect human rights (Buchanan 2007, 247).

However, this version of functionalism proposed by Buchanan – which we might define as "pure" functionalism – has a fundamental limitation, namely: it struggles to explain why a particular state should have jurisdiction over a corresponding particular territory with clearly defined boundaries. In other words, a purely functionalist account fails to adequately address what I have previously referred to as the "particularity" or "boundary problem".

The most recent version of functionalism is found in *Territorial Sovereignty* by Anna Stilz (2019), where she builds upon the same foundational premises as Buchanan's theory while giving greater consideration to the boundary problem. Although Stilz's latest version of the theory still maintains that states possess primitive, non-derived territorial rights, it also attempts to explain how these states are not generic but particular, with legitimate claims to specific territories.

In Section 2.4.1, the core principles of Stilz's theory will be analysed, as it represents the most recent and thus more comprehensive development of this theoretical framework, incorporating earlier approaches such as Buchanan's. In Section 2.4.2, another version of functionalism, which also takes the boundary problem into account, will be briefly examined – this time as proposed by Lea Ypi.

2.4.1 Stilz's "Political Autonomy Theory"

The reconstruction of Stilz's theory will be divided into two parts. First, I will present Stilz's core functionalist theory of territorial rights, which focuses on the conditions under which a state's territorial claims can be considered legitimate. Second, I will examine her account of occupancy rights that precede state territorial rights, addressing her response to the "boundary problem".

Stilz's justification of states' territorial rights is rooted in the Kantian tradition[35] and is based on four key conditions. A state's claim to territory is rightful if and only if:

(a) The state implements a system of law that defines and enforces rights, including property rights.

(b) The state's subjects have a legitimate claim to occupy that territory (Stilz 2011).

(c) The state governs in the name of the people, protecting basic rights and granting them a voice in defining those rights (Stilz 2011).

(d) The state is not a usurper (Stilz 2009).

Regarding condition (a), it is important to note the distinction between the Lockean and Kantian conceptions of property rights. While both traditions recognize the necessity of administering property rights, the Kantian approach, as adopted by Stilz, assigns only first-order property rights to individuals, while jurisdiction and enforcement rights remain with the state (Stilz 2009, 199). The state's role is to coordinate individual property rights with others' rights and to ensure that these rights are interpersonally binding.[36]

Condition (b) will be more deeply explored in the next section, but its role is to clarify that a state cannot be established in a territory that was not previously and legitimately occupied by its own citizens.

Condition (c) is central to the functionalist argument: a state's legitimacy depends on its ability to protect basic rights and to ensure that its authority does not impose external coercion but rather reflects the judgments of its subjects (Stilz 2019, 107).

To specify what constitutes a minimally just state, Stilz identifies a set of rights that a legitimate state must protect for its own citizens and respect for outsiders: security rights (protection from torture, slavery, and arbitrary imprisonment); subsistence rights (access to basic material conditions for survival); autonomy rights (freedom of conscience and thought, the right to form a family, and the right to personal property); conditions for collective self-determination (freedom of expression and association, as well as the right to public political dissent) (Stilz 2019, 113).[37]

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[35] As Stilz herself clarifies, her theory is Kantian only in the sense that it is broadly based on Kantian principles (Stilz 2009, footnote 8). In particular, the Kantian principles she refers to include the idea that citizens have a duty to enter a state and obey its laws, and that being subject to a state's political authority is the only way to possess property rights.

[36] It is assumed here that, in the state of nature, conflicts over the possession of private property are inevitable. Consequently, one of the primary functions of the state is to regulate and administer private property. However, this does not preclude the state from adopting a system of collective ownership, provided that it respects condition (c) for its own legitimacy.

[37] Since, as mentioned, Stilz's account should allow for distinguishing situations where a given authority is legitimate or not, this list of rights that a minimally just state should protect might suggest that such a theory excludes all non-democracies from the list of legitimate states. However, this is not the case, as Stilz maintains

Since collective self-determination is mentioned here, it is important to clarify the type of self-determination to which Stilz is referring. Unlike nationalist or voluntarist theories, which focus on the collective self-determination of communities that exist independently of the state and prior to its formation, Stilz argues that the shared will of a group – and potentially, though not necessarily, its sense of community – is endogenous to state institutions. In her view, political identities do not predate the state but instead emerge within and through its institutions (Stilz 2019). Stilz refers to her view on peoplehood as "endogenous" (Stilz 2019, 124) recognizing that it is within institutions that collectives are formed and develop the corporate agency to act as peoples.[38] Stilz also acknowledges that a common political identity does not necessarily arise within every state, nor is it guaranteed to be universally shared or representative of all its members. When groups within a state develop a shared will that is incompatible with the general will of the state, they have a legitimate claim to secede or to seek institutional reconfiguration. However, according to Stilz, there is no right not to enter a state. Submitting to state authority is a duty, as refusing any form of governance would imply an individual's complete exemption from respecting others' freedom, thereby creating conditions for conflict (Stilz 2009).

Finally, condition (d) – which states that legitimate states must not be usurpers – acts as a crucial safeguard against a major weakness in the theory. Without this condition (and it must also be ensured that this proviso is effective), a more efficient state that meets the first three criteria could unjustifiably claim the right to annex a less efficient state. This could lead to an acceptance of imperialistic or coercive actions, justified solely on the grounds of superior governance. The fourth provision, therefore, serves to uphold the widely recognized principle that legitimate annexation must involve the consent of the group being annexed (Stilz 2011, 590). This aspect will be further explored in the discussion of objections to functionalism.

The second part of the reconstruction of Stilz's theory focuses more specifically on explaining how a state's territorial rights attach to a particular group of people and a specific territory.

The first issue that requires clarification is the question of what grants a particular group of people a special claim to live in a specific area. Nationalist and Lockean theories offer relatively

that her account is not limited to democracies. As long as a state upholds the rights she outlines, fosters the formation of deliberative public opinion, and provides mechanisms for citizens to withdraw their support from the government, even non-democratic states can be considered legitimate under her framework (Stilz 2019, 130).

[38] However, Stilz clarifies that her perspective is not entirely institutionalist, as she does not assert that a people is created solely through representation by a state (Stilz 2019, 124–25).

clear answers to this question, whereas voluntarist and functionalist theories do not provide straightforward solutions.

In her 2019 version of the theory, Stilz argues that the foundation of states' territorial rights rests on a set of moral occupancy rights held by the inhabitants of a given territory. These rights are held by individuals, not collectives, and should not be confused with property rights. Occupancy rights do not entail the right to exploit resources, exclude outsiders, or bequeath land. Rather, they focus on an individual's right to reside in and make use of a specific area in line with their personal goals and practices (Stilz 2019, 35). In section 2.1.1., it has been showed that an objection to both Simmons's and Locke's theory is that in their accounts property rights in land precede the creation of the state, but the state is necessary to regulate and make sense of property rights. To prevent this type of objection, Stilz replaces pre-state property rights with what she calls pre-state "occupancy rights in land" (Stilz 2019, 35). These rights are "preinstitutional" (39), meaning they exist independently of state structures but are grounded in natural rights. Specifically, they amount to a claim to live in a particular area and use the space for practices that the occupants value, such as pursuing personal or communal goals that require a stable place to live.[39]

The justification for occupancy rights lies in the idea that stable territorial occupancy is essential for individual well-being and personal autonomy. Specifically, occupancy rights are grounded in the concept of "located life plans" (Stilz 2019, 41). This idea presupposes that individuals hold occupancy rights over an area where they have situated their goals, relationships, and projects that are integral to their well-being. These life plans require a particular spatial context, and the right to occupy that space enables the person to pursue and realize these plans.[40] Stilz further introduces a fair-use proviso, akin to the Lockean proviso, which ensures that individuals' rights to occupy land do not harm others' ability to use the land or pursue their own life plans. This proviso ensures that the exercise of occupancy rights is not unlimited and must be done in a way that respects the rights and interests of others (Stilz 2019, 47).

A critical point of clarification is how the theory transitions from individual occupancy rights to collective state authority. A straightforward answer might be that once a state acquires jurisdiction over a territory and represents the rightful occupants in line with conditions (a), (b),

[39] Preinstitutional rights have no legal or binding force.

[40] Located life plans do not necessarily have to involve a social dimension. Stilz provides the example of Robinson Crusoe, who developed plans centred around the island where he had settled, but these plans did not include any social aspects (Stilz 2019, 43).

(c), and (d) previously outlined, it is exercising legitimate jurisdiction. In other words, once the state protects basic human rights and operates within just processes that reflect the will of its citizens, it can claim jurisdiction over the territory in question. However, Stilz argues that this answer is too simplistic, as it fails to account for self-determination – the interest people have in being the authors of their political institutions. While her theory is rooted in individual rights, particularly in the notion that individuals in the state of nature possess occupancy rights over areas where they have developed their life plans, this would not be fully capable of explaining how the transition from individual occupancy to collective territorial sovereignty occurs. The "boundary problem" refers exactly to the difficulty of determining what specific criteria should be used to delineate state borders. In response to this issue, Stilz, drawing on Kant, suggests that we must either abandon the idea that the founding of a state depends on a pre-existing group authoring its own institutions, or we must acknowledge that an "actual popular will" (or "omnilateral will" (Stilz 2019, 94)) can emerge even in the state of nature. Similar to the voluntarist perspective of Margaret Moore (2015) discussed in section 2.2.1, Stilz argues that individuals in the state of nature can voluntarily come together to form a political project, which is itself a form of collective self-determination. She therefore critiques purely functionalist theories for focusing exclusively on the state's functions while overlooking the importance of political autonomy – the interest that a political community has in seeing itself as the author of and being represented by its institutions. In Stilz's words:

The self-determination of a political collective is valuable because, and to the extent that, it serves its members' interests in political autonomy: their interest in being ruled by a state that reflects their judgments about how they should be governed (Stilz 2019, 152).

Thus, Stilz's account is not merely functionalist but also a "political autonomy account". By valuing the autonomous political will of the subjects, this theory seeks to explain not only which communities and territories are ultimately entitled to the territorial rights of the state, but also how these territorial rights must be grounded in the active, collective engagement of the people who live within them. The state's legitimacy stems from its ability to reflect and respect the political autonomy of its citizens – allowing them to determine the form and direction of their collective life.

This addition makes Stilz's theory a hybrid between voluntarism and functionalism rather than a purely functionalist one.

I will now examine some of the main objections to functionalism, particularly to Stilz's version of functionalism. As noted in previous sections, further space for objections to these theories will be reserved in Chapter 4, where they will be considered specifically in terms of their capacity to be action-guiding – according to a precise definition of action-guidance that will be developed in Chapter 3.

Two classic objections to functionalism – one of which has been partially addressed – are that it may justify forced annexations and even benign forms of colonialism (Stilz 2019, 90–91). These concerns stem from two core features of the theory. First, the very term *functionalism* suggests an emphasis on state efficiency: the more effectively a state protects rights and promotes the well-being of its citizens, the stronger its claim to legitimacy. Second, functionalist theories often treat states that fail to meet the four conditions of legitimacy as, at least in principle, illegitimate. A possible implication is that inefficient or illegitimate states could, under certain circumstances, be justifiably annexed or replaced by more effective states.

Stilz attempts to counter this implication through her fourth condition of legitimacy, which holds that states must not be usurpers. This condition aims to guard against the endorsement of conquest or coercive takeovers. However, it is not clear that this safeguard fully resolves the problem. It remains debatable whether it effectively rules out justifications for annexation or colonialism. One might argue that it does – particularly when combined with Stilz's emphasis on collective autonomy and the value of self-determination. Yet, a purely functionalist theory that lacks such normative supplements would require a cautious application.

Two additional challenges arise. First, the concept of "usurpation" itself can be vague. If all forms of coercion count as usurpation, nearly every existing state might be guilty of it, rendering the criterion overly rigid or impractical. Second, and relatedly, if usurpation has been widespread historically – as seems likely – the theory offers little guidance on how to address these past wrongs. It is unclear how, or whether, functionalism accommodates the need for redress in such cases.

Indeed, this leads to a broader concern: functionalist theories seem to address injustice only in present-tense terms. A state that currently fails to meet the legitimacy criteria is considered illegitimate, but the theory offers no clear framework for responding to historical injustices, such as past annexations, colonial occupations, or dispossessions. As a result, functionalism may struggle to account for claims involving restitution, reparations, or the reconfiguration of borders based on historical wrongs.

A third set of objections targets the concept of "located life plans", which plays a crucial role in Stilz's justification of occupancy rights. Three key concerns are the following. Firstly, social practices and life plans are often transferable across different locations. Many individuals successfully relocate their lives without significant disruption, which challenges the idea that territorial stability is necessary for personal autonomy. Secondly, the importance of territorial stability varies among individuals. While some people may have a strong interest in remaining in a specific place, others may not value territorial permanence in the same way. Thirdly, the account of located life plans does not clearly explain how occupancy rights are established in places where a person has not resided for a significant period. If rights are grounded in an individual's embeddedness in a location, it is unclear how newcomers or those who have spent limited time in an area acquire legitimate claims to occupancy.

While these objections are compelling, a possible response to the first two is that most people do, in fact, have a strong interest in remaining where they have built their lives, and that involuntary displacement constitutes a significant harm (Ottonelli 2020). However, some recent global trends – such as increased displacement due to climate change, economic migration, and geopolitical instability – suggest that the traditional notion of territorial attachment may be evolving. These developments lend further weight to the first objection, raising questions about whether a more flexible, provisional approach to territorial rights might be needed.

A fourth common critique to functionalism is that this approach is too detached from real-world political conditions. Its justification of territorial rights does not seem to align with the historical development of actual states, and its criteria for legitimacy suggest that many existing states ought to be classified as illegitimate. Yet the theory offers little practical guidance on how to address such cases – should illegitimate states be restructured, dissolved, or replaced? Without clear prescriptions, functionalism risks being normatively compelling but politically impractical. I will return to this issue in Chapter and 4 and 5.

Finally, one might question whether Stilz has successfully resolved the "boundary problem". While her theory provides a more structured explanation of how political communities come into existence – focusing on the role of "cooperators" willing to establish and maintain just institutions—it closely resembles a voluntarist account, particularly that of Margaret Moore. Stilz emphasizes the formation of a preinstitutional political community composed of individuals who share a commitment to justice. However, it remains unclear whether this framework is sufficient to explain the specific boundaries of political communities or determine which individuals should be included within them. In other words, while Stilz offers a compelling account of how political collectives form, she does not fully resolve the question of why a particular state should have authority over a given territory with specific borders.

2.4.2 Ypi's "Permissive Theory" of Territorial Rights

A different way to approach the boundary problem – which, as discussed, Stilz has not yet fully resolved – is offered by Lea Ypi through her proposal to conceptualize state sovereignty as "provisionally permitted" (Ypi 2014, 291). Ypi largely shares the normative foundations of functionalist theories – what she also refers to as "legitimacy-based" theories (Ypi 2014, 289). These theories justify political authority based on the state's capacity to secure basic rights, maintain justice, and ensure the well-being of its population. However, Ypi also identifies a critical shortcoming in most functionalist approaches: they lack a convincing account of why a particular state has legitimate jurisdiction over a specific portion of territory rather than another. That is, they do not adequately explain the basis for *exclusive* territorial rights – why certain land should fall under the control of a given state and not a different one.

For Ypi, this gap is not merely theoretical; it poses a real obstacle to the practical applicability of functionalism. A theory that claims to distinguish between legitimate and illegitimate political authority must also offer guidance on how to delimit political boundaries. Without clear criteria for territorial inclusion, functionalism risks collapsing into an abstract normative ideal with limited use in actual boundary disputes. In her view, if we are to determine which population belongs under the jurisdiction of which state, we must also be able to explain why a certain geographical space is properly subject to one political authority and not another. Otherwise, we risk confusing legitimate rule with de facto control, or worse, enabling arbitrary exercises of power framed in functionalist terms.

Ypi's solution is what she calls a "permissive theory of territorial rights", which seeks to shift the focus from establishing final or absolute justifications for borders to offering a more flexible, provisional account. First, she challenges the assumption – common to many political theories – that the justification of territorial rights should begin and end with the current subjects of a state. Instead, Ypi proposes the use of a "universal unit of justification" (Ypi 2014, 293). This means that the legitimacy of territorial rights must be justified not only to present members of a state but also to a broader constituency: future generations, outsiders who are affected by the state's territorial claims, and potentially even those displaced or excluded by past injustices. This broader justificatory base aims to extend the scope of political legitimacy beyond the narrow confines of present consent or existing governance.

Second, and most centrally, Ypi characterizes her theory as "permissive" because it treats state claims to territory as *provisional* rather than absolute. In her account, sovereignty over a given piece of land is not a fixed entitlement but a claim that must remain open to reevaluation over time. Although some features – such as geography[41] or history – may initially shape territorial arrangements, these features do not permanently fix or justify a state's boundaries. Instead, claims to sovereignty are valid only if they satisfy a dynamic set of conditions that can evolve as the political, social, and historical context changes. The implication is that there may never be a final or conclusive justification for why a particular state should control a given territory. Rather, legitimacy is always conditional and open to revision, depending on how well a state continues to meet the standards of justice and legitimacy over time.

This approach resonates with a broader argument I have made in Chapter 1 and will return to in Chapter 5: that states are not necessarily static or stable entities. They can evolve in both form and scope. Their territorial shape need not be contiguous, and their legitimacy may shift over time in response to internal or external pressures. Ypi's theory captures this fluidity by suggesting that territorial rights are not inherent or immutable but constructed and maintained under provisional conditions.

Despite these strengths, Ypi's permissive theory is not without limitations. First, its flexibility – though an asset in some respects – can be a double-edged sword. If territorial claims are always conditional and revisable, how can we meaningfully distinguish legitimate from illegitimate claims in practice? Flexibility may render the theory adaptable, but it may also risk making it too indeterminate. Without more concrete criteria for how and when territorial claims can be reassessed or redrawn, the theory may struggle to offer practical guidance in cases of boundary disputes or territorial conflicts. In short, flexibility might improve the theory's moral plausibility while weakening its political applicability.

Second, even in this revised functionalist framework, the issue of redressing past injustices remains underdeveloped. Ypi's focus is primarily on identifying and preventing current and future illegitimacies. While this forward-looking orientation aligns with the functionalist spirit, it leaves unresolved the question of how to deal with historical wrongs – particularly cases of colonial conquest, annexation, or forced displacement. These past injustices may have long-term effects that persist into the present. While Ypi's theory might indirectly account for them when such effects remain operative, it does not explicitly provide a mechanism for reparative justice, restitution, or the reconfiguration of borders based on historical claims.

[41] Geographical factors can form natural barriers, whose importance can vary depending on technological advancement and other factors. A mountain chain, a sea, or a river can serve as a significant natural barrier, but only conditionally and provisionally significant.

Finally, Ypi's theory does not fully escape the challenge posed by the possibility of so-called "benign annexation". Even though she, like Kant and Stilz, explicitly denies the legitimacy of annexation under the guise of greater efficiency or justice, this denial ultimately rests on principles – such as self-determination and territorial integrity – that precede or override the functionalist criteria themselves. In other words, her rejection of annexation is not derived from the functionalist framework but imported from a prior commitment to the moral primacy of collective autonomy. This reliance introduces a potential tension in the theory: if territorial rights are genuinely provisional and conditional, why should the principle of self-determination hold categorical weight in every instance? Alternatively, if self-determination is always overriding, does that not imply a return to a more status-quo-oriented theory of sovereignty that functionalism originally sought to challenge?

In summary, Ypi's permissive theory offers an innovative and morally compelling reorientation of functionalist approaches to territorial rights. By reframing sovereignty as provisional and adopting a broader justificatory framework, the theory addresses some of the conceptual weaknesses in standard functionalism. Yet it also inherits new difficulties, especially concerning practical application, historical redress, and the prioritization of self-determination. These unresolved tensions suggest that while Ypi's theory advances the debate, it remains open to further refinement.

Conclusion

The main purpose of this chapter was to illustrate that if we reconstruct the main existing theories of territorial rights with a focus on their merits and on part of the possible objections to them, it appears, ultimately, that none of the theories considered can be fully endorsed or selected vis-à-vis the others.

Lockean theories, examined in section 2.1, have the significant advantage – at least in Simmons's individualist version – of addressing the boundary problem and taking seriously the issue of the supersession of past injustices. However – as will be examined in the next two chapters – since the historical formation of states did not follow a trajectory compatible with Simmons's theory, its practical applicability remains uncertain.

Voluntarist theories, discussed in section 2.2 and based on collective self-determination, offer strong appeal for legitimizing territorial claims of groups that have suffered past injustices and have a deep connection to a specific type of territory, such as Indigenous groups. However, for groups where territorial attachment is not a defining factor, the theory struggles to clearly delineate distinct groups and address contemporary challenges of distributive justice.

Nationalism, explored in section 2.3, also builds on self-determination but emphasizes cultural and identity-based factors tied to a particular territory. However, its reliance on the mythologization of a group's history can lead to undesirable applications, where competing territorial claims are not resolved but rather reinforced.

Finally, section 2.4 examined functionalism, which provides a nuanced framework for assessing the legitimacy of sovereignty but risks legitimizing highly efficient states that may not necessarily be representative of their populations. Moreover, as discussed, functionalism remains largely unable to offer a satisfactory solution to the boundary problem.

To complete the analysis carried out in this chapter, it seems worth enquiring possible reasons why all the theories considered seem to be similarly convincing and similarly objectionable.

Each of the theories considered in the chapter is based on a specific principle of territorial justice (property rights, right to self-determination, human rights and representation).

One reason why different principles can apparently hold at the same time seems to be that each principle is implicitly located in space-time and – depending on the specific space or time in which we project ourselves – different principles seem to hold. If we change our "point of view" (namely, if we change the specific circumstances for the evaluation), one of the effects that we would probably experience is a modification of our intuitions and a consequent endorsement of a different theory of territorial rights. Adapting our intuitions to specific circumstances, on the one hand, might seem justified, but, on the other hand, the theories are supposed to be "universal"[42] and they endorse principles that are not (always) compatible with each other. Some theories, for example, rest on a historical course of justice (ideally dating back to the state of nature) while others not necessarily; some theories (probably all of them) are particularly compatible with specific circumstances or specific group identities.

It is possible to clarify the problem by providing one concrete example. When we think about the process of decolonization, especially after the permanent decline of the colonial empires in the second post-war period, we often have nationalist or voluntarist intuitions, connected with the idea that what, ultimately, justifies territorial rights is the respect of the principles of self-determination and nationhood. For instance, many former colonies gained independence on the

[42] The four families of theories presented in the chapter defend principles that are supposed to be valid across space and time and that – most of the authors claim –, are supposed to be practically helpful in the present.

claim that their peoples had the right to govern themselves and determine their political status. This perspective emphasizes the importance of national identity, cultural integrity, and the collective will of the people within a specific territory, in accordance with nationalist or voluntarist intuitions.

At the same time, when we consider the claim of the people of Catalonia to secede from Spain and form an autonomous state, the importance of national identity, cultural integrity, and the collective will of the people within a specific territory no longer seems to have the same impact, since many tend to believe that Catalonia does not have a full right to secede.

When, on the other hand, when we focus on the topic of immigration and the refugee crisis in Europe, our intuitions about territorial rights shift once again. In this context, we tend to move away from the principles of self-determination and nationhood as the sole foundations for territorial rights. Instead, we consider the states' capacity to perform a set of functions connected with the realm of human rights. These intuitions are closer to a functionalist approach, and emphasizes the responsibilities of states to protect and promote human rights, provide security, and ensure the well-being of all individuals within their borders, regardless of their nationality.

What seems important to highlight here is that the two cases just presented do not represent the different intuitions of two different persons, but the different intuitions that a single person would typically have when stimulated by different cases or examples.

This shift in intuitions is not due to confusion or inconsistency within the individual but rather reflects an underlying conflict between different political intuitions. These divergent intuitions highlight, at the very least, the need to conceive a possible explanation revealing the reasons why these different intuitions arise in a single subject. My thesis, additionally, aims to try to orient our intuitions as much as possible in a unified and coherent direction, and this is because, in most real cases, the various intuitions – each linked to a different justification of territorial rights – are at least partially valid at the same time. As a result, they prevent us from identifying a solution that is as universally convincing as possible, at least in principle.

In chapter 2 I have tried to show that all the principles upon which the theories are founded are potentially appealing and compatible with our "situated intuitions"[43]. One of the primary objectives of the chapter was to determine if any of the theories faced particularly troublesome objections. The objections examined in the chapter fell into two categories: critiques regarding

[43] "Situated intuitions" are intuitions that arise given a particular context and circumscribed to that context.

the internal coherence of the theories and concerns regarding potential undesirable outcomes of the theories.

However, in the chapter I tried to show how the objections, although relevant, are not sufficient for making an effective selection of the plausible theories – and to dismiss those implausible. It appears, instead, that all the theories are affected by some strong objections, and given that none of the them is completely immune to objections, we find ourselves in front of a challenging practical problem: the coexistence of multiple (incompatible) principles. If all the principles advocated by the four theories outlined in the chapter hold relatively equal weight, the implication is that in addressing territorial conflicts, we lack an action-guiding driving force.

The "practical problem", in other words, is the problem of having several principles that can be valid at the same time, but mutually incompatible and prescribing contradictory actions or measures.

This is the reason why, in order to overcome the practical problem, we need to introduce an external[44] element with which to compare the four theories and that serves as an extra criterion to evaluate the theories.

I propose that the additional criterion we require is the principle of "action-guidance", which should be designed specifically to enable us to differentiate between theories that can effectively guide our actions in the real world and those that cannot, or do so inadequately. The main purpose of the next chapter is precisely to develop a definition of action-guidance that meets the requirement of serving as a demarcation criterion for the theories presented in this chapter.

[44] "External" in the sense that it does not need to be an internal or constitutive element of a theory of territorial justice, but can instead function as a supplementary or independent evaluative criterion.

CHAPTER 3

UTOPIAN, IDEAL, NON-IDEAL THEORIES AND THE REQUISITE OF ACTION-GUIDANCE

Introduction

This chapter serves as a methodological guide, aiming to refine and clarify key terms that were introduced earlier but not yet examined in depth. The primary focus is the concept of action-guidance.

It would generally seem sensible to clarify the terminology and methodology used in the thesis right from the beginning. However, in order to justify the placement of this methodological discussion at this central point in the thesis, it is useful to summarize the key findings from Chapters 1 and 2.

In Chapter 1, the central focus was on determining which model of sovereignty should be considered the most desirable. As later explored in Chapter 2, many theories of territorial rights conceptualize sovereignty as state-based. However – given the limits and flaws of the state-based sovereignty model in which we live[45] – , in assessing the most desirable model of sovereignty, it seemed necessary to also take other models into consideration – specifically, models that envision sovereignty as entirely non-territorial, as well as models that maintain a territorial dimension but are not state-based.

The search for the most desirable model of sovereignty naturally required a deeper examination of the meaning of “desirable”. To ask whether a theory is desirable fundamentally means to analyse its implications and assess whether these implications are desirable – or more desirable than the status quo – both individually and in relation to the other implications of the same theory. The term “implications” itself also requires further clarification. On the one hand, one might assume that an implication is something concrete, inherently tied to applicability. However, as discussed in Chapter 1, applicability was initially considered as secondary to desirability when evaluating theories. In other words, when the normative desirability of competing theories is equal, applicability can emerge as a pertinent second-order criterion for their evaluation.

[45] The drawing of boundaries – central to state-based sovereignty – inevitably divides populations, restricts movement, and often institutionalizes unequal access to land and rights. In this sense, as pointed out in Chapter 1, territoriality is not a neutral feature of governance but a potentially violent and exclusionary one, making it crucial to explore models that mitigate or rethink its role.

Additionally, it emerged that in order to compare two or more theories in terms of desirability, they must be situated at the same – or at least a similar – level of idealization. This is because if, for example, a highly ideal theory were compared to a much less ideal one, the desirability of the latter could stem primarily from its applicability – one of the main strengths of non-ideal theories – rather than from its overall desirability. For this reason, in Chapter 1, theories of non-territorial and territorial rights with a comparable level of idealization were assessed against one another, leading to three main conclusions: (1) theories based on a model of non-territorial sovereignty are not more desirable than territorial ones; in fact, they lead to less desirable implications; (2) a sovereignty model that is territory-based appears to necessarily entail some notion of the state – what I have referred to as a "core" definition of state. While this concept of the state does not have to align perfectly with the one embedded in the status quo, it nonetheless seems to serve as a foundational element for any theory of territorial rights; (3) even cosmopolitan versions of territorial rights theories lead to implications that are less desirable than those of the current system, in which state sovereignty remains the strongest source of authority.

The comparison of these theories in terms of desirability was made possible by their similar (or at least comparable) level of idealization. All the theories examined in Chapter 1 can, broadly speaking, be classified as ideal theories: they abstract from certain aspects of reality, do not always take feasibility into account, and pursue a conception of justice that is ultimate rather than transitional or non-ideal.

A similar approach was adopted in Chapter 2. Since Chapter 1 effectively ruled out theories that do not conceive of sovereignty as both territorial and state-based, Chapter 2 proceeded by examining the most widely recognized state-based theories of territorial rights, maintaining the objective of assessing the desirability of their implications. Since, in this case as well, the theories could be compared due to their belonging to a similar level of idealization (once again, what we might broadly define as an ideal level), if the outcome of Chapter 2 had been that one theory clearly stood out as more desirable than the others at the ideal level, then the second part of the thesis would have focused on how this ideal theory could best be translated (or converted) into principles capable of functioning effectively at lower levels of idealization, closer to our own reality. However, as demonstrated in the conclusion of Chapter 2, the survey of various state-based theories of territorial rights led to a different outcome, what was referred to as the "practical problem". No single theory emerged as clearly superior to the others in terms of being internally solid and coherent, avoiding undesirable implications, or at least achieving these strengths in a comprehensive manner. In other words, each of the theories presented in Chapter

2 appears well-suited to addressing certain specific challenges, yet they ultimately lead to counterintuitive implications or have highly limited applicability.

The reason why a pluralistic principle of territorial justice cannot simply be accepted at this point has already been partially clarified. If it were true that each theory of territorial rights addresses a distinct set of problems and resolves them without conflicting with the others, then pluralism would undoubtedly be the best solution. To clarify further: if, in response to the oppression of peoples or national or indigenous groups, we could simply adopt nationalist or voluntarist approaches and argue that any group who identifies as such has a right to self-determination, if, in response to past territorial violations, we could simply adopt a Lockean perspective and assert that there is always a right to compensation, and if, in response to environmental or immigration-related issues, we could simply be functionalists and argue that states have duties that must be respected in order to maintain their legitimacy, then we could undoubtedly embrace pluralism and explore ways to make the various theories as effective as possible. What realistically happens, however, is that each of these problematic situations involves a list of priorities where the various theories are in conflict with one another. Fully respecting the self-determination of a people can lead to problematic implications in terms of international law (resource sharing, environment and minorities' representation), while, conversely, focusing too much on the legitimacy and efficiency of states may undermine the self-determination of peoples, potentially resulting in forms of benign colonialism. Emphasizing the rectification of past injustices can lead to present injustices, while an excessive focus on present injustices seems to lead to the counterintuitive conclusion that past injustices may somehow be forgiven.

This explains what I understand by the expression "practical problem": it seems genuinely difficult, or perhaps ineffective, to simply adopt a pluralistic stance or insist on the absolute superiority of one of the four families of theories presented in the previous chapter. My claim is that the most sensible approach remains, broadly speaking, to maintain a pluralistic stance regarding the validity of all the justice principles considered. However, it is crucial to identify a criterion – at this point external to the mere desirability of the theories – that allows us to determine at least one justice principle as prioritizable over the others. This principle should generate the fewest possible contradictions and, therefore, make one theory preferable to the others. As I mentioned in chapter 1, the second criterion for evaluation, following desirability, is applicability.

This is precisely why a methodological section is necessary, and why it is placed at this point in the thesis. All the theories presented in Chapters 1 and 2 – with particular interest for those presented in Chapter 2 – fall within the realm of ideal theories. As previously discussed, the aim now is to prioritize those theories that are more applicable, in the sense of being effectively implementable while generating the fewest possible "bad consequences". However, ideal theories often face challenges related to their feasibility – that is, they struggle to be applied in a strict sense. Indeed, it is often assumed that ideal theories are infeasible, whereas non-ideal theories are more likely to be feasible, and this clearly also depends on what we mean by "feasible".

This chapter, therefore, serves a dual purpose. First, it aims to clarify why, despite the emphasis on applicability, it remains important to analyse ideal theories and to determine precisely what is meant by "ideal theories" in this context. From this point forward, and as anticipated in the Introduction, the thesis departs from the conventional Rawlsian conception of ideal theory – a framework that has, until now, served a heuristic function but can no longer capture the sense in which ideal reasoning will be employed in the following chapters. Second, it seeks to establish a clear definition of what it means for a theory to be "applicable". In this chapter, applicability will be referred to as "action-guidance", a concept that must strike a careful balance. The definition of an action-guiding theory should not be so stringent that it becomes synonymous with strict feasibility, as this could prematurely exclude all four major families of territorial rights theories. At the same time, it should not be so broad that it includes all four families indiscriminately, as that would undermine the purpose of making a meaningful selection among them.

It may appear that this approach is circular or influenced by a status quo bias. Given that I am seeking a theory that can be effectively applied to address real-world territorial issues, I must select a theory that requires applicability as a criterion. This seems to reflect a status quo bias, as it suggests that we should settle for the theory that is most applicable in order for it to be practically employed. Similarly, the reasoning may seem circular when it is argued that, in order to take a normative stance on real-world territorial issues, we must examine theories that are most compatible with this particular goal.

In response to these concerns, which are entirely legitimate, two types of responses merit consideration. The first is that, precisely because the concern regarding the status quo bias is well-founded, I have consciously chosen not to fully endorse the concept of feasibility, which, in its extreme form, may demand an unreasonably high level of applicability from theories, potentially compromising even their most ideal aspects. The concept of action-guidance – which, for now, may be taken to mean a softer or less stringent standard of feasibility, and will be more precisely defined later in the chapter – has been developed with the intention of striking a balance between a level of ideality that avoids descending into the utopian and a level of feasibility that does not surrender to the status quo. The second important consideration is that, upon closer inspection, there is in fact no issue of circularity, because it is not truly possible to distinguish mechanically between applicable and inapplicable theories. On the contrary, in principle, all theories are applicable, and in fact, all the authors cited in Chapter 2, belonging to the different theoretical frameworks, aspire to offer a theory that meets the requirement of being practically applicable. This is clearly demonstrated by the passages cited below, in which the leading proponents of Lockean, voluntarist, nationalist, and functionalist theories explicitly state their objective of constructing their theories in a way that ensures their applicability.

At page 127 of his book "Boundaries of Authority", Simmons says that an "obstacle to the acceptance of Lockean voluntarism is that the theory […] does not match up well with the real-world claims made by actual modern states" (Simmons 2016). However, at page 128, we read that "a variety of responses seems appropriate" (Simmons 2016, 128). He argues: "all of the theories we've examined are ideal theories, […] many real states' territorial claims will not qualify as legitimate" (Simmons 2016) under a Lockean theory, but "Lockean voluntarism identifies the wrongs that need righting in a clear and compelling way" (Simmons 2016, 129).

At page 112 of her book, "Territorial Sovereignty", Stilz argues that "however desirable the ideal of political autonomy [implicated by her functionalist theory*, ndr*], it is unachievable" (Stilz 2019, 112). However, she contends that the view that she endorses "suggests that we should adopt the feasible, minimally just institutional configuration that will ensure the greatest fit between people's convictions on the one hand, […] and the institutions that rule over them, on the other"(Stilz 2019, 118).

At page 267 of his book, "National Responsibility and Global Justice", Miller argues that "if we assume that global justice must mean justice for a world of nations, something like the conception [of justice] advanced [in the book] seems the only realistic possibility" (Miller 2007, 267). He wonders: "can we realistically envisage a world that comes even close to realizing it? It is certainly more feasible than some of the stronger cosmopolitan alternatives that have been suggested, for instance principles of global equality of resources or of opportunity" (Miller 2007, 267).

Lastly, at page 30 of her book, "A Political Theory of Territory", Moore states: "if moral rights are to be action-guiding, as I think they must, they must be feasible […]. Here I think it's important normative theory isn't too captive to feasibility in the crude sense of whether people are likely to agree. What we must be able to do is to map out a path from our current state A to a desired state of affairs Z, transitional through Q" (Moore 2015, 30).

These quotations highlight two fundamental aspects that further clarify the purpose of this chapter and its specific placement. First, all the theories examined in Chapter 2 ultimately aim to have practical validity. Given that their intended purpose is to provide normative guidance applicable to real-world territorial issues, it is both reasonable and appropriate to evaluate them through the lens of practical validity. This approach ensures a fair and systematic assessment of all candidate theories, aligning the evaluation criteria with their own stated aspirations.

Second, the reason for directly quoting these authors is to illustrate how they engage with key concepts – such as ideal and non-ideal theory, feasibility, and action-guidance – but often with different interpretations or without explicitly defining their terms. This variation in usage creates the risk of ambiguity, which must be addressed before assessing the practical applicability of these theories. Therefore, before proceeding with an evaluation of their potential to provide meaningful guidance, it is necessary to establish a clear and consistent framework for understanding and using these concepts.

The next step is therefore to clarify what it means for a theory to be described as "ideal". This clarification is essential, as most theories of territorial rights are typically formulated within the framework of ideal theory. The aim of the next section is to clarify how I intend to use the concept of ideal theory (and, by extension, that of non-ideal theory). I will argue that ideality is not a binary attribute but rather a property that theories can possess to varying degrees. In this context, I defend the view that what we typically refer to as "ideal theory" corresponds to a moderate or intermediate degree of ideality – an intermediate position between the limits of non-ideality and utopia.

3.1 Defining Ideal Theory and the Spectrum of Ideality

Simmons argues that all the theories he examines in his book "Boundaries of Authority" – essentially the four families of theories I analysed in Chapter 2 – qualify as ideal theories (Simmons 2016, 129). This claim is undoubtedly accurate, particularly if we rely on a broad definition of "ideal theory". Several factors support the classification of these theories as ideal: they abstract from reality, conceptualizing a hypothetical state of nature that does not correspond to any actual stage in the formation of a state; they frequently depict individuals or groups as having consented to state authority, whereas, in practice, most people live under states they never explicitly endorsed.

However, as Zofia Stemplowska (2008) highlights, defining what precisely constitutes an "ideal" aspect within ideal theory is not straightforward. Building on this, Laura Valentini, in her influential 2012 paper, further demonstrates the complexity of the concept by showing that it can encompass multiple, distinct interpretations. She identifies three independent dimensions of ideal theory, arguing that a theory may be considered ideal if it aligns with one of these interpretations. By illustrating the multiple meanings embedded within the concept of ideal theory, Valentini underscores the necessity of specifying what is meant when employing this term.

According to Valentini, the first way a theory can be classified as ideal is through its assumption of full compliance. A theory is ideal in this sense when it presumes that all relevant agents behave in accordance with its principles of justice and that conditions are favourable for the realization of those principles (Valentini 2012b, 655).

The second way in which a theory can be ideal is by prescribing principles independently of real-world constraints, thereby exhibiting a utopian character. As Valentini rightly emphasizes, ideal theories are at least partially concerned with identifying principles of justice in abstraction from certain (or all) factual limitations that might hinder their implementation (Valentini 2012, 657).

Finally, a theory is considered ideal when it aims to identify principles of justice that hold across time, rather than principles that are only temporarily valid. This distinguishes ideal theories from non-ideal ones, which more commonly focus on justice principles tailored to specific historical or situational contexts (Valentini 2012b, 661).

When applied to the discourse on territorial rights, this framework for understanding ideal theory appears to be fully applicable. The role of ideal theory in this domain should be to envision a just world in which agents adhere to its principles. For instance, an ideal theory might conceptualize a world without strong borders, a world in which all historical injustices related to territory have been rectified, or a world where territorial decisions are made through democratic procedures.

However, if this framework were fully comprehensive, it would imply that theories must be classified either as ideal or as action-guiding.[46] In other words, Valentini's three definitions

[46] At this stage of the chapter, I have not yet provided a precise definition of the term action-guiding. However, if we provisionally understand it – as I have suggested – as a less strict form of feasibility, the intended meaning should nonetheless be clear. That is, if we think of ideal theories and non-ideal (feasible) theories as occupying opposite ends of a spectrum, then it follows that theories situated at the extreme end of ideality essentially exclude feasibility from their framework.

suggest that a theory cannot simultaneously be both ideal and practically applicable.[47] More precisely, they seem to preclude the possibility that an ideal theory could also serve as our primary choice when seeking to take action or propose concrete steps toward its realization.

Furthermore, if this conclusion holds, it would follow that theories capable of being applied in practice must necessarily be non-ideal. In Valentini's reconstruction, non-ideal theories are grounded in existing power structures, aim at transitional solutions, and adopt a more cautious stance regarding the likelihood of agents fully complying with their principles.

As previously explained in the introduction, I do not, however, intend to relinquish the applicability of theories. This gives rise to the issue already anticipated: the theories available as options are, broadly speaking, ideal theories. If we follow the distinction between ideal and non-ideal theory as presented thus far, we appear to be confronted with two choices: (1) to abandon the quest for a theory of territorial rights that can meaningfully guide real-world actions and judgments, or (2) to adjust existing theories to better meet the requirement of action-guidance, selecting the most suitable theories for such modification and refining them by eliminating excessive idealization while remaining within the realm of ideal theory. The second approach is the one I will attempt to pursue.

A third possibility could clearly be to forgo the construction of an ideal theory and instead operate within the non-ideal realm, as framing problems at the ideal level might appear superfluous in pursuit of the objective of feasibility or applicability of a theory. Some non-ideal scholars, such as Charles Mills (2005), argue that non-ideal theory has virtues and advantages that ideal theory often fails to capture. Mills contends that, in addition to idealizing social structures, institutions, and agents' capacities, ideal theory overlooks – and thus fails to effectively address – the systemic oppression and historical injustices embedded in many societies (Mills 2005, 168–69). According to Mills, ideal theory is insufficient for fully capturing the lived realities of marginalized groups, as it fails to address the structural inequalities and historical contexts that shape their experiences. Even authors within the feminist tradition, such as Sandra Harding and Iris Marion Young, have emphasized how traditional philosophy often overlooks the perspectives of those who are oppressed or disadvantaged. Young argues that the difficulty of ideal theory lies in the impossibility of

[47] The term "applicable" is too vague because a theory can be considered "applicable" in multiple ways and to varying degrees. For instance, a theory might be deemed applicable in a minimal or partial sense – meaning that some of its principles or insights can be loosely or selectively applied – while still remaining compatible with ideal theory. On the other hand, if "applicable" is understood as requiring full or comprehensive implementation, then my argument becomes even more compelling, as the distinction between ideal and non-ideal theory would be sharper.

adopting an unsituated moral point of view and that, even if one attempts to do so, the resulting theory cannot possess universal validity. According to Young, the reason it is impossible to adopt a universal point of view is that every moral perspective must be situated within a specific social and historical context. In this regard, echoing Bernard Williams (1985, 68) she argues that morality and practical deliberation cannot be treated like science, as they must always be contextually grounded and are inevitably shaped by first-person experiences (Young 1990b, 104). Similarly, Harding also argues that traditional theories conceive of subjects as abstract entities, when in reality, this approach ignores the perspectives of those who are oppressed or disadvantaged, particularly women. She contends that the continued adoption of an abstract standpoint is not a neutral choice but rather a means of reinforcing oppressive social structures by rendering them unquestioned and taken for granted (Harding 1986, 238).

While it is undoubtedly true that we live in the non-ideal conditions which Mills's, Young's or Harding's analyses suitably highlight, I still want to maintain that ideal and non-ideal theory serve distinct yet complementary purposes. The fact that systemic injustices, historical inequalities, and structural injustices shape our political and social landscape sustains the arguments in favour of non-ideal approaches. I do not intend to argue against the relevance or necessity of non-ideal theoretical frameworks, especially in contexts where urgent real-world problems require immediate and pragmatic responses. In situations marked by oppression, exclusion, or inequality, it is often essential to adopt approaches that respond directly to current institutional and social realities, rather than relying exclusively on ideal and universalizable principles.

When a particular principle of justice is well-established at the theoretical level, non-ideal theory can serve as a valuable tool for pursuing a more modest – yet still meaningful – goal of justice. However, it must be carefully considered, as prioritizing a non-ideal objective may effectively address an immediate issue while potentially delaying progress toward the overarching ideal. Consider, for instance, the implementation of gender quotas to ensure women's representation in specific roles – an example that could reasonably be seen as falling within the scope of non-ideal theory. While the ultimate ideal is the attainment of full gender equality, the immediate, less-than-ideal goal is to promote gender parity through temporary measures. Yet, advocating for gender quotas, while beneficial in addressing short-term gender disparities, could also inadvertently slow progress toward the broader goal of genuine gender equality. Even if a non-ideal approach proves effective in mitigating an urgent issue, one cannot assume that pursuing it will be free of trade-offs or unintended consequences for the long-term ideal.

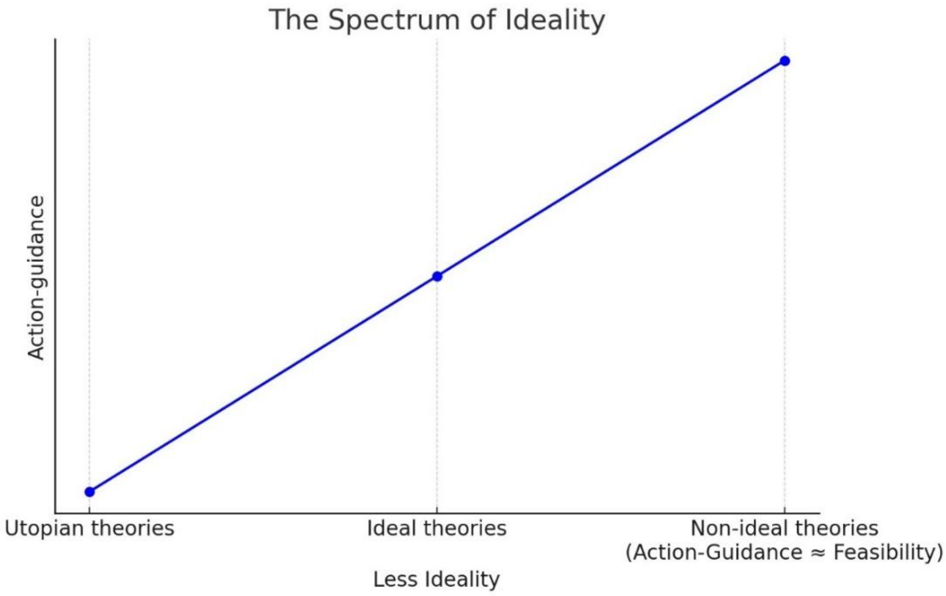
Non-ideal approaches are valuable precisely because they recognize the complexities and obstacles involved in realizing ideal justice. They address practical problems and pressing societal needs at a given moment t_0. However, implementing a non-ideal strategy at t_0 might, in turn, postpone the conditions necessary for transitioning to a theory that aligns more fully with the ideal objective.

Ultimately, the need to address urgent problems of our non-ideal world with non-ideal approaches does not seem to diminish the importance of establishing general principles of justice. Even in non-ideal circumstances, ideal principles play a crucial role in ensuring coherence and conceptual clarity within the broader philosophical discourse. Without an overarching framework, theories of justice risk becoming fragmented, offering contradictory prescriptions that lack a core foundation. A well-articulated ideal theory of territorial justice can provide a necessary basis against which non-ideal approaches can be assessed, helping to guide practical solutions while maintaining a coherent normative direction. It is therefore necessary to determine the appropriate level of idealization that best reconciles both desiderata: on the one hand, the need to identify a principle that is as universal as possible, and on the other, the requirement of applicability.

Returning to theories of territorial rights, the goal here is to show that the simple binary distinction between ideal and non-ideal theory is insufficient for evaluating their practical relevance. Although all the theories under consideration qualify as ideal theories, some align more closely with the criterion of applicability. In other words, certain ideal theories incorporate features that make them more directly pertinent to real-world territorial disputes, or at least possess conceptual frameworks that can be more readily adapted or extended for practical use. Rather than viewing all ideal theories as equally abstract or detached from practical concerns, I seek to emphasize important gradations in their potential to guide action and inform policy.

Given the complexity of the theories I seek to evaluate, as well as the conceptual categories I will employ in their assessment, I argue that a dimensional approach is necessary. Instead of relying on a rigid, binary classification that distinguishes between ideal and non-ideal theories, I propose analysing these theories along a spectrum, taking into account varying degrees of intensity in their applicability. This approach allows for a more precise evaluation of how different theories relate to practical concerns, avoiding the oversimplifications of strict categorical distinctions.

In my interpretation of the spectrum of ideality, at one extreme (of the x-axis, as shown in the diagram below), we can place utopian theories. At the opposite extreme (on the x-axis), we can position non-ideal theories. In the middle of the spectrum, we can position ideal theories. Thus, within this spectrum, ideal theories are no longer an extreme but rather a middle ground. As one moves along the spectrum towards non-ideal theories, there will be a progressive increase in the likelihood that the theories are action-guiding (as shown in y-axis in diagram below). The line in the diagram, therefore, starts at a very low level of action-guidance at the



point corresponding to the most utopian theories, gradually increasing as the theories become less ideal. Consequently, the level of action-guidance is highest in correspondence with the most non-ideal theories, which thus exhibit a greater degree of feasibility. All the concepts employed – ideal, non-ideal, utopian, and action-guiding – will be further explored and deepened, both through mutual comparisons and by providing definitions. It is important to emphasize that this is a spectrum, meaning that the boundaries between utopian, ideal, and non-ideal theories, as well as between action-guiding and non-action-guiding theories, are fluid and there is no predetermined framework for classifying theories. Moreover, there are multiple ways and criteria by which a theory may be classified as utopian, ideal, or otherwise.

Two further clarifications are necessary. First, one might object that redefining key concepts rather than relying on existing classifications adds unnecessary complexity to the already intricate debate on ideal and non-ideal theory. This concern is understandable, as my approach could potentially lead to ad hoc definitions tailored to my own framework. However, I argue that redefining these concepts from a unified perspective provides a more coherent and systematic approach to evaluating theories of territorial rights. Second, at this stage, I will not attempt to classify theories of territorial rights in detail according to these concepts (a task I will likely undertake in Chapter 4), and I will instead proceed with a purely conceptual analysis. Nonetheless, engaging with the broader debate on ideal and non-ideal theory now is valuable, as it lays the necessary groundwork for the ultimate goal of categorizing theories of territorial rights.

3.2 Utopian, Ideal, Non-Ideal Theories

The terms "utopian" and "ideal" are often used interchangeably in everyday language to describe something desirable but difficult to achieve. However, it is important to distinguish between them here, as I will use the term "utopian" exclusively to refer to theories that may be desirable but are ultimately unachievable.

One challenge in defining the term "utopian" precisely is that it is used in different ways in the literature, often as the opposite of different concepts (Estlund 2014; Valentini 2012). To address this, I propose a working definition of "utopian theory" that encompasses three distinct meanings,[48] each with its own counterpart. I will refer to these three meanings as U1, U2, and U3.

(U1) The first meaning of "utopian" suggests that a utopian theory is a theory that envisions a fully just world – assuming such a world can be conceived. A utopian theory of territorial rights, in this sense, would outline the best possible arrangement of territorial boundaries and territorial justice. Theories that are utopian in the U1 sense would imagine perfectly functioning states, with adequate resources, fully compliant citizens, and institutions operating in complete accordance with principles of justice. In this scenario, individuals would be assumed to be both morally good and aligned with the theory's ethical framework.

Some scholars (Phillips 1985, 553) argue that merely requiring full compliance is enough to classify a theory as utopian. However, this claim is not entirely straightforward. A theory might still be unworkable even under conditions of full compliance, just as some theories can function effectively despite only partial compliance. Consider, for example, a theory focused on rectifying historical injustices, such as the one proposed by Waldron (2012). Waldron argues

[48] The three meanings of "utopian" that I will introduce in this chapter are distinct but not necessarily non-overlapping. The purpose of conceptually unpacking "utopian" into three different meanings is to highlight and bring attention to various aspects of the concept, which some theories may exhibit without necessarily embodying all three aspects simultaneously.

that acknowledging and addressing past injustices is morally significant and that contemporary societies bear a responsibility to rectify historical wrongs. Even if all individuals involved were to fully comply with this theory, practical obstacles would remain. The process of tracing an uninterrupted historical chain of injustices and accurately assigning responsibilities is, in many cases, fundamentally utopian.

Conversely, some theories can operate effectively even with partial compliance, suggesting that feasibility does not always depend on full adherence. Take, for instance, a sufficientarian principle of distributive justice, which holds that every individual should attain a minimum standard of well-being. Such a principle could still function in practice even if not all individuals or institutions fully comply.

Biale and Fumagalli (2023, 7–8) offer a further refinement of the concept of utopianism. They argue that what makes a theory utopian is not simply the aspiration to a perfect world, but rather the expectation that such a world can be achieved immediately, without mediation or intermediate steps. According to their view, a theory becomes utopian when it demands full compliance with objectives that are currently unachievable, without accounting for the structural changes necessary to make such compliance possible.

In defence of utopian theories, Estlund (2014) distinguishes between two aspects of the full-compliance requirement. The first concerns whether individuals are capable of complying with a theory. If a theory demands actions beyond human ability, it is “too unrealistic” (116) and should be rejected. The second concerns whether individuals are likely to comply. In this case, Estlund argues, low probability alone is not a sufficient reason to dismiss a theory as utopian. A theory can still be valuable and normatively compelling even if widespread compliance is unlikely.

Re-examining the characteristics that I consider constitutive of the first definition of “utopian”, U1, it is useful to reiterate that theories can be defined as utopian in this first sense if they describe a fully just world. However, it is necessary to be more precise about what is meant by a fully just world. Describing a fully just world does not mean a world where individuals are unrealistically required to exceed their capacities, but rather one where all citizens are expected to do everything within their power, even if this level of commitment is statistically improbable. Consequently, institutions and socio-economic structures are designed based on a high level of compliance.

Carissa Honeywell (2007) argues that utopianism, understood in this way, is not futile but rather a useful and optimistic approach to the possibility of social transformation (241). Estlund (2014), however, cautions against the risks of this perspective, emphasizing that basing theories on unrealistic assumptions about human and institutional behaviour can lead to wasted resources and unintended consequences. Despite these concerns, Estlund, following G.A. Cohen (2008), maintains that making normative assertions whose validity does not rely on non-ideal circumstances remains a fundamental part of social progress and transformation.

If utopian theories are concerned with describing a fully just world, then, at the other extreme, there are theories that reject the possibility of prescribing what such a world would look like. Within the spectrum I have outlined, non-ideal theories are positioned opposite to utopian ones. According to the first interpretation of the concept of "utopian" (U1), the most non-ideal theories are those that do not rely on the notion of a perfectly just or morally idealized world. In this framework, the spectrum of ideality can be understood as placing, at one end, theories that describe a fully just world, and, at the other end, theories that are considered realistic, belonging to the realist tradition.[49] If non-ideal theories tend to focus on the world as it currently exists while assuming that it ought to be different and better (Hall 2017), this particular subset of non-ideal theories, realistic theories, go further by rejecting the idea that political philosophy should and can have a privileged say about politics. Realistic theories contend that the "circumstances of politics" involve fundamental disagreement about justice and injustice, and that "political moralism" wrongly reduces political problems to matters of morality. Instead, realists argue, politics is primarily concerned with maintaining order and security in contexts otherwise characterized by conflict (Burelli 2021; Hall 2017).

Realistic theories oppose utopianism in U1 because they reject idealization.[50] As O'Neill (1987) insightfully distinguishes, realism is not non-ideal simply because it lowers a theory's level of abstraction, but because it opposes the moralistic idealization of reality. Just as Estlund (2014) warned that overly idealized theories might be impractical or even harmful, realists such as Edward Hall (2017) and Carlo Burelli (2021) argue that orthodox ideal ethical theories are

[49] It is necessary to further clarify why in the spectrum of ideality I included only utopian, ideal, and non-ideal theories, while in the U1 framework, the place of non-ideal theories is occupied by realist theories. The key point is that, according to the U1 interpretation, utopian theories are those that conceive of a fully just world. As one moves down the scale of ideality toward increasingly less ideal theories, there comes a point where not only is the idea of a fully just world abandoned, but it is even asserted that such an attempt would be misleading. This is precisely what (some, according to my interpretation) realist theories do, and it would not be entirely accurate to refer to them simply as non-ideal theories. In this paragraph, the term "realistic theories" refers specifically to those belonging to the so-called realist tradition – although, as will be noted, several versions can be distinguished within it. In very general terms, this label applies to theories that depart from the idea that political action should be guided by a set of ideal moral principles.

[50] There are exceptions that must be mentioned for completeness. Raekstad (2018) has argued that utopianism and realism are compatible and identifies political anarchism as a clear example of a political project that meets both criteria, combining visionary ideals with practical strategies. Additionally, Guess (2008), Rossi (2019), Prinz and Rossi (2018) have argued that the most ambitious forms of realism are themselves utopian, suggesting that certain realist approaches, in their pursuit of deep structural change, exhibit characteristics traditionally associated with utopianism.

likely to fail because they overlook the fact that conflict – not cooperation – and disagreement – not pluralism – are the defining conditions of politics. Realistic theories compatible with this position aim to uncover the actual conditions that shape politics, rather than advocating for better yet unattainable alternatives.[51] Their primary objective is to design institutional frameworks that sustain order and facilitate collective decision-making under real-world conditions.[52]

If utopian and realistic theories occupy opposite ends of the spectrum of ideality, then ideal theory, as characterized in U1, represents a middle ground between them.

At this point, an initial definition of ideal theory emerges from the comparison between utopian and realistic theories. Unlike realistic theories, ideal theories do not reject the possibility or usefulness of formulating principles of justice grounded in ethics and morality. While they abstract from certain aspects of reality, they do so without idealizing individuals, structures, or available resources in the extreme ways criticized by Estlund.[53] Instead, they seek to identify principles that can be applied in a world that remains connected to present realities. Their goal is to drive change by prescribing solutions that are not too far removed from the here and now. A more complete definition of ideal theory will gradually take shape as U2 and U3 are also introduced.

(U2) A second possible interpretation of the concept of "utopian" relates to the issue of feasibility. On one end of the spectrum of ideality, we find theories that prescribe something

[51] According to Burelli (2021), conflict can be defined as one of the fundamental circumstances of politics.

[52] To further clarify my position regarding the realist theories I engage with, I align with them in their rejection of moralism, which I see as a crucial aspect of their approach. However, I diverge from them because, ultimately, they advocate for a form of realism that remains non-ideal, limiting its ability to account for certain normative dimensions that I consider important.

[53] One might reasonably think that the first definition of utopian theories provided is not directly relevant to the classification of the theories of territorial rights discussed in Chapter 2, since all of them, as ideal theories in the Rawlsian sense, could be seen as aiming to describe a fully just world – that is, a world in which states possess territorial rights precisely in accordance with the theory in question. However, it does not necessarily follow that all these theories envision a *fully just world* in this sense. As will be examined in the next chapter, some may instead conceive of a *fully just world* within the limits of what is realistically achievable, while others may not conceive of a *fully just world* at all, at least as the term is defined here. Theories that are utopian in the U1 sense would imagine perfectly functioning states, with adequate resources, fully compliant citizens, and institutions operating in complete accordance with principles of justice. In this scenario, individuals would be assumed to be both morally good and aligned with the theory's ethical framework, leaving little room for moral disagreement or for other, equally implausible aspects of real-world political life. This insight underscores the importance of defining key terms with precision – including that of a "fully just world" – so as to prevent the concept from remaining vague or from being used as an all-encompassing label for any idealized scenario. Establishing a distinct category (U1) for utopian theories therefore becomes essential to ensure conceptual clarity and to distinguish genuinely utopian frameworks from those that adopt a more realistically minimalist conception of justice. This distinction will become increasingly important in the chapter that follows.

desirable but ultimately infeasible: these would be classified as utopian theories. On the opposite end, we find theories that are fully feasible but presumably less desirable, as they tend to be highly conservative of the status quo.

At this point, three key questions arise. (1) Is this second meaning of "utopian" genuinely distinct from the first? (2) Does this interpretation of "utopian" align with the distinction between ideal and non-ideal theory on a broader scale of ideality? (3) Does "feasibility" necessarily equate to being "action-guiding"?

Regarding the first question, my position is that while the two meanings of "utopian" may be related, they remain conceptually distinct. While one might argue that achieving a fully just world is almost certainly infeasible, it does not follow that all infeasible theories are so because they aim at a fully just world. Even theories classified as realistic – the conceptual opposite of utopian under the first interpretation (U1) – can be infeasible. As Rossi (2019) has shown in his analysis of different types of realism, while realism is concerned with facts, these facts are not necessarily tied to feasibility. A realist might analyse the conditions required to achieve order and security without relying on a specific set of moral principles, yet these conditions might still prove infeasible in practice.

It should already be evident from this discussion that I do not treat feasibility as synonymous with "non-ideal" or "action-guiding", nor do I equate infeasibility with "ideal", "utopian", or "non-action-guiding". My precise understanding of non-ideal theory and action-guidance will become explicit throughout this chapter. However, I would still like to illustrate why feasibility should not be superimposed on non-ideal theory or action-guidance. While it may be true that non-ideal theories are always feasible and action-guiding, and that feasible theories tend to be action-guiding, it does not follow that every feasible theory is non-ideal, nor that every action-guiding theory is both non-ideal and feasible. If this distinction remains unclear, I propose framing it in terms of the following three propositions:

(a) if a theory is non-ideal, then it will also be action-guiding and feasible;

(b) if a theory is feasible, then it will be action-guiding, though not necessarily non-ideal;[54]

(c) if a theory is action-guiding, then it doesn't follow that it will also be feasible and non-ideal.

These three propositions require further justification.

[54] It is certainly unlikely that a theory can be both ideal and perfectly feasible. However, I wish to emphasize that the correspondence between ideality and infeasibility cannot be taken for granted or mistaken for a necessary one-to-one relationship.

- To justify (a): non-ideal theories must possess the qualities of being action-guiding and feasible, as these characteristics are central to their purpose. Non-ideal theories emerge in situations where immediate action is required, but the optimal solutions are either impractical or lack clear guidance. Classic examples include the ethical challenges surrounding war or refugee camps: while an ideal world would be free of conflict and displacement, the need for theoretical discourse arises from the urgency of providing practical guidance for navigating these non-ideal conditions.
- To justify (b): if a theory is feasible, it means that it is possible to take concrete action to implement it. In this sense, feasibility also implies that a theory is action-guiding. Thus far, I have suggested that a theory can be considered action-guiding when the principles it advocates can inspire or direct real-world actions. These two concepts – feasibility and action-guidance – seem to be overlapping, but I will further clarify their distinctions shortly. My position is that if a theory is feasible, it will also be action-guiding, but the reverse is not necessarily true.
- To justify (c): there are many theories, including some of the territorial rights theories presented in Chapter 2, that appear to be applicable in a general sense and, in this regard, not utopian. However, they also do not seem to be fully feasible, as there appears to be no way to implement them here and now. Yet, it would be highly inefficient to lack a criterion for distinguishing entirely inapplicable theories from those that may seem inapplicable but cannot be deemed fully feasible. A theory, even if not feasible, can still be "action-guiding": it might encourage us to take all the reasonable steps in order to be prepared to implement a certain solution in the future; it might stimulate us to change our preferences and attitudes towards that topic and it might as well tell us what not-to-do if we care about getting as close as possible to a certain final result. As I will further clarify shortly, I treat the concepts of action-guidance and feasibility as distinct. While feasibility is a characteristic of theories that can be applied directly, the requirement of action-guidance pertains to theories for which it is possible to identify a pathway leading to a certain outcome in the future. The term "action-guiding", like all the other concepts employed in this chapter, requires a more precise definition, since if left too indeterminate it risks rendering any theory indiscriminately action-guiding.

Summarizing what has been discussed so far regarding U2, I have argued that one way a theory can be considered utopian is by being infeasible. I have also specified that as one moves along the spectrum of ideality toward non-ideality, theories tend to become more feasible. However, this does not imply a one-to-one correspondence between ideality and infeasibility, nor between non-ideality and feasibility. In U2, ideal theory occupies a middle ground between infeasible theories and feasible but non-ideal theories. The key idea is that, between these two extremes, there exists a compelling compromise – one that may have been overlooked in the literature. Theories that fall into this category are correctly called "ideal" because they are not merely temporarily desirable, nor are they simple compromises with the status quo. Instead, they remain committed to an ideal level of justice while still accounting for aspects of reality that can constraint action. If we ask whether these theories are feasible, I would argue that they are indirectly feasible, or that their feasibility is of second order. They do not directly prescribe immediately applicable solutions, but they provide guidance on the direction in which we should move – and the directions we should avoid – if we aim to uphold a particular vision of justice.

This clarification brings us closer to the concept of action-guidance. Before moving on to the third and last meaning of "utopian theory" (U3), it is worth further clarifying the concept of "feasibility", as this very concept can be interpreted in different ways and the literature presents a range of perspectives. The definition of action-guidance that I defend in this chapter requires a clearer understanding of feasibility.

Anca Gheaus defines feasibility as a characteristic of a state of affairs "that we know we could achieve, if we were to summon sufficient practical will and direct our (individual or collective) efforts in the right direction" (Gheaus 2013, 450). The phrase "we know we could achieve" refers to specific environmental conditions, such as the availability of sufficient resources or time. Similarly, Holly Lawford-Smith defines an outcome as feasible when "it can be brought about" (Lawford-Smith 2013, 247).

However, Gheaus's claim that a state of affairs is feasible only if we can summon sufficient practical will and direct our efforts accordingly raises interpretive challenges. Lawford-Smith, by contrast, suggests that feasibility depends on whether there is an agent capable of bringing about the outcome with a positive probability.

This raises an important question: if an outcome is possible but we fail to mobilize agents with the necessary practical will, should we consider that outcome infeasible? While this chapter does not focus on feasibility per se, clarifying this point is essential for defining action-guidance accordingly.

As illustrated in the diagram with the spectrum of ideality (p. 109), I aim to adopt a "scalar" definition of feasibility, one that is expressed in degrees rather than being necessarily binary. Lawford-Smith (2013) introduces such a distinction between binary and scalar feasibility that aligns with the spectrum I proposed . Binary feasibility differentiates between theories that are structurally infeasible and those that could be feasible depending on softer constraints, such as motivation, culture, psychology, and resources[55]. In this framework, utopian theories are often viewed as infeasible due to hard constraints, while non-ideal theories are considered under the lens of soft constraints, making feasibility a more flexible concept. As we move along the spectrum from ideal to non-ideal theories, feasibility transitions from a binary to a scalar concept. In other words, theories at the utopian end of the spectrum are judged feasible or infeasible in a binary manner, with feasibility acting as a hard constraint. Conversely, as we approach the non-ideal end, theories can be more or less feasible, and feasibility becomes a soft constraint. In other words, since I have argued that distinguishing only between two levels of ideality – one ideal and one non-ideal – is insufficient to account for the existence of an intermediate level, one that sets long-term goals without necessarily being non-ideal, the concept of feasibility can no longer remain divided into merely two versions: a binary one, applied to the ideal level in the Rawlsian sense, and a scalar one, applied to the non-ideal level, also in the Rawlsian framework. This intermediate notion of feasibility – which I refer to as action-guidance – is conceptually similar to scalar feasibility, in that it can be possessed by theories to varying degrees. However, it also allows us to ask whether, between fully applicable yet non-ideal theories and utopian yet inapplicable ones, there is room for a category of theories that are realizable, but only in a gradual and indirect manner.[56]

Non-ideal theories typically address urgent problems, necessitating that some agents involved recognize and are willing to solve the issue, with a probability greater than zero of

[55] In the context of resource allocation, constraints can be categorized as either hard or soft. A hard constraint is a fixed limitation that cannot be exceeded under any circumstances. For example, if a theory requires 1000 units of a resource, and only 100 units are available, this represents a hard constraint, rendering the theory infeasible. Conversely, a soft constraint allows for some flexibility; if a theory requires 200 units and only 100 are available, it may still be considered feasible if obtaining the additional 100 units is possible within an acceptable timeframe.

[56] Kim Angell (2023) identifies two major difficulties in combining an ideal theory with an intermediate conception of feasibility, which parallels the approach I adopt here. Angell distinguishes minimalism, which limits principles of justice solely by technical feasibility, from non-minimalism, which additionally requires that ideal principles could, in principle, be accepted by real citizens through reasoned public deliberation. Non-minimalism corresponds, at least in part, to what I call intermediate ideal theories: ideal frameworks situated midway along the spectrum of ideality, which aim to identify long-term structural goals while remaining, in some sense, action-guiding. While non-minimalism seeks to make theories more realistic and motivationally relevant, Angell argues that it is internally incoherent. First, non-minimalist ideal principles are unrealizable: attempts to implement them alter citizens' beliefs and, in turn, the very content of the ideals. Second, even if realized, these principles lack long-term stability, as subsequent generations would revise their notions of justice. By analogy, these two critiques suggest that my intermediate ideal theories may face similar challenges: their action-guiding feasibility might not be fully realizable or stable over time. This argument is compelling, but the alternative is also problematic: restricting ourselves to theories that can be fully realized within a single unit of time – during which citizens' beliefs and preferences remain stable, and the boundaries of what is technically feasible versus infeasible remain fixed – would be limiting for any long-term project and would make it difficult to determine what unit of time would render a project feasible.

success.[57] Ideal theory, by contrast, for how I define it here, focuses on identifying long-term or even permanent structural transformations that cannot be realized immediately but can be progressively prepared through political and institutional development. It thus performs a primarily prescriptive and evaluative function. Some of the implications of an ideal proposal may be directly feasible, while others may serve only an *action-guiding* role – offering normative orientation without yet satisfying the conditions for practical implementation identified by Gheaus (2013), (Lawford-Smith 2013), or (Ypi 2012) – namely, having already some so-called "activists" (groups or individuals) who possess sufficient strength and self-awareness to drive the change forward.

(U3) Finally, I consider a third interpretation of the concept of "utopian" – one that is certainly less discussed in the literature, partly because it is not entirely independent or distinct from the others. The third way to conceive the category of "utopian" is by situating it within the temporal dimension. This interpretation is inherently linked to the previous ones, as the feasibility of an idea often depends on time constraints. A clear example of this can be found in the literature on climate change (Jewell and Cherp 2020). Suppose we were to propose a theory that in order to effectively address climate change, individuals must radically alter certain habits. On the one hand, such a theory might be deemed feasible, since we can observe a growing number of people already making gradual changes to their daily routines, shifting towards more sustainable lifestyles. However, the situation becomes complicated when we consider the timeline: while individuals may slowly adapt, the time necessary for a large enough portion of the population to make these significant changes may not align with the urgency of the climate crisis. If the changes take too long to materialize, the theory may no longer be applicable or realistic within the limited time we have before the consequences of climate change become catastrophic. In this case, the theory could be seen as utopian, as it fails to consider the constraints of time and the speed required for meaningful change.

That said, this example does still not capture a particular way in which theories can be deemed utopian due to time constraints – specifically, those theories that prescribe actions that should have been implemented in the past. Once time has passed, these theories no longer offer

[57] Lea Ypi (2012) argues that during critical moments of crisis, normative theorists must adopt both the roles of "spectator" (or "theorist") and active participant, engaging politically. Similarly, Biale and Fumagalli contend that when social problems demand urgent solutions, agents of change should embrace "pragmatic reformist conceptions". These conceptions are "reformist" because they aim for immediate political change and "pragmatic" because they are grounded in the current social, economic, and political realities (Biale and Fumagalli 2023, 9).

practical guidance for the present.[58] A relevant example here can be found in the realm of territorial rights. Many of the theories discussed in Chapter 2 share the fundamental intuition that territories should not be occupied through force or coercion by groups without a legitimate connection to that land. However, when such wrongful occupations occur, as has historically been the case, time can pass, and new generations of people may become deeply rooted in those territories. For instance, after 20 or 30 years,[59] a new generation may emerge who have no direct experience with the initial injustice but who nonetheless consider the territory their home. Theories that aim to rectify past wrongs – such as those calling for the return of land to its original inhabitants – may not provide adequate solutions for the current situation if these are limited to indicating what should have been done at time *t* when the injustice occurred. In this sense, they become utopian, unable to engage with present-day realities because they are focused solely on correcting historical wrongs.

In a more general sense, under this third interpretation of the term "utopian", we can imagine a spectrum of theories based on their relationship to time. At one end of the spectrum, there are theories that propose actions without regard to time constraints, prescribing ideal solutions regardless of when they can be or could be realistically implemented. On the opposite end, we find theories that are immediately applicable, providing actionable steps that can be carried out in the present moment. At a point in the spectrum between utopian and non-ideal theories, we again find a range of theories that acknowledge time constraints, offering realistic solutions that might require a transitional phase or an intermediate period of adjustment before they can be fully realized. These middle-ground theories strike a balance between idealism and practicality, attempting to account for the challenges imposed by time.

[58] With a slightly different interpretation, we might also draw a distinction between forward-looking and reconstructive theories. Forward-looking theories are focused on anticipating future needs and challenges, proposing actions that are aimed at preventing or mitigating future problems. In contrast, reconstructive theories tend to look back at past events or injustices and seek to remedy or rebuild from that historical context. While these theories are valuable for understanding and addressing historical wrongs, they may face limitations when it comes to guiding present-day action, especially when the injustices they address have evolved or dissipated over time. In this sense, forward-looking theories may have a greater likelihood of being action-guiding in the here and now, because they are oriented toward what can be done in response to current and future challenges, while reconstructive theories often struggle to bridge the gap between past wrongs and present realities.

[59] The perception of a theory as utopian can vary significantly based on the nature of the injustice it addresses and the time elapsed since the injustice occurred. Theories that aim to rectify injustices from the distant past may be considered more utopian due to the challenges in addressing issues that have evolved or become less relevant over time. Conversely, theories targeting recent injustices might be viewed as more feasible, as they align more closely with current societal contexts and concerns. This variability underscores the importance of considering both the specific nature of the injustice and the temporal context when evaluating the practicality and relevance of theoretical proposals.

3.3 Action-Guiding Ideal Theories

Up to this point, I have focused on providing a more accurate definition of the concepts of utopian, ideal, and non-ideal as I intend to use them in the following chapters. I have also introduced and partially defined the concept of feasibility, which, following Lawford-Smith (2013), I would like to use as a scalar property. The concept of action-guidance, on the other hand, has so far been defined only by subtraction and in contrast to that of feasibility.

At this point, it is certainly legitimate to ask whether it is truly necessary to map all these concepts in order to subsequently map territorial rights theories based on their capacity to be action-guiding or not.

As discussed before, the principle of action-guidance in my theory is not merely a feature that either belongs or does not belong to territorial rights theories. It has been noted, with references to specific passages from the authors of territorial rights theories, that all such theories claim to possess the characteristic of applicability, a feature that, for both them and for me, serves as a defining characteristic. Furthermore, it has been noted that the presence or absence of this quality will be used as a criterion for selecting among theories, since the theoretical analysis of the theories on their own has not proven sufficiently informative. As the analysis in Section 3.2 demonstrates, the concepts involved in this framework share many similarities. If, in defining what is action-guiding in my theory, I do not clarify the concept of feasibility, it would be reasonable, given these similarities, to assume that the two are roughly the same. Similarly, if I do not explain what distinguishes ideal theory from non-ideal theory, it would be equally reasonable to conclude that I am attempting to offer a non-ideal theory of territorial rights. If these terms were not carefully defined, classifying theories based on their action-guiding potential would become meaningless. Depending on how a term is used, theories such as Lockean, voluntarist, nationalist, and functionalist could all be described as utopian, ideal, non-ideal, or action-guiding. While it is true that the definitions of these terms ultimately depend on the reinterpretations I have proposed in this chapter – which might be seen as an indirect way of reinforcing my broader thesis – this approach was necessary to establish a coherent and internally consistent framework for evaluating theories of territorial rights on the basis of clear and commonly defined premises.[60]

[60] The coherence of these concepts means that what truly matters is not the label I have assigned to each concept, but rather the position each one occupies within the map. Every concept must be placed in a specific relation to every other concept. In this sense, one could argue that what I refer to as "ideal action-guiding theory" might actually be considered non-ideal theory. However, what is crucial, in my view, is (a) that the contents of the

I have previously mentioned that my goal is to reconcile ideal theory with the criterion of action-guidance. The discussion of utopian theory was meant to illustrate that, when I refer to ideal theory, I am excluding certain aspects that are too closely related to the idealization mentioned by O'Neill – namely, aspects that are unrealistically distant from practical possibilities, rather than simple abstractions (O’Neill 1987). The exploration of non-ideal theory allowed me to clarify that I use the term “ideal” to refer to outcomes that are, overall, desirable, even in the long term. Regarding the distinction between “action-guidance” and “feasibility”, I have so far pointed out that non-ideal theory tends to focus on feasibility, while ideal theory occupies a particular position on Lawford-Smith’s feasibility scale, since it focuses on identifying long-term changes that cannot be immediately achieved but can be gradually prepared. I have also suggested that action-guidance might be understood as a form of second-order feasibility, and I now intend to elaborate further on this concept.

It is useful to emphasize that my argument does not require the concepts of feasibility and action-guidance to be radically distinct. In fact, it is clear that they cannot be completely separate. My objective is more modest: to show that the concept of feasibility alone allows only for a very superficial distinction between strictly applicable theories and those that are not, but it does not provide a basis for classifying all those theories that fall somewhere between the two extremes.

The general idea behind the concept of feasibility can be summarized as follows: when a theory is feasible, there is an action – or a set of actions – that should be implementable immediately to achieve a specific outcome. For instance, Lawford-Smith has helpfully argued, alongside Pablo Gilabert (Gilabert and Lawford-Smith 2012; see also Erman and Möller 2020) that:

> “it is feasible for an agent X to perform a set of actions φ to realize a state of affairs O in a given context Z”.

Suppose that the agent X is a state, that the desired state of affairs is a world where the is no gender pay gap, that the context is the context of the state X – for example Italy – and that there is a set of actions available to pursue the desired state of affairs, such as expanding and promoting paternity leave, incorporating a non-discrimination criterion for women during maternity, establishing minimum wages, and educating on gender equality. Suppose also, however, that the resources needed to realize this state of affairs are unavailable and people are

definition are clear, and (b) that an appropriate name is chosen to distinguish “ideal action-guiding theory” from what I have labelled non-ideal theory within the map.

not sufficiently educated on gender equality yet. If feasibility were the only concept at our disposal, and if the distinctions between utopian, ideal, and non-ideal theories (see U1, U2, U3) were not clearly defined, then a theory prescribing gender pay equality despite the lack of resources at the present time would, counterintuitively, be classified simply as infeasible. This would place it alongside theories that, in my classification, would be considered utopian. Such a classification would not only be unfair to the theory and overly simplistic, but it would also carry the additional risk, generally speaking, of limiting our focus to theories that advocate for outcomes closely aligned with the status quo.

What has been said underscores the need to refine the concept of feasibility and introduce a more fine-grained analytical criterion – the concept I refer to as "action-guidance" – that allows for a more nuanced distinction between theories that are neither broadly feasible nor infeasible at a macroscopic level but may turn out to be applicable or utopian when assessed through a more refined evaluative framework. According to the criterion of action-guidance, there can be a useful normative space for theories that can guide us toward a particular outcome, even when they are not immediately implementable.

Recalling the fundamental components that Lawford-Smith and Gilabert associate with feasibility – the agent X, a set of actions φ, a state of affairs O, and a given context Z – the elements that can make the difference for distinguishing feasibility from action-guidance are: φ (the set of actions available to the agent) and O (the state of affairs described by the theory as desirable and ultimately realized by the agent).

When a theory is feasible, Lawford-Smith's definition can be understood as stating that a set of actions φ is immediately available at the present time t_0, and performing these actions (contained in φ) will bring about the desired outcome O at t_0 (or possibly at a nearby time t_1).

When a theory cannot be properly defined as feasible because, at time t_0, our set of available actions does not include any that would allow us to achieve the desired outcome in the short term, we can, however, either identify a theory that becomes feasible by lowering the level of ideality or opt for a theory that, while not strictly feasible, remains action-guiding.

When a theory is action-guiding, unlike in the feasibility case, the set of actions φ will not immediately allow us to realize the desired state of affairs O at t_0 or t_1. Instead, given an initial state O_0 at t_0, performing actions selected from the set of actions φ will allow the agent X to contribute to achieving an intermediate state of affairs O_1 at t_1 – a step that brings us closer to the final desired state O_n advocated by the theory. The function of an action-guiding theory is to outline a pathway conducive to achieving the desired state of affairs at a future time t_n, mediating between actions (belonging to the set of actions φ) that are compatible with the pursuit of O_n and actions (belonging to a different set of actions ω) that may appear suitable for addressing the problems at the present time t_0 but prove counterproductive in achieving O_n.

What has been said can be formalized as follows:

> "a theory is action-guiding if, at t_0, in an undesirable state of affairs O_0, it is able to direct agent X toward the set of actions φ rather than ω, in order to achieve O_1 at t_1 – thereby reducing the distance between O_0 and the desired state O_n".

Consider once again the case of gender pay gap. Imagine a theory defending equal pay and opportunities between men and women in a given context, such as Italy. Naturally, it is also possible to argue that this theory is simply feasible, but let us assume that no actions are available at time t_0 to achieve perfect gender equality. Excluding the possibility of classifying such a theory as utopian in any of the three senses U1, U2, or U3, the agent (X), in this case the state, has some sets of actions at its disposal, and the theory must indicate the set of actions to prefer. For instance, one might question whether implementing a system of gender quotas in leadership positions or in academic programs that serve as pipelines to such roles should be included in the desired set of actions φ. Some, more non-ideal theories, might answer affirmatively, proposing that implementing a gender quota system should indeed be included in the set of actions ω. O_n the other hand, more ideal theories could argue that such a measure should not be included in the desired set of action φ, as it would slow down the path towards achieving true gender equality O_n by time t_n, and therefore the theory would orient the agent towards the set of actions φ instead of ω. If we change the given context Z – for instance, considering not Italy but the world, or a different state, or a smaller context – the desirable set of actions could naturally vary entirely.

There is, of course, an important objection to consider when treating action-guidance as distinct from feasibility: under the definition provided, virtually any ideal theory could appear action-guiding. The concern is that once an ideal state of affairs O_n is identified, there will always be *some* way to act in accordance with that goal, no matter how distant or unrealistic it may be. If this were true, the category of action-guidance would collapse into triviality, since every theory could be said to guide action in some abstract sense, and the criterion would lose its discriminating power.

The conceptual framework developed in this chapter, however, shows why this need not be the case. Not all ideal theories provide meaningful guidance for action in the present; some may lack concrete steps, fail to account for existing constraints, or offer directives so abstract that they do not translate into practical decision-making. By distinguishing among different types of ideal theories and their relation to real-world feasibility, it becomes clear that genuine action-guidance requires more than theoretical alignment with a distant ideal: it demands a structured path that makes progress toward that ideal possible under real temporal and contextual constraints.

For instance, the final state of affairs O_n must itself be realistic – thus generated by an ideal rather than utopian theory – and the theory must specify a coherent sequence of actions φ that progressively approximate O_n, while offering principled reasons to exclude alternative courses of action ω.

Lastly, it is important to note that ideal theories are not necessarily action-guiding, nor are they all strongly action-guiding. While my primary focus is on ideal theories that do meet the action-guidance criterion, action-guidance itself is likely a scalar property (coming in degrees), as Lawford-Smith (Lawford-Smith 2013, 251) has argued in her discussion of feasibility. Some theories that appear to meet the conditions for being both ideal and action-guiding may, upon closer examination, fail to properly do so, as briefly observed in the case of the gender pay gap.

The next and final section of the chapter will focus on how theories that might initially appear to be action-guiding can actually fail to be so or not fully fulfil that role. This analysis will also help reinforce my response to the objection previously discussed, which suggests that with the definition of action-guidance provided, all theories could potentially meet the requirements to be considered action-guiding. Specifically, I will argue that if within a set of actions there are contradictory actions or actions that lead to inconsistent outcomes at time t_1 or t_n, the corresponding theories cannot be fully considered action-guiding. This will thus narrow the scope of theories that can truly be classified as action-guiding.

3.4 Failed Action-Guidance

As briefly anticipated, there are circumstances in which theories may fail to be action-guiding, even if they possess the potential to be so. Referring back to the definition of action-guidance elaborated in section 3.3, developed as a reworking of the definition of feasibility provided by Lawford-Smith, a theory is action-guiding when – in short – "it can direct the agent X towards the set of actions φ to realize a state of affairs O_1, thus reducing the distance between O_0 and the desired state of affairs O_n". This definition does not fully capture certain ways in which action-guidance may fail to be perfectly realized or ways in which, even when realized, it may not be entirely desirable. As mentioned in section 3.3, one risk associated with this understanding of action-guidance is that it may be too inclusive. Therefore, it is beneficial to introduce additional criteria to further refine the selection – not only between action-guiding and non-action-guiding theories but also among properly action-guiding theories and those that fall short.

In a 2009 article, Laura Valentini outlined three ways in which a theory with the potential to be action-guiding can ultimately fail to fulfil that role. Despite the fact that Valentini's analysis is based on a different set of premises from my own – and particularly, in Valentini's case, the concept of action-guidance is not explicitly distinct from that of feasibility – her reconstruction, with the necessary adjustments, also applies to my framework (Valentini 2009; see also Lawford-Smith 2009).

The first way in which a theory can fail to be action-guiding, according to Valentini, is when a theory "fails to motivate existing agents so that people don't comply with the theory" (Valentini 2009, 9). The second way is when the theory is not immediately applicable to ordinary political decisions. Finally, a theory can fail to be action-guiding if its application to real-world circumstances is likely to produce counterintuitive or undesirable results.

I will begin by considering the possibility that a theory with the potential for action-guidance fails to be so when it fails to motivate existing agents, resulting in non-compliance.

The issue of compliance was addressed earlier in this chapter when discussing the distinction between ideal and non-ideal theory as it is presented in the literature. Re-examining compliance through the lens of the debate on action-guidance and feasibility offers an opportunity to introduce additional considerations. Specifically, while compliance is often framed as a challenge for ideal theories – given that they may rely on assumptions about moral motivation or institutional conditions that do not currently exist – it also plays a crucial role in assessing whether a theory can genuinely guide action. Jeremy Waldron (1999) had already criticized Rawls on the grounds that his theory relied on an expectation of compliance that was too high, whereas it seems more convincing to argue that a theory which depends on full compliance is a utopian theory. Waldron argued that assuming full compliance is unrealistic because it overlooks a central feature of politics: the inevitability of disagreement. The main obstacle, according to this view, for implementing a theory is not the physical incompatibility between an action and human capabilities, but rather the fact that a significant number of people will disagree with the perceived rightness of that action.

Waldron's argument is compelling, and I partially agree with Valentini when she reinforces this issue: a theory with potential for action-guidance can fail to be action-guiding if it is likely to generate too much disagreement. For instance, if a theory aims to realize the state of affairs O_n, but the actions within φ require significant sacrifice from agents, or if O_n itself is highly controversial, the theory will struggle to gather enough support to bring about O_n.

While I agree with Valentini, it is important to note that, unlike applied politics, normative theory has the additional role of advocating for unpopular or unconventional positions, while also working to demonstrate why these positions should no longer be considered controversial, or why they make more sense than others. Unlike immediate political pragmatism, which is often constrained by the current state of affairs, normative theory can challenge the status quo, offering critical perspectives that push the boundaries of accepted thinking. In combination with insights from fields like psychology, economics, and the social sciences, normative theory can introduce ideas that gradually become integrated into broader political discourse. Over time, these positions may shift public opinion and lead more individuals to align with the theory's goals, contributing to the realization of the desired state of affairs O_n. This process allows for the evolution of political and social norms, demonstrating that even initially unpopular theories can ultimately influence change and help achieve more just or desirable outcomes.

Returning to Valentini's point that a theory with the potential for action-guidance can fail to fulfill that role if it is not shared by a sufficient number of people who cooperate in implementing or supporting it: it may be useful to clarify that an ideal theory with the potential to be action-guiding only fails to be so if the level of required compliance is deemed unattainable, with high probability, by experts in various fields, within a reasonable timeframe (with "reasonable" being evaluated on a case-by-case basis)[61].

As a second case, although it has already been addressed in section 3.3, I consider the issue of the immediate applicability of a theory. According to Valentini, a theory with the potential for action-guidance can fail to be so when it is not *immediately* applicable to ordinary political decisions.

I have argued that while feasible theories can be immediately applied, action-guiding theories may also require an intermediate phase of steps that, over time, guide us toward the realization of a specific final outcome, O_n. In this sense, it might seem that the point raised by Valentini – concerning immediate applicability – does not align directly with my framework.

[61] A criterion to better define "reasonable" could be that when the level of injustice experienced by the subjects in the current state of affairs O_0 is too high to wait for an ideal theory to be gradually implemented, it is appropriate to prioritize the non-ideal theory and pursue its less-ideal aims, even when these are not fully compatible with the ideal ones. This obviously requires, in turn, defining what "too high" means, but the broader point of my statement is that the non-ideal theory can be taken as the primary reference whenever it is deemed urgent to do so. For instance, in cases of human rights violations, climate disasters, or similar situations where the response time can make a difference.

However, one way to distinguish between feasible and action-guiding theories is that the former must be *achievable*, meaning they can be directly realized in the present context, while the latter only need to be *applicable*. This means that, rather than being immediately achievable, action-guiding theories must simply have a set of actions available to move us incrementally toward the desired state of affairs, O_n. Returning to the issue of failed action-guidance, it can be stated that – this time in line with the definition of action-guidance provided – a theory fails to be action-guiding when there are no applicable actions within the set of possible actions φ.

A third and final issue I will address in this section concerns theories that fail to be action-guiding because their application to real-world circumstances is likely to produce counterintuitive or undesirable results (Lawford-Smith 2009, 10). In other words, a theory can only be considered action-guiding if its practical application leads to outcomes that are both desirable and consistent with the theory's intended goal.

As Steiner has noted, when addressing a particular problem, there may be multiple solutions that exist at varying levels of ideality (Steiner 2017). For instance, a theory that advocates for a final outcome O_n will involve a series of steps – O_1, O_2, O_3,… – that, in isolation, may be non-ideal, but can nonetheless be considered ideal when viewed as necessary stages in the process of reaching O_n. It is possible, however, that when applying an ideal theory we can encounter counterintuitive or seemingly undesirable consequences at one or more of these intermediate stages.

Two different scenarios can be imagined: the first is one in which, to achieve a certain desired outcome, it is necessary to pass through levels O_1, O_2, and O_3, each involving some partial undesired outcome. The second is a scenario where the application of a theory leads to a counterintuitive result, even within the framework of the same theory. For example, imagine a theory of perfect equality, in which, after redistributing the exact same number of resources to everyone, it becomes apparent that the result achieved is not equality because, in fact, equality requires adding corrections to the system beyond mere redistribution. The first of the two cases could or could not be a case of failed action-guidance, depending, of course, on whether the transient undesirability of a certain state of affairs (O_1, O_2, O_3) is considered acceptable.

The second of the two cases, on the other hand, clearly seems to be a case of failed action-guidance. Therefore, to say that an ideal theory is action-guiding, it is not enough to identify a set of actions through which we can bring about a state of affairs (O_n); it is also necessary to consider all the consequences of implementing a theory to check whether they will be compatible with the theory itself and, more generally, desirable.

Conclusion

This chapter has aimed to refine the methodological and conceptual framework grounding this thesis, by unpacking the terms utopian, ideal, non-ideal, and action-guiding. Rather than accepting a binary distinction between ideal and non-ideal theory, I have endorsed a scalar model: one that views ideality as a spectrum ranging from highly utopian theories with minimal or zero applicability to strongly non-ideal approaches grounded in real-world constraints.

Within this spectrum, I have situated my analysis at an intermediate level of idealization, which I have, however, identified as the properly ideal level. This intermediate position maintains a commitment to normative universality, while also acknowledging the importance of action-guidance.

The aim has not been to disregard the value of highly utopian theorizing or purely context-sensitive solutions, but rather to argue that both extremes have limitations: utopian theories often fail to provide practical guidance for political action, whereas overly non-ideal approaches may not distance themselves enough from the status quo or may weaken normative consistency across various cases.

The focus on ideal theory was motivated by the fact that most contemporary theories of territorial rights – with particular reference to those explored in Chapter 2 – fall within the domain of ideal theory. However, I have also argued that simply labelling a theory as "ideal" tells us little about its ability to engage with the real-world problems it seeks to address.

To move beyond this limitation, I introduced the notion of action-guidance as a supplementary criterion for assessing the value of a theory. Unlike strict feasibility, action-guidance allows for a more nuanced evaluation of whether a theory – despite its ideal nature – can offer legitimate, normatively grounded guidance in concrete political contexts, and I have defined it, more precisely, as a theory's capacity to direct the agent X towards the set of actions φ to realize a state of affairs O_1, thus reducing the distance between O_0 and the desired state of affairs O_n.

This framework enables a reclassification of existing territorial rights theories: rather than treating them all as equally detached from the real-world, I want to suggest that some are better suited to guiding action in a plural and territorially entangled world. Theories that are ideal yet not utopian, and that can be reasonably extended toward application, should be given precedence in informing real-world decisions.

The next chapter builds directly on the methodological groundwork laid here. In Chapter 4, I apply the evaluative tools developed in this chapter – most notably the criteria of ideality and action-guidance, in contrast to the various forms of utopianism – to reassess the main families of territorial rights theories introduced in Chapter 2. The central aim is to evaluate which of these theories, if any, manage to strike a meaningful balance between normative coherence and practical applicability, and can therefore be considered the most promising frameworks for addressing territorial justice in a divided and plural world.

To do so, Chapter 4 draws on the typology of utopianism presented here (U1, U2, U3) and examines whether the theories in question can provide action-guiding principles without relying on unrealistic assumptions such as perfect compliance or producing counterintuitive implications.

This evaluative exercise serves a dual purpose. First, it identifies the shortcomings of theories that, while normatively rigorous, fall short in offering guidance for real-world territorial disputes. Second, it aims to spotlight those approaches – especially functionalist models – that demonstrate greater potential in bridging the gap between abstract theorizing and practical territorial challenges. In this way, Chapter 4 advances the analysis toward a more defensible and practically relevant account of states' territorial rights – one that carefully navigates the relationship between principles of justice and real-world applicability.

CHAPTER 4

ASSESSING ACTION-GUIDANCE IN THEORIES OF TERRITORIAL RIGHTS OF STATES

Introduction

Chapter 3, just concluded, focused on clarifying a core set of concepts that helped frame the objective of my research, particularly from a methodological perspective.

While the analysis in Chapters 1 and 2 was primarily reconstructive – mapping the existing debate between different theories of territorial rights, as well as between territorial rights theories and alternative perspectives – the reconstruction was still not sufficiently goal-oriented.

In Chapter 3, I provided two interpretative keys of the territorial rights debate reconstructed so far and of my approach to it. The first interpretative key concerns the level of idealization within which I am operating: I defended a scalar understanding of the spectrum of ideality, and I indicated that my focus is on an intermediate level of ideality – one that balances the pursuit of a universal principle of justice that is not merely the result of compromise with overly non-ideal constraints, while still maintaining an interest in applicability. I defined this intermediate level of idealization as the "ideal level", although in the literature the concept of ideal theory is more often associated with a low level of applicability. Despite this more common interpretation of the concept of ideal theory in the literature, I prefer to conceive of the realm of ideal theory as something intermediate between two extremes, in order to highlight that shifting to a higher level of idealization would lead to theories – which I have called "utopian" – that are even more abstract than ideal theories, as they show too little concern for applicability; at the same time, I emphasized that lowering the level of idealization too much risks undermining the generalizability of principles, and this could either reinforce the status quo or result in an inconsistent application of different principles on a case-by-case basis. Of course one might question what is problematic about this approach – namely, addressing various territorial challenges through different principles[62] that are valid and effective in specific different cases. My answer, as I partly explained, is that the issue of states' territorial rights

[62] The principles I am referring to are, in particular, the various principles of territorial justice, and are therefore all ideal principles. Lockean theories, for instance, are based on an individual-based principle of territorial justice grounded in valid title; voluntarist and nationalist theories rely on the principle of collective self-determination; and functionalist theories are grounded on a human-rights-based principle.

appears to require not only context-specific solutions for urgent situations[63] but also a more general clarification of the scope and validity of existing principles of territorial justice. These principles frequently come into conflict, generating conceptual confusion and hindering the prompt resolution of pressing issues.

The second interpretative key developed in Chapter 3, which complements the first, focuses on the concept of action-guidance. Defining my analysis through the lenses of the first interpretative key – within what I have termed an ideal framework – only partially captures its purpose. As previously noted, the choice of an intermediate level of idealization allows me to concentrate on theories that are neither too abstract (utopian) nor excessively context-specific (non-ideal) – ensuring that they remain, in principle, applicable. However, merely distinguishing between different levels of idealization and engaging with existing theories of territorial rights in the literature would not be sufficient to orient our judgement on the territorial rights debate.

This is because applicability, as a concept, cannot be meaningfully assessed in the abstract without a more precise definition, and most theories claim, to varying degrees, at least some level of applicability. As pointed out in Chapter 2, a purely theoretical analysis of the theories of territorial rights and their implications, if not complemented with specific analytical categories, does not allow for a proper classification. Therefore, a more precise explanation is required to determine what makes a theory action-guiding in practice, rather than simply asserting its applicability in principle.

This also explains why the concept of action-guidance, particularly in relation to ideal theory, was clarified only in Chapter 3 rather than earlier. Its definition needed to address the challenge, emerged at the end of Chapter 2, of evaluating theories of territorial rights beyond their theoretical desirability and provide a way to move beyond the impasse of having more or less equally desirable theories. More broadly, the methodological framework developed in Chapter 3 had to be constructed in a way that ensured the categories introduced could serve (and will serve) as effective tools for evaluating the theories of territorial rights discussed in Chapter 2. Without a clarification on the use of categories, theories of territorial rights could only be classified as ideal or applicable in a broad way, while the categories introduced in

[63] I would like to reiterate that non-ideal theory, which tends to be more applicable – as discussed – and more context-specific, would still play a role even within the framework of an ideal theory. Both non-ideal and ideal theories can function in parallel, each with distinct objectives. Moreover, as clearly outlined in Chapter 3, ideal theory, as I have framed it, will primarily serve an evaluative role. It will need to be supported in its objectives and goals through a bottom-up approach by those actors – agents of change (Ypi 2012; Biale and Fumagalli 2023) – who, far more than theoretical work alone, possess the power to bring about change and influence political decisions and ideas.

Chapter 3 needed to be sharp enough to classify different theories of territorial rights based on the two key factors of ideality and action-guidance.

The main goal of this chapter is to determine whether the categories developed in Chapter 3 can be effectively applied. By integrating the two interpretative keys of ideality and action-guidance into the debate on territorial rights of states, my goal becomes identifying a theory that is maximally generalizable while at the same time capable of providing action-guidance, as defined in Section 3.3 of Chapter 3.

The task of this chapter is therefore to retrospectively reassess the analysis of the four families of theories in light of the newly established normative and methodological framework.

To assess whether a theory falls within the utopian spectrum, it is essential to determine whether it upholds the idea of a fully just world (a factor that in Chapter 3 I summarized with the abbreviation U1), whether it is completely infeasible (abbreviated with U2), or whether it prescribes actions that would have been feasible only if implemented in the past or if there were enough time for implementation in the future (abbreviated with U3). If a theory does not qualify as utopian, or if it is not fully utopian, one can then evaluate whether it can be considered ideal – by checking whether it can prescribe generalizable principles of justice – and potentially also action-guiding, ensuring that its action-guidance does not fall into one of the categories of failed action-guidance. It is worth clarifying that one could also ask whether a theory is non-ideal, but this category is scarcely represented among the options discussed in this thesis, since the theories examined are broadly classified, albeit in a general sense, as ideal.

Potentially, this retrospective analysis of territorial rights theories could also be extended to the theories examined in Chapter 1, which included theories of non-territorial sovereignty and cosmopolitanism. The key point, however, is that it is worth enquiring whether a theory is ideal, non-ideal or utopian when it proposes a desirable model of justice and its implications – even when infeasible – are themselves desirable. The conclusion of Chapter 1 was instead that certain theories do not meet this criterion of desirability. Specifically, this applied to Agnew's (2005) globalized non-territorial theory of sovereignty, Tucker and De Bellis's (2016) panarchist non-territorial theory, and the various versions of cosmopolitanism (Held 2009; Pogge 1992; Benhabib 2014). These theories, regardless of their applicability, cannot be considered sufficiently desirable for unlocking, so to speak, the need to move the analysis to the next level of investigation.

The analysis will instead focus on Lockean, voluntarist, nationalist, and functionalist theories – all of which, unlike the theories analysed in Chapter 1, share the idea of a territorial and state-based model of sovereignty. Lockean theories will be discussed in Section 4.1, voluntarist and nationalist theories in Section 4.2, and lastly functionalist theories in Section 4.3.

4.1 Evaluating Lockean Theories of Territorial Rights

In Chapter 2, section 2.1, Lockean theories have been generally described as those theories that in their individualist version, derive territorial rights from individual property rights in land, which are then voluntarily transferred to the state. These rights are justified by a specific connection between individuals and the land, based on their role in increasing its value. In their collectivist version, these theories derive instead territorial rights from collective – rather than individual – rights in land, but they follow a similar logic: they are justified by a relationship between the collective and the territory that has enhanced the value of that territory, in particular by realizing justice in that territory.

4.1.1 Evaluating Simmons's Individualist Lockean Theory of Territorial Rights

Even though a complete reconstruction of Simmons's theory is provided in Section 2.1.1, it is worth summarising the main points of his voluntarist Lockean theory, with particular attention to those points that will be useful for the subsequent analysis.

John Simmons's voluntarist Lockean theory is based on the idea that only the individuals who have willingly submitted to a state's authority can be considered legitimately subject to it. The theory is Lockean because a state's territorial rights can be considered legitimate only if the individuals who consented to state authority had legitimately acquired individual property rights over parcels of land, which they then transferred to the state – provided that they had lived on and worked the land, thereby positively transforming and enriching it. A state's territorial rights are, therefore, the aggregation of the properties of all and only those individuals who have ceded their private rights and transferred them to the state in the form of territorial rights (Simmons 2016).

This approach to justifying a state's territorial rights might face an issue regarding the fair distribution of resources – a concern that Locke, and subsequently Simmons, addressed by introducing additional conditions, or provisos. The idea behind these provisos is that even though the theory requires a correspondence between individual property rights and the state's territorial rights, neither individuals nor the state can appropriate more than a fair share. Sufficient and adequately good resources must be left for others.

The main virtue of Simmons's Lockean theory lies in its ability to justify the specificity of a state's claims on a particular territory: a state's borders are nothing more than the external boundary resulting from the aggregation of properties that have been voluntarily transferred to the state. This ability arises from the theory's focus on linking a state's present territorial holdings to their initial acquisition. A state's authority over its territory, at least in principle, is justified only if the land within its borders was lawfully settled, developed, and enhanced in value by individuals who later transferred both the land and its associated territorial rights to the state. Since Simmons places significant emphasis on the concept of a "valid title" – the idea that a right, in this case over a territory, can only be claimed if it can be historically traced back to its legitimate acquisition and continued possession (Nozick 1974) – he is deeply concerned with the issue of past injustices. His theory upholds the position that historical injustices can never be overridden (Simmons 2016, 122).

Simmons ultimately argues that this way of conceiving our relationship with territory and territorial rights is essentially the one that best aligns with our intuitions, making his model a form of justice perfectly in tune with common sense.

As specified in Chapter 3 and in the introduction to this chapter, the analysis of whether the theories are action-guiding is carried out as a second-level analysis – after it has been established at a first level that a theory is prima facie desirable. Assuming, as noted, that the overall desirability of all the theories examined in Chapter 2 has already been confirmed, the aim here is to determine whether their implications can be translated into concrete, feasible, and non-counterintuitive actions.

The focus, then, will be on the main implications of Simmons's individualist Lockean theory.

A first practical application of Simmons's theory – and, in fact, of all theories of territorial rights considered so far – is to provide an assessment of the validity or legitimacy of real-world states' territorial claims. The mere fact of offering such an assessment does not, in itself, reveal much about the extent to which the theory is more or less ideal or more or less action-guiding, since an assessment remains a purely theoretical evaluation. However, what matters is understanding the scope for intervention that, given a particular assessment, can actually be implemented. This would require a series of gradual steps, in line with the definition of action-guidance developed in Chapter 3, to progressively narrow the gap between reality and the ideal objective upheld by the theory.

According to Simmons's theory, the legitimacy of states is inherently tied to individual property rights. These rights are understood to precede the formation of the state in an ideal sense and depend on whether an individual has legitimately acquired them – either by occupying and working a piece of land or by obtaining it lawfully from someone who transferred their own rights (Simmons 2016, 123). Legitimate states, therefore, would be those whose territory is occupied by individuals who have rightfully obtained property rights over a given piece of land (within a broader territory) and who, over time, have either given or renewed their consent to submit themselves to state authority. However, if we compare this idea of legitimacy with its possible practical implications for the real world, we are led to conclude, first and foremost, that almost no existing state can be considered fully legitimate. This is because, at some point in the historical evolution of every state, there have been acts of conquest, forced occupation, or the arbitrary designation of borders by political forces that were simply more powerful than others at a given moment in history (Tilly 1990; Giddens 1985).

In this sense, it seems reasonable to argue that Simmons's theory can be considered utopian according to both the first definition of utopian (U1) – which characterizes a theory as utopian if it envisions a fully just world – and the third definition of utopian (U3) – which considers a theory utopian if it prescribes actions that would have needed to be implemented in the past in order for the theory to be considered action-guiding in the present. To better support these two points, it is worth recalling that in Section 3.2 of Chapter 3, I defined utopian theories in three different ways. In particular – relevant to the discussion here – I identified as U1 those theories that describe a fully just world, where institutions operate in complete accordance with the principles of justice, there are enough resources for them to do so, and citizens fully comply with the same principles of justice, without the situation giving rise to significant disagreement (Section 3.4). I then characterized U3 as encompassing all those theories that do not sufficiently take time constraints into account – not necessarily because they fail to consider the time required for something to be implemented, but also, and more importantly in this context, because they sometimes prescribe actions that could only have been implemented in the past in order for the theory to make sense as a guide for action in the present.

If we attempt to use Simmons's theory to assess the legitimacy of existing territorial claims, we immediately observe that almost no present-day institution has acquired its territorial rights in full compliance with individual property rights and the will of those who legitimately occupied a given territory. At the same time, the theory itself demands an exceptionally high level of compliance from both individuals and institutions, envisioning a world that is, in effect, almost fully just. From this perspective, Simmons's Lockean theory does not actually appear applicable in the present, at this point in history, because the only way a territorial claim could theoretically be considered valid in the present is either if it fully respects the historical legitimacy of the entitlement or if any past wrongdoing or injustice is (or was) appropriately compensated for in the present.

Indeed, one of the key strengths of Simmons's theory was supposed to be the fact of taking in serious consideration the historical validity of territorial claims, allowing Simmons to argue not only in favour of the redress of past territorial injustices, but also in favour of specific forms of redress – based on what the course of events would have been had the injustice never occurred (Simmons 2016, 174). However, this is precisely where the issue of time constraints, as described by U3, becomes relevant: territorial injustices have accumulated over time in such a way that, at this stage, it no longer seems possible to determine what today's legitimate territorial claims would be if entire chains of events had unfolded differently (Waldron 1992b).

Simmons, indeed, acknowledges this issue and he is fully aware of the difficulty of reconstructing the course of events that would have unfolded had a given injustice never occurred. He even criticizes Nozick (1974) on this point, arguing that adopting a purely historical approach would make any rectificatory project impossible, since it is not truly feasible to trace what would have happened over time if some initial condition had been different. In contrast to Nozick's purely historical conception,[64] Simmons proposes an end-state conception, according to which individuals do not necessarily have a right to particular objects but rather to a "particularized share" (Simmons 2016, 183) – that is, a fair division of a given good. This adjustment, as Simmons himself admits, makes his account pluralistic (180), since it no longer relies solely on the fact of possessing a valid entitlement but also incorporates a certain idea of fair distribution, according to which a given set of circumstances can influence what constitutes a "fair share" (181) of something – aligning, as I will also emphasize shortly, with the content of the Lockean Proviso that Simmons had already defended.

[64] Even if Nozick's account were interpreted as less demanding in response to the problem of epistemic uncertainty – that is, even if one accepted that rectifying a past injustice does not require tracking detailed information from several centuries ago, but merely providing a broadly accurate approximation – this would not eliminate the fundamental issue that category U3 is meant to highlight: the passage of time itself affects what corrective justice can reasonably require. Suppose, for instance, that we possessed perfect knowledge of a major injustice committed three centuries ago, yet that injustice no longer produced any lasting effects. It would not seem that justice still demands correction in such a case. The mere fact of temporal distance, even with full information, alters both the scope and the plausibility of what rectification entails.

One might, of course, formulate a plausible way of applying the redistributive principle sensibly under present conditions, but such an account would tell us far more about current circumstances of justice than about the historical trajectories that produced them. In this sense, the contribution of a historically grounded theory such as Simmons's becomes considerably limited, as its explanatory force diminishes once the temporal dimension of justice is fully acknowledged.

There remains, however, a problem: in shifting his theory from a purely historical to, so to speak, a redistributive one, Simmons is not willing to relinquish the core idea of his theory – that, regardless of the content of the redress deemed most appropriate*,* past injustices cannot be superseded. He maintains that some form of compensation is always due for unjust losses suffered in the past and that the mere passage of time should have no effect on the substantive idea that there is a right to the rectification of past injustices. The issue, however, which Simmons overlooks, is that just as the passage of time makes it difficult to imagine what form a particular entitlement would have taken if a certain circumstance in the past had been different, so too the rightful holders of the corresponding entitlements can no longer be determined unless intervention had occurred in the past.

Simmons's theory, therefore, can also be deemed utopian in the U3 sense: it could have guided attempts to correct territorial injustices, but only if the process had begun in the past. This is not only because, as Simmons acknowledges, "clear records of the complicated strands of entitlement to particular things" (176) no longer exist, but also because identifying the rightful holders of these entitlements remains highly complex.

Another possible approach would certainly be to focus solely on rectifying recent injustices, those whose details are better known and for which we can actually identify the title bearers and a desirable set of actions leading to proper compensation for the injustice suffered. Yet, while the first option seemed utopian in the U3 sense, this second option appears non-ideal:[65] it would provide guidance on how to address localized injustices in the immediate term, but it would not contribute to achieving broader territorial justice. It would overlook the unequal distribution of land and resources caused by past territorial injustices that are now irreparable, and, crucially, it would fail to justify where to draw the boundary between injustices that should still be rectified and those that should be left unaddressed.

At this point, a Lockean theorist, like Simmons, could still respond emphasizing the role of the Lockean proviso in integrating a principle of distributive justice into the theory. Simmons argues (183) that property rights should continue to be based on and attributed according to the actual history of acquisition or legitimate transfer, rather than on a given pattern of resource redistribution. However, in line with the classical formulation of the Lockean proviso, Simmons contends that certain changes in circumstances may require property rights to be modified in

[65] As specified in Chapter 3, ideal and non-ideal theories are not mutually exclusive; they aim at different objectives. If one wishes to apply Simmons's theory in this non-ideal mode, this would not be incompatible with eventually pursuing a different, ideal theory. However, it is important to recognize that Simmons's theory, when applied in this way, would not be ideal, as the author suggests.

both their scope and content, and that it might become necessary to downsize what were previously considered legitimate holdings (whether property or territorial rights). This leads to the question of whether, at least with respect to the use of the Lockean proviso, Simmons's theory can be considered action-guiding rather than utopian.

On one hand, the Lockean proviso is certainly the most applicable element of Simmons's theory. However, it remains true, as mentioned earlier, that the application of the Lockean proviso to unfair contingent circumstances is bound to the realm of non-ideal theory. If, even imperfectly, the way in which states have been formed and property rights have been acquired over time actually adhered to the principle of justice in acquisition proposed by Locke, and later by Simmons, then it could coherently be argued that a redistributive theory would not be necessary at a higher level, and that the Lockean proviso would be sufficient, even at an ideal level, to address changes in circumstances over time that necessitate intervention in the distribution of resources. Yet since neither property nor territorial rights have developed through a Lockean acquisition process, a corrective proviso can operate meaningfully only at the non-ideal level, offering limited insight into what a just distribution of resources or a legitimate assignment of territorial rights would look like under ideal conditions. Moreover, if the proviso is made to perform all the normative work of the theory, it risks stripping the Lockean framework of one of its main virtues – its potential to address the *boundary problem*, that is, to explain how rights come to be attached to a specific territory. The more the Lockean model is modified in a redistributive direction to correct historical unfairness, the further it departs from its original premises and the less capable it becomes of offering a distinct account of territorial rights of states.

This discussion allows for the clarification of another element of utopia (U1), which has so far been somewhat overlooked in Simmons's theory: the issue of the entanglement of property rights and territorial rights. Another reason, in practice, why Simmons' theory could be classified as utopian again in the U1 sense – that is, for assuming the idea of a fully just world— is that it seems to operate under the assumption that title bearers are always identifiable and that no irreconcilable disputes arise from the Lockean premises about who the legitimate holder of a right is. As already discussed in the reconstruction of Simmons's theory in Chapter 2, Section 2.1.1, if, as Simmons argues, territorial rights of states are derived from the property rights that individuals ideally acquire before the formation of the state, it remains problematic to justify the existence of a right (property right) before the state can recognize and enforce that right. It is then highly likely (even more so than with some of the other theories analysed) that property rights, and consequently territorial rights, are entangled and contested, leaving Simmons's theory, in practice, unable to address any territorial dispute with complex, entangled and controversial roots.[66]

In conclusion, it seems that Simmons's Lockean individualist theory can be considered utopian according to both U1 and U3, and not action-guiding. It is utopian according to U1 because the realization of territorial justice in the present is closely dependent on a historical path that must have fully adhered to the Lockean principle of justice regarding the acquisition or transfer of property, thus overlooking the fact that territorial claims can be reasonably disputable or entangled. It is also utopian according to U3, because even if one overlooks the fact that, in the present, there is little compatibility between the territorial rights recognized as legitimate by present international law and the territorial rights that Simmons's theory would consider legitimate, it is no longer truly possible to apply the theory while maintaining its desirability at the ideal level. One would thus have to settle for a non-ideal application of it, making the theory potentially action-guiding only at a low level of ideality.

4.1.2 Evaluating Nine's Collectivist Lockean Theory of Territorial Rights

As already emphasized, Lockean theories should not be set aside without giving due consideration to the collectivist version, especially the one articulated in various works by Cara Nine. In the individualist version of the theory, states' territorial rights stem from individual property rights acquired through living on and enhancing the value of a given piece of land. In the collectivist version, however, states' territorial rights derive from rights that are inherently collective. As illustrated in Section 2.1.2 of Chapter 2, according to Nine's collectivist Lockean theory collectives directly acquire territorial rights provided that, in parallel with what has been said for the individualist version, they were capable of positively changing the land in a way that the final relationship between the land and the collective is morally valuable.

In contrast to the individualist version, this approach – especially the latest version of Nine's theory (Nine 2022) – carefully addresses the complexities stemming from entangled and overlapping claims. Here, territorial claims are no longer assessed through a model – the so-called "desert island model" (Ochoa Espejo 2020) – that establishes a one-to-one

[66] This point also renders utopian in the U1 sense one of the four virtues that Simmons identified in his theory, namely, the ability to address the issue of trapped minorities (see Section 2.1.1). Simmons argues that trapped minorities should not be subjected to political authority without their consent, and that they thus generally have a right to independence or a significant degree of autonomy (Simmons 2016, 123). However, once again, the issue of trapped minorities is addressed by Simmons without taking into account the factor of the entanglement of territorial claims, and the fact that it is not always possible to clearly distinguish between a valid title and an invalid one.

correspondence between a territory, or a resource, and an owner (or title bearer). Instead, territorial claims are evaluated through the "river model" (Nine 2022, 3), which acknowledges territorial claims as potentially overlapping and interdependent. Since Nine's theory is based on claims that originate as collective, it is less capable than Simmons's in accounting for particularity. In other words, it remains unclear which specific boundaries should demarcate collectives and their respective territories. In the 2022 version of her theory, Nine refers to the value of sociability as a fundamental principle of natural law, implicitly suggesting that it could play a role as a demarcation criterion, even though its potential functioning in this regard is not further developed.

Despite their common Lockean foundation, Simmons's and Nine's theories diverge in multiple ways, which affect the evaluation of both theories in terms of ideality and their ability to be action-guiding. The fact that Nine refers to a "river model" rather than a "desert island model" to represent the complexity and entanglement of territorial claims contributes to render her theory no longer utopian in the sense of U1. Her collectivist Lockean theory does not describe a perfectly just world, neither in terms of individual or institutional compliance, nor historically, nor in terms of resources.

Rather, it presents a structurally more complex world – one that remains within the bounds of ideal theory (as defined in the previous chapter) – while more accurately reflecting the reality that territorial claims can overlap and come into conflict.

In addition to lacking elements that would make it utopian in the U1 sense, Nine's theory also does not appear to include any features that would classify it as utopian in the U3 sense, as it does not seem to entail a model of justice that had to be applied starting from a specific past moment, nor does it entail a model that can no longer be applied in the future.

As was done for Simmons, a good starting point for providing a methodological assessment of the theory is to attempt an evaluation of the validity or legitimacy of real-world states' territorial claims through the lens of the theory. The goal is to identify practical steps for applying the theory, helping to bridge the gap between existing territorial arrangements and the theory's ideal objectives.

Nine's collectivist theory, like Moore's voluntarist theory and the nationalist theories I will analyse next, revolves around the concept of collective self-determination, which, in these theories, also serves as a tool for addressing the boundary problem[67]. Nationalists, as already

[67] The boundary problem, as already discussed in Chapter 2, is the issue that if a group has occupancy or territorial rights over a particular territory or geographical area, one should be able to explain how the boundaries of that area were precisely established.

discussed in Section 2.3 of Chapter 2, give a more concrete and tangible interpretation of the concept of collective self-determination, as they link it to the idea of nation and culture: a community can be identified, and consequently delimited, through fundamental cultural traits shared by its members.[68] Nine's concept of self-determination, like Moore's, as we will see in section 4.2, appears more opaque, as Nine essentially argues that collectives must "share a common conception of justice" (Nine 2012, Ch. 4).

A key observation here, which also connects to Moore's voluntarism, is that the principle of collective self-determination – if understood as pre-institutional and based on the idea that membership is defined solely by a general commitment to certain principles of justice – lacks concrete implications for real-world situations. Consequently, it can be considered utopian in the sense of U2, as outlined in Chapter 3, referring to theories that are deemed utopian due to their inherent infeasibility. The difficulty with Nine's conception of self-determination stems from the ambiguity surrounding what constitutes a "shared conception of justice". If the notion is defined too broadly, it becomes too vague to serve as a meaningful criterion for determining legitimate collective self-determination. Conversely, if it is defined too narrowly, it risks excluding larger, pluralistic communities and applying only to small, ideologically homogenous groups – thereby undermining the broader, more inclusive collectives that Nine appears to have in mind.

One might argue that, in practice, we could simply set aside the demarcation problem and accept existing boundaries as a given. This would appear to avoid the need for a principled account of territorial delimitation. However, this strategy proves insufficient when the demarcation issue becomes politically salient – particularly in conflict-driven contexts where the legitimacy of boundaries is precisely what is at stake. In such scenarios, Nine's concept of collective self-determination offers little practical guidance, as it lacks a sufficiently clear account of what constitutes a collective entitled to self-determination.

A possible counterobjection is that this ambiguity is intentional – especially in Nine's more recent work, which may suggest that no ideal demarcation criterion is available. On this view, in situations of conflict, the guiding principle should instead be the natural law of sociability, rather than any fixed notion of justice or identity. Yet, even if this is the most charitable interpretation of Nine's position, the appeal to sociability remains underdeveloped in her framework. Moreover, leaning heavily on this notion would gradually erode the distinctively

[68] I should clarify that I do not intend to defend the applicability of the nationalist notion of self-determination, which will be discussed later in Section 4.3, but rather to highlight its greater concreteness compared to the concept conceived by Nine or Moore.

Lockean foundations of her account, pulling it closer to a functionalist theory – an approach I will analyse in more detail shortly. For these reasons, the counterobjection ultimately fails to resolve the underlying concern.

If, on the other hand, the Lockean foundations of the theory are to continue to carry weight, Nine's theory ties the legitimacy of territorial rights not only to collective self-determination but also to the idea of a specific relationship between a people and the land – particularly, a historically rooted connection that has enhanced the land's value while also adhering to the Lockean proviso. Nine, as pointed out in Section 2.1.2, interprets the proviso with two key dimensions: not only the traditional "enough and as good" principle (Nine 2010, 363) which states that no collective can rightfully claim more than a fair share of resources, but also the "spoilage proviso" (363), which stipulates that land and resources must be utilized efficiently and without waste.

If we take seriously the idea that a collective's territorial rights depend on a morally valuable and value-enhancing relationship with a territory, then the definitions of key terms such as "morally valuable" and "value-enhancing", as well as the interpretation of the "spoilage proviso", risk being overly ambiguous and controversial. This ambiguity could, in turn, generate or prolong territorial conflicts rather than resolve them. In this specific regard, Nine's theory exemplifies a case of failed action-guidance (section 3.4). This issue warrants further elaboration and clarification to address how such ambiguity could hinder the theory's practical application.

It is useful to first recall that in Chapter 3, Section 3.4, it was clarified that a theory or elements of it that are not necessarily utopian in the senses of U1, U2, or U3, can still constitute cases of failed action-guidance if they are action-guiding but in ways that either require an extremely high level of compliance on issues where disagreement would hinder compliance, or whose outcomes would contradict the theory itself or some general desired outcomes.

Taking seriously the idea that territorial rights are legitimate when paired with an idea of moral value and moral enhancement of land seems to fall into both categories of failed action-guidance. The concepts of moral value and moral enhancement are highly susceptible to disagreement: in a hypothetical conflict between Indigenous American populations and the American state, the concept of moral enhancement could collide in two different perspectives. On one side, it could be interpreted as respect for nature, and on the other, it could be understood as the increased value of resources within a territory to meet the needs of a growing population. Given the high potential for disagreement, the conflict would be exacerbated rather than resolved by Nine's theory, leading to a counterintuitive outcome.

A possible solution, as Nine tends to propose, particularly in her most recent book "Sharing Territories" (Nine 2022),[69] is to emphasize the idea that, regardless of how territorial claims are justified, it is necessary to take into account the challenges of contemporary environmental situation. Given the increasing scarcity of resources, she argues that territories and especially vital resources (such as rivers) must ultimately be shared, and territorial claims should therefore not be seen as exclusive but rather overlapping. This approach acknowledges the interconnectedness of territorial rights and the need for cooperation in managing scarce resources, shifting the focus toward a more inclusive and interdependent model of territorial governance.

In conclusion, the theory of Nine is difficult to evaluate in the strict sense, as it is certainly characterized by an evolution of thought that shifts Nine's theory from a strictly Lockean collectivist theory to one that remains collectivist but weaker in terms of its Lockean foundation. By considering the reality of territorial rights as a complex system in which there is no perfect correspondence between a claim and a right, Nine's theory certainly has more potential to be action-guiding, but this potential remains underdeveloped and difficult to elaborate on if the Lockean foundation is to be preserved. As with Simmons, the Lockean proviso, understood here in its dual aspects of the "enough and enough-good proviso" and the "spoilage proviso", plays a significant role in the applicability of the theory: it tells us that territories can be modified and downsized for the sake of fair distribution, and it also tells us that having territorial rights does not entail the freedom to do whatever one wants with a given territory. However, if there is a lack of clarity regarding the type of territorial justice to be pursued ideally at a general level, the proviso ends up being merely a versatile non-ideal solution to contingent problems, one that is compatible with almost all the theories under examination.

4.2 Evaluating Voluntarist and Nationalist Theories of Territorial Rights

In Chapter 2, voluntarist and nationalist theories were presented as two distinct families of theories, as they indeed are. However, one could, albeit as a simplification, envision voluntarist

[69] It may be useful to clarify that Nine's theory of territorial rights is not entirely systematic over time. In fact, in her most recent book, published in 2022, some of the Lockean premises that originally underpinned her theory are gradually abandoned or revised. This shift reflects an evolution in her approach to territorial rights, where she moves away from some of the more rigid Lockean principles and begins to adopt a more original perspective, considering factors like environmental sustainability and the interdependence of territorial claims. This evolution marks a significant change in her theoretical framework, adapting it to better address contemporary concerns such as resource scarcity and the need for more flexible forms of governance.

and nationalist theories as two concentric circles: voluntarist theories form the larger outer circle, while nationalist theories constitute the smaller inner circle, representing a subset. The outer circle is defined by voluntarist theories because the foundational premises of voluntarism are largely shared by both families. At their core lies the fundamental idea that the territorial rights of states are justified by the right of collective self-determination of groups that possess a pre-state collective identity and a particular historical connection to a given territory.

Margaret Moore, introduced in Chapter 2 as the primary reference for voluntarist theories, conceives of the identity that binds individuals within a collective as not subordinate to cultural factors. She argues that collective identity can also be purely political, rooted in the shared will to pursue a common political project that, in a sense, transcends individual identities and culminates in collective intentionality – what Moore defines as "we-intentions" (Moore 2015, 47). The fact that cultural factors are merely contingent to the type of collective identity that Moore is concerned with does not mean that collectives cannot be bound by cultural ties; in fact, in the real world, this is far more common. In this sense, nationalist theories – which, unlike voluntarist theories, emphasize that what unites and sustains a people are precisely cultural, as well as political, identity factors – can be seen as a subset of voluntarist theories.

If nationalist theories are ideally represented as a subset of voluntarist theories, then, in terms of the implications and practical applications of these two families of theories, there will naturally be considerations that apply to both in the same or at least a similar way – as already partially anticipated in Chapter 2. However, since nationalist theories constitute a sort of subset of voluntarist theories, two considerations follow: (a) the implications of nationalist theories remain valid for that subset of voluntarist theories that coincides with nationalist theories; (b) conversely, it does not necessarily follow that the same considerations applicable to nationalism can be extended to the strictly voluntarist premises (i.e., excluding the subset that overlaps with nationalism).

For this reason, in analysing the implications of nationalist and voluntarist theories, I will begin with the examination of nationalist theories. As noted, the implications of nationalism can also apply to voluntarism, under the assumption that voluntarism will then require a dedicated evaluation of its specific premises. Section 4.2.1, focuses on nationalism, while Section 4.2.2 will focus on voluntarism.

4.2.1 Evaluating Nationalist Theories of Territorial Rights

Nationalist theories, as previously discussed in Section 2.3 of Chapter 2, constitute a family of theories centred on the concepts of nation and nationality, including – but not limited to – the justification of states' territorial rights. David Miller, one of the leading theorists of liberal nationalism from a territorial perspective, has argued that nationality is a fundamental aspect of an individual's identity. When a person recognizes the same traits in others, a community with a collective identity emerges, possessing the right to self-determination and to make collective decisions.

The traits discussed by Miller, as well as by Margalit and Raz, are recognizable characteristics such as language, customs, holidays, cuisine, music, artistic and literary traditions, religion, and other similar factors. These elements do not necessarily need to be present all at once but contribute to shaping a collective identity that distinguishes a national community (Miller 1993; Margalit and Raz 1990).

A defining element of the concept of a nation is a specific territory – not just any territory, but that particular territory which, according to Miller (2012) and Meisels (2003), has undergone both material and symbolic transformation by the nation itself. In turn, the nation has been shaped and influenced by that very place, creating a reciprocal relationship between the people and their land.

The mutual co-dependence between a nation and a specific territory serves as the nationalist response to the "boundary problem". This relationship justifies the territorial rights of a nation by emphasizing the deep historical, cultural, and material connections that bind a people to its land.

According to Miller, since the relationship between a people and a territory is one of mutual co-dependence, it is not sufficient for that people to merely have the right to occupy the territory – it should also have control over it. This necessity implies a right to collective self-determination, which should be understood as a right to self-government (Miller 1993; 2012).

According to Miller (1993; but also Margalit and Raz 1990) not all groups that share cultural traits can necessarily claim a right to self-government. Margalit and Raz emphasize that the size of a group is an important factor, as very small groups may not be able to sustain self-government. The historical dimension is particularly significant since a national identity is defined by its historical trajectory, which includes myths and key events that have actively shaped the nation. Tamir (1996) further argues that a nation's history can evolve even outside the territory with which the nation has a special connection, as long as that territory holds symbolic significance for the nation.

Since the main goal of this chapter is to provide an evaluation of the theories in terms of their applicability, one thing that immediately stands out is that nationalism is the only one of the four families of territorial rights theories discussed that is actually cited in public debates to justify territorial claims (though not just in them). At first glance, it therefore seems that nationalism cannot be associated with any of the three definitions of utopianism: U1, U2, or U3. Given its contemporary relevance, there seem to be no clear reasons to consider nationalism infeasible, which rules out classification under U2. Likewise, it would be unreasonable to argue that nationalism's principles fail to account for time constraints – whether concerning the past or the future – meaning U3 does not apply either. For now, the discussion on U1 will be set aside.

It is certainly true, as highlighted in Chapter 2, that discussing the concept of culture today – which serves as the foundation of nationalism – raises several challenges. The cultural identity of Italy a century ago seems far more distant from that of contemporary Italy than, for example, contemporary French or American culture is from contemporary Italian culture. Moreover, even within today's Italian culture, there exist significant linguistic and traditional differences (Kukathas 2003).While such concerns are entirely legitimate, "nations persist as an important form of identity, community, and collective memory for most of the world's population" (Young, Zuelow, and Sturm 2007). Therefore, the most appropriate way to assess nationalism's implications is not by dismissing its relevance but rather by critically considering the concrete consequences it entails.

Certainly, there is an aspect under which nationalism, in all the various features considered, appears at least weakly utopian. As explained in Chapter 3, my understanding of the concept of the utopian, the ideal, the non-ideal, as well as that of action-guiding, follows a spectrum where different concepts are defined with varying intensities (p. 109, section 3.1). Nationalism, as mentioned, cannot realistically be considered a fully utopian theory, but it can certainly be seen as weakly utopian in the U1 sense, at least in one aspect: that of describing a simplified, or "fully just", world in which there is a one-to-one correspondence between territory and nation.

The justification for nationalist territorial rights tends to imply that there is a group with a strong cultural identity that has established a bond with a territory in such a way that the territory has shaped the group and the group has shaped the territory. However, this reconstruction overlooks two entirely realistic circumstances: the possibility that a space is shared by multiple groups (some of which may be in the majority and others in the minority, though not necessarily), and the possibility that there are rival claims for the same space.

If a territory, as often happens, is home to multiple ethnic or cultural groups, the tools available to a nationalist theory are either to neglect the right to collective self-determination of minority groups (Orgad 2015; Schertzer 2017) (which, as I will discuss shortly, would constitute a case of failed action-guidance) or to accept the coexistence of multiple cultural groups on a given territory. However, this second option would open the door to pluralism and would flatten a fundamental pillar of the nationalist justification for territorial rights, namely that in order for cultural identity to be preserved, there must be full control over the territory (Miller 2012). The same type of argument applies to territorial disputes, where there are at least two peoples competing for a territory, and both are able to justify, even through the use of myths as endorsed by the nationalist theory itself, the legitimacy of their connection to the land.

A nationalist might respond – or one might generally think – that the fact that overlapping claims occur in the real world, or that there are pluralistic or polarized contexts, should be explained at the level of non-ideal theory, because, it could be argued, in an ideal world such situations would not arise. My methodological framework, however, frames ideal theories not as theories that overlook the complexities of the world, but as those that encompass the complexities of the world that are not due to situations of profound injustice. This is why, in my assessment, nationalism, from this perspective, can be classified as weakly utopian in the U1 sense – that is, because it conceives of an unrealistically simplified world.

Closely related to the issue of the non-exclusivity and entanglement of territorial claims is the boundary problem, which nationalism may not always be fully equipped to address. As a reminder, the "boundary problem", as defined by Simmons (2016, 62), refers to the challenge that all political theories – some more than others – face in justifying the specific borders of states.

The primary nationalist response to this problem is that a state's borders should correspond to the territory with which a people has a historical and symbolic relationship. However, this response raises further complexities. Historical and symbolic ties are often contested, overlapping, or subject to differing interpretations, making it difficult to establish clear and universally accepted territorial boundaries. Additionally, nationalism does not always provide concrete criteria for resolving disputes when multiple groups lay claim to the same territory based on historical or cultural grounds.

As previously noted, however, it would be misleading to judge nationalism as overall infeasible and therefore utopian in the sense of U2. Nationalism has, in practice, served as the foundation for numerous independence movements, many of which have successfully led to the establishment of new states. This historical precedent suggests that, despite its theoretical challenges, nationalism has demonstrated applicability in shaping political realities.

It remains to be understood how to reconcile the fact that nationalism appears to be practically applicable with these two aspects of implausibility just mentioned – namely, the oversimplification of territorial configuration and the boundary problem.

In reference to the methodological framework outlined in Chapter 3, it seems plausible to argue that if nationalism cannot be classified as fully utopian but also not entirely ideal and action-guiding, then, in certain respects, it could represent a case of failed action-guidance.

As previously mentioned, Chapter 3 (Section 3.4) outlines three ways in which a theory can fail to be fully action-guiding: first, when it generates too much disagreement, leading to non-compliance; second, when there are no applicable actions to implement it; and finally when, despite the theory being desirable in itself, its application results in undesirable consequences or outcomes inconsistent with the theory's intended goals.

A first way in which the theory fails to be action-guiding is precisely because its application seems structurally destined to lead to an outcome incompatible with the goals of any theory of territorial rights – namely, high instability, both territorial and political. The concept of culture, which is inherently sensitive to the passage of time, is supposed to define the boundaries of a community – understood by Miller, for this reason, as an "ethical community"[70]. However, culture is an intrinsically unstable concept, one that could continuously lead to further territorial and political fragmentation. The theory's difficulty in handling overlapping claims and the entanglement of territorial claims further contributes to this instability, a problem exacerbated by its reliance on myth and symbolic narratives. In a sense, within a strictly nationalist framework, instability appears to be a structural feature rather than a contingent flaw, suggesting that overcoming conflicts will require principles external to nationalism itself.

In this sense – and here I conclude the discussion on nationalism – one could also add, as a second point, that nationalism generates a form of disagreement that is particularly difficult to resolve, making the theory classifiable as failing to be action-guiding due to non-compliance. The very nature of nationalist claims – rooted in historical narratives, collective identities, and cultural attachments – makes them resistant to compromise. Unlike disputes that can be mediated through pragmatic negotiation, nationalist conflicts often generate difficulty in

[70] The concept of nationality as an "ethical community" (Miller 1993, 5) views a nation not just as a political entity but as a moral and cultural community bound by shared values, traditions, and a sense of belonging. The concept of "ethical community" emphasizes moral solidarity, emotional connections, cultural identity, and collective self-determination.

reconciling competing nationalist claims. Rather than providing a clear framework for guiding action, nationalism may instead contribute to persistent conflict and political deadlock, further challenging its viability as an action-guiding theory.

In conclusion, nationalist theories can be classified as weakly utopian in the senses of U1 and, to a lesser extent, U2. They can be considered utopian in the U1 sense because they tend to oversimplify the entangled nature of territorial claims, and they could be classified as utopian in the U2 sense precisely because, by overlooking the entangled nature of territorial claims, they fail to offer adequate and definitive solutions to territorial disputes. However, since nationalism is a theory that seems to find broad application in the real world, it may not be viewed strictly as an utopian theory, but rather as one that fails to be fully action-guiding. As mentioned, it fails to be fully action-guiding mainly because it rests on elements that make it unstable, such as the very concept of culture, the symbolic bond with territory, or the difficulty in managing pluralistic contexts where more than one cultural group might legitimately claim a right to self-determination.

Like the collective self-determination discussed by Nine, nationalist collective self-determination also faces the problem of remaining ambiguous both in terms of how to define the collective – given the difficulty in delineating the boundaries of a cultural identity – and in terms of how to manage those groups or individuals who legitimately occupy a territory but do not belong to the dominant group.

4.2.2 Evaluating Voluntarist Theories of Territorial Rights

In Chapter 2, section 2.2, voluntarist theories have been presented as a family of theories of territorial rights sharing the idea that groups should be considered the ultimate holders of territorial rights when having territorial sovereignty is necessary to reflect and grant the group's collective self-determination. Voluntarism has been presented in its classical version, that of Margaret Moore, and also in other versions. However, the plebiscitary version of Altman and Wellman (2009), as well as that of Ochoa Espejo (2016), will be set aside here, as they were ultimately less desirable.

Before in this chapter, I have also argued that voluntarist and nationalist theories can potentially be conceived as related, with nationalism being a subset of voluntarism. Voluntarism shares characteristics with both theoretical families, as it relies on the broader principle that groups with a shared political identity – one that is not necessarily culture-based

– and who have a historical connection to a given territory, have the right to self-determination and self-government. Since the presence or absence of the cultural factor as a source of group identity in voluntarist theories is optional, one may ask what the implications of the theory are when this optional factor is present and when it is absent. When the optional factor of cultural identity is present, the implications of voluntarism closely resemble those of nationalism. When the factor of cultural identity is absent, it becomes necessary to examine the implications of the strictly voluntarist premises. Before delving more carefully into both of these cases with closer, it is useful to refresh the core premises of voluntarism.

Moore's voluntarist theory, as previously mentioned, shares elements not only with nationalism but also with Nine's collectivist Lockean theory. These three theories, as opposed to Simmons's view, share the idea that territorial rights originate from collective rights rather than individual rights, and the notion that the relationship between a group and its respective territory is fundamental for exercising collective self-determination.

Moore's theory is based on the assumption that the relationships individuals form within their communities have moral and normative significance (Moore 2015, 3). However, unlike the bonds emphasized by nationalists, the relationships Moore describes are not dependent on cultural affinities. This distinction makes it even more important for the theory to clarify how territorial rights transition from the individual level – where individuals have the right to occupy a space and not be forcibly removed – to the collective level, which also requires defining how boundaries should be established.

Moore defines the "right of residency" as an individual's right to remain in a place where they have built projects, goals, and relationships (Moore 2015, 35). This concept expands to the collective level through the role of territory, which shapes group identities and fosters a shared sense of belonging. As a result, these collective identities develop a collective personality and collective intentions, or "we intentions" (Moore 2015, 47). At this stage, the individual "right of residency" transforms into a collective "right of occupancy" (Moore 2015, 36), granting the group authority over the territory where its members have established a special connection or interest.

With these characteristics in place, the next step is to determine which groups qualify to hold territorial rights – in other words, which groups can be recognized as "peoples".

According to Moore, three characteristics are required for a group with the aforementioned features to be considered a people: the group must share a conception of itself as a unified collective; the group must have the capacity to establish and maintain political institutions; the group must have a history of political cooperation that is temporally extended, including future expectations of productive collaboration. When a group qualifies as a "people" and possesses occupancy rights to a particular area, its connection to that place generates a fundamental outcome: the good of collective self-determination (Moore 2015, 35). The boundaries of the territory over which a people holds rights correspond to the geographical area where its inhabitants individually possess a right of residency and where they have a significant interest in maintaining control. This control is essential for protecting their group identity and, in turn, enabling the exercise of collective self-determination.

Turning now to a more direct evaluation of Moore's theory, and taking into account the premise regarding the shared elements between voluntarism and nationalism, we can begin by considering the implications that these two models have in common before moving on to those that pertain strictly to voluntarism.

For clarity, it is important to emphasize that Moore does not conceive of nationalism as a subset of her own theory, and in fact Moore argues that "Miller's position would benefit from moving in the direction of her theory"(Moore 2015, 86). Moore is critical of nationalism particularly from two perspectives: the concept of culture and the idea of a symbolic and symbiotic relationship with a territory.

According to Moore, the issue with accounts based on the concept of culture is that there are several key examples of groups that we commonly perceive as nations but that, upon closer examination, do not have sharply distinct cultural characteristics. Examples include the United States and Canada, or Ireland and the United Kingdom (Moore 2015, 80; Jennings 1956, 56).

As for the emphasis on the symbolic and symbiotic relationship between a group and a territory, Moore argues that while this relationship may help explain an emotional or historical bond, it does not justify territorial rights. This is because territorial rights typically extend over much larger areas than those directly associated with a symbolic connection and even include unoccupied territories.

As specified earlier, my account is critical, like Moore's, of both of these aspects of nationalism. However, the point is that, upon closer examination, it does not seem that Moore can truly be as critical of them as she claims.

Moore's theory, much like that of Miller or other nationalist theorists such as Meisels, is based on the idea of a group or collective that ideally precedes the state, exists prior to institutions, and is independent of them. In this framework, individuals, in a hypothetical state of nature, identify with a group through which they pursue a collective political project within – in a second phase – an institutional structure.

The recurring issue, however, remains that of identifying the boundaries of these groups and, consequently, their corresponding territorial boundaries. If Moore argues that cultural identity is too vague and fluid to effectively delineate a group's boundaries, then she faces a dilemma: either she accepts that collective identities are not pre-political but instead forged within institutions (which would push her theory away from voluntarism), or she must provide a stronger criterion than cultural identity to explain the formation and delineation of groups in a pre-institutional phase.

The key issue, of course, is that Moore cannot truly accept either of these options. The first would mean abandoning a core premise of voluntarism – that collectives exist prior to institutions – while for the second, she does not offer a viable alternative criterion for defining group boundaries.

Since Moore does not outright exclude cultural identity – after all, she cannot deny that at least some existing national groups have formed on a cultural basis – conceiving of the collectives she describes as culturally homogeneous gives her theory a level of concreteness that it would otherwise lack.

At this point, the problem is the one already anticipated: while Moore's theory gains concreteness by not denying its points of contact with nationalism, it also becomes subject to the same implications that, as discussed in section 4.2.1, nationalism itself faces.

It can be argued that Moore, by placing less emphasis on myth and symbolism and focusing more on what actually justifies rights of occupancy over a given area, provides a stronger account of territorial rights compared to nationalism. As we have seen, Moore conceptualizes rights of occupancy as collective rights, which, in a sense, emerge from the sum of the individual rights of residency held by all members of the group. In turn, the individual rights of residency must be justified through the life plans of individuals, who have the right to reside in the area where they have established their projects, goals, and relationships.

The idea of located life plans (Moore 2015, 38) as the ultimate foundation for territorial rights also does not seem to be less problematic than the nationalist justification. This is because life plans themselves can be fluid – an individual can change their projects or pursue them in locations different from where they were born. Therefore, this aspect does not make voluntarism significantly more concrete than nationalism, as both face challenges when it comes to the mobility and flexibility of the factors that justify territorial claims.

It is clear from the examples that Moore focuses on that the theory she proposes has specific targets, one of which is justifying territorial claims for indigenous populations, such as the Amazonian Indigenous People (Moore 2015, 174), the Inuit (41), the Haida (41), the Cree (76), or the Mohawk (76). For these groups, the idea of located life plans may appear more concrete than it would if applied to an Italian, French, or Canadian citizen, even though Moore claims to be proposing a universal theory that should apply to “urban people in liberal democratic democracies” (Moore 2015, 42).

On the other hand, even if the theory were to be applied only to indigenous groups, the problem might arise that these groups may not have the resources to qualify, according to Moore’s theory, as groups that can be considered peoples with the right to self-government.

What remains is to further clarify the implications of Moore’s voluntarist theory if we exclude the elements it shares with nationalism and focus solely on the strictly voluntarist premises.

As seen Moore argues, in contrast to nationalism, that the members of a group can recognize themselves as belonging to the group due to a particular political identity that is “objective” (Moore 2015, 55), stable over time, not contingent on cultural factors and (in contrast to functionalism) independent of any institutional structure.

As noted in Chapter 2, when a group is defined solely by its political identity, it appears that, from a theoretical perspective, a higher authority must determine who qualifies as a member and who does not. However, this authority or body is also subject to similar challenges concerning its legitimacy and decision-making criteria. Moreover, most individuals have multiple overlapping identities, some of which are localized – such as being from a certain city, region, nation, or continent (and in this case, it would not be clear which of these should translate into territorial rights) – while others are non-localized, such as political, religious, gender identities, and so on. Moore tries to address this by claiming that the group identities she refers to are "morally significant" and grounded in "morally significant relationships" (Moore 2015, 53). However, distinguishing these identities in practice is challenging, and they may connect individuals to transnational social groups rather than national ones. (Kukathas 2003).

For these reasons, Moore's theory, in its more strictly voluntarist version, is even more utopian (in the U2 sense) than it would have been in its more "nationalist" version. In my categorization, theories are utopian in the U2 sense when they are not applicable, and from this perspective, Moore's theory seems to lack any practical application in reality. Even if it were to find some applicability, the theory still has the explicit ambition of being universally action-guiding and of offering a universal explanation for what should justify territorial rights (Moore 2015, 30). Despite perhaps being more theoretically desirable, Moore's theory is more utopian than nationalism in terms of its applicability.

4.3 Evaluating Functionalist Theories of Territorial Rights

The final family of theories examined in Chapter 2 consists of functionalist (or statist) theories, that can be considered a Kantian-derived family of theories of territorial rights. What distinguishes them from the other theories analysed so far is that they establish territorial rights in the state itself, rather than treating them as rights derived from the legitimization of individuals or groups.

Entering the state is therefore considered a duty rather than a voluntary act, as not entering the state – and thus not being subject to any rule of law – would imply a condition of inequality in which some individuals are above and detached from the law.

Since entering the state is to be considered a duty, it is necessary for the state, in order to be legitimate and for its jurisdiction over a given territory to be justified, to meet certain fundamental conditions. For this reason, functionalism, unlike the other theories presented, not only serves as an explanation of state sovereignty but also as a framework for defining the limits of that sovereignty.

Since the state, according to functionalism, is itself the primary holder of territorial rights, this family of theories appears more susceptible than others to the "boundary problem", as there seem to be no clear criteria for precisely demarcating territorial borders. Anna Stilz's (2019) functionalist theory, besides being the most recent and comprehensive version of functionalism, explicitly takes the "boundary problem" into account and attempts to resolve it – something that former classic functionalist theories, such as Buchanan's (2007) had struggled to do.

The analysis of functionalism conducted in Chapter 2 focused on Stilz's theory, and I will also rely on Stilz for the methodological assessment of the theory. The theory of Ypi, which was presented in Chapter 2, Section 2.4.2, will be temporarily set aside as it is less complete and comprehensive than that of Stilz.

The Kantian-derived functionalist theory of Stilz stipulates that states, in order to be legitimate, must meet four fundamental conditions.

(a) The state implements a system of law that defines and enforces rights, including property rights.

(b) The state's subjects have a legitimate claim to occupy that territory (Stilz 2011).

(c) The state governs in the name of the people, protecting basic rights and granting them a voice in defining those rights (Stilz 2011).

(d) The state is not a usurper (Stilz 2009).

Point (a) serves to clarify that individual rights, including property rights, can only be fully realized within a state capable of enforcing them. Point (b) specifies that a state's authority cannot be extended to a territory that was not legitimately occupied by its citizens. Point (c) further elaborates on what it means for a state to be legitimate in terms of fulfilling certain conditions. Specifically, according to Stilz, a state is legitimate if it protects a set of rights that include security rights, subsistence rights, autonomy rights, and rights of free expression and association.

Finally, point (d) serves to clarify that adopting a functionalist theory does not imply accepting that states that are more "functional" in terms of adherence to the theory have the right to absorb or annex less "functional" ones, and that the right to collective self-determination must still be respected. This point provides an opportunity to distinguish the concept of self-determination in Stilz's framework from that discussed by Nine, Moore, or nationalist theorists. In particular, the type of self-determination Stilz refers to is strictly dependent on institutions, meaning that the collective identities Moore, for instance, discusses are primarily fostered by institutions and by life within them. At the same time, Stilz acknowledges that there can be a pre-institutional stage in which collective identities may begin to emerge in an embryonic form, even if they are not universally shared.

The account then presents an explanation of how a state's territorial rights attach to a particular group of people and their respective territory. This explanation unfolds in two steps: first, by explaining how individuals acquire specific rights over a territory, and then by outlining how these rights transition to the collective level.

What underlies an individual's right to occupy a given territory, similarly to Moore's account, are "located life plans" (Stilz 2019, 41). Located life plans refer to the goals, relationships, or projects that are fundamental to a person's well-being and that require being carried out in a specific context. Located life plans grant individuals "moral rights of occupancy" (Stilz 2019, 35), which are to be understood as pre-institutional rights. Unlike property rights, occupancy rights do not entail exclusive exploitation of the resources in that location.

In the transition from the individual level of the occupancy rights to the collective level of territorial rights, Stilz takes the "boundary problem" into account and posits that, even at a pre-institutional level – similarly to Moore's argument – an "actual popular will" (Stilz 2019, 94) can emerge. This collective will is powered by the interest individuals have in being the authors of their own political institutions. This collective will ultimately manifests within the state and constitutes what Stilz defines as collective self-determination. It is fundamental in safeguarding the value of citizens' political autonomy.

It can be noted that Stilz's theory retains some elements from Moore's theory, even if framed within Stilz's functionalist approach. The reason for these common elements is linked to the recurring issue of the "boundary problem". Classic functionalism, when understood as a theory justifying territorial rights based on the state's ability to perform a predefined set of functions, seems unable to provide satisfactory answers to questions about the specific boundaries a territory should have, or the relationship between the state and its citizens. By combining classic functionalism with aspects of voluntarism – namely, the acceptance of an actual popular will and a pre-institutional link between individuals and territory – Stilz seeks to provide a more robust solution to the "boundary problem". This hybrid approach allows territorial rights to be anchored not only to the state's ability to fulfil its functions but also to a potentially more solid foundation of legitimacy derived from the collective will of the citizens. In this way, Stilz seeks to avoid some of the main criticisms of classic functionalism while providing a more solid justification for states' territorial sovereignty.

What needs to be clarified is whether by incorporating these voluntarist premises, Stilz inherits the implications of voluntarism described earlier in section 4.2.2, and, more generally, how to methodologically evaluate functionalism.

The fact of postulating the genesis of a collective "political will" at the pre-institutional level was found to be a utopian element in Moore's theory, about which I had shown how Moore's theory faced a dilemma: either accepting that collective identities are not pre-political but institutions-dependent, or expanding on how a pre-institutional collective will can actually emerge.

While Moore could not fully pursue either option, Stilz can certainly lean toward the first, as her theory essentially argues that it is within institutions that a people, with its collective identity, is fully formed. However, by favouring the first option, Stilz's theory would become weaker in addressing the "boundary problem", particularly when applied to resolve territorial disputes. It could then be considered weakly utopian (in the U2 sense) because it would fail to provide a clear demarcation criterion. Unlike any other theories, however, functionalist theories can offset this element of utopia by offering guidance on the conditions of state legitimacy, thus providing more practical action-guidance despite the lack of a clear boundary framework. In a hypothetical territorial dispute, one could imagine that a functionalist theory would not be able to provide a single criterion for reorganizing and demarcating territory. However, it could evaluate the legitimacy and desirability of the possible options.

Expanding the analysis to other aspects of functionalism, it seems that the reliance on a type of justice that is prospective and future-oriented, rather than on historical justice, inevitably protects the theory from charges of utopianism, both in the U1 and U3 sense. However, by neglecting, at least compared to other theories, justice from a historical perspective, some counterintuitive implications arise. These include the potential accusation that functionalism is too biased towards the status quo or the possibility that functionalism fails to address historical injustices.

The first charge appears ultimately unfounded for two interconnected reasons. The first is that functionalism does not appear to justify the status quo, but rather seems to identify principles of justice designed to seriously address contemporary territorial challenges – unless one wants to argue that functionalism is a non-ideal theory. In Chapter 3, I explained how I use the concepts of ideal and non-ideal within my framework, clarifying that non-ideal theories are those that pay high attention to the applicability and feasibility of the theory, but for this purpose, settle – so to speak – for second-best or third-best levels of justice. Ideal theories, on the other hand, are conceived as those that must also pay attention to applicability, but without sacrificing the pursuit of the highest level of justice attainable. Functionalism, therefore, fully qualifies as an ideal theory. In fact, the second reason why it seems unfounded to claim that functionalism is too biased toward the status quo is that considering the status quo to guide a theory is helpful to prevent veering too far into the utopian realm.

It would be instead more reasonable to assume that adopting a functionalist theory of territorial rights would disadvantage the issue of redressing historical territorial injustices in favour of greater attention to ongoing territorial injustices, since functionalism does not actually provide clear guidance on how to address historical injustices. Since addressing past territorial injustices often means, on the one hand, imagining what the state of affairs would be if the territorial injustice had not occurred, and on the other hand, acknowledging that in the meantime, events have unfolded in the given territory, where, for example, new people have legitimately settled, functionalism undoubtedly has an imbalanced focus on the present situation, making it susceptible to justifying the superseding of past injustices.

Finally, there are two other aspects of functionalism to observe through the lens of failed action-guidance. The first aspect concerns the issue of benign colonialism, and the second is a more general observation about the theme of compliance.

As seen in Chapter 2, functionalism is a theory that implicitly endorses a certain idea of efficiency: a state is legitimate if it can perform a set of functions, so a state can strengthen its territorial claims by improving its performance in the direction indicated by the theory. This point seems undeniably action-guiding: states must take action to comply, and it is possible for other states to exert pressure and influence on those that have not yet complied. In general, the goals required by the theory – mainly related to the respect and guarantee of a set of rights – seem achievable. The point is to ask what guidance the theory would provide if a state – as often happens in the real world – fails to meet the requirements to qualify as legitimate or would qualify as less legitimate, or less performing.

To protect itself from this kind of criticism or potential weakness in the theory, Stilz, as seen, specifies conditions of non-usurpation and the prohibition of annexation of one state by another. It is important to keep in mind that within institutional boundaries, the right to collective self-determination still holds, understood as the right of the citizens of a state not to be governed by outsiders. However, the fact remains that functionalism – intentionally – does not include criteria that establish exclusivity in the occupation and exploitation of a territory by a specific group of people. This is why one might think that if a group of people were to settle in a previously occupied territory but were more "efficient" in terms of governance, this group could, in a sense, colonize that territory while being implicitly backed by the theory.

Across the various points analysed, and particularly concerning benign colonialism, one may ask what level of compliance is required for Stilz's theory to remain applicable rather than failing in its applicability. This presents a dilemma for Stilz: either she insists – as she partly does – on the value of collective self-determination, understood as something that binds a people to a territory in a particular way, or, in line with the core functionalist premises, she accepts the non-exclusivity (from a collective standpoint) of territorial claims. The first approach, as seen, tends to make the theory more utopian. While the latter approach makes her theory well-suited to addressing contemporary challenges – as seen in the discussion of Nine's theory –, it may also render it less desirable for the individuals subject to it. This would not be the same type of non-exclusivity that Nine refers to. Nine's theory appears to justify a specific attachment between a territory and a collective, but then adds the condition that, given the entanglements between different groups' territorial claims and the general right of each group to access a minimum amount of resources, territorial claims cannot be considered exclusive – even in the sense of being flexible. Stilz, by contrast, does not conceive of territorial claims as flexible. In the case of functionalism, non-exclusivity arises for two main reasons: first, territorial rights are ultimately derived from individual rather than collective occupancy rights; and second, neither occupancy rights nor territorial rights grant an entitlement to exclusive use or unlimited exploitation of a territory's resources. It is precisely because it does not recognize exclusivity in collective territorial claims that the theory risks becoming less desirable, potentially hindering compliance. Whether the level of compliance required makes the theory utopian or still action-guiding remains debatable. However, for functionalist theories, it is worthwhile to lean toward this risk of lower compliance in an effort to be action-guiding, rather than shifting the focus toward strengthening the role of collective attachment and self-determination in order to appear more desirable, but ultimately utopian.

In conclusion, functionalism appears to be the theory with the least risk of being utopian, as it is also conceived, in a certain sense, to be forward-looking. In its forward-looking nature, however, functionalism seems to generate some counterintuitive implications, which Stilz attempts to balance by introducing elements from Moore's voluntarism. However, these additions make her theory more utopian. The analysis partially reveals that functionalism does not seem to derive significant benefit from hybridizing with a theory based on the value of collective self-determination, and that it might instead benefit from simply strengthening its own premises – something Stilz does not do adequately.

Regarding the theory's counterintuitive implications, the most substantive concern is that functionalism may risk normalizing or overlooking the significance of past territorial injustices. With respect to the issue of benign colonialism, the theory leaves room for divergent interpretations: it can either be seen as an undesirable implication that undermines the legitimacy of functionalist claims, or as a consequence that, while counterintuitive, follows logically from the principle of non-exclusive occupancy and thus does not inherently contradict the theory's premises. Overall, functionalism emerges as the theory most open to practical application – or, at the very least, as the framework most promising for further development with a view to real-world application.

Conclusion

The aim of this chapter was to demonstrate how the conceptual tools developed in Chapter 3 can help resolve the theoretical impasse outlined in Chapter 2. There, it became apparent that no single theory of territorial rights stands out as clearly superior in terms of normative desirability. While each theory – Lockean, voluntarist, nationalist, and functionalist – offered distinctive strengths, none was decisively preferable, giving rise to the suggestion that a pluralist model of territorial justice might be most appropriate.

However, the analysis also revealed that pluralism is not always a practical asset. In many real-world cases where competing territorial claims collide, the absence of a prevailing normative standard becomes a liability, leading to interpretive deadlocks and political paralysis. What emerged from this tension was the need to identify a single theory capable of serving as a normative anchor – a reference point for guiding territorial decisions in a normatively plural but politically entangled world.

To address this, Chapter 3 proposed a shift in perspective: from assessing theories purely based on abstract desirability to evaluating them through the lens of action-guidance. Chapter 4 applied this framework, reassessing the main theoretical families of territorial rights. The results demonstrated notable implications: individualist Lockean and voluntarist theories were judged overly utopian or infeasible; collectivist Lockean and nationalist models, while more actionable, often yielded counterintuitive or politically problematic implications. By contrast, functionalist theories stood out as the least utopian and most amenable to real-world application, without abandoning core normative commitments.

This leads to a first major conclusion of the thesis: functionalism provides the most promising foundation for an ideal theory of territorial rights that is also action-guiding. It offers a balanced model – universally oriented, yet sensitive to the institutional, legal, and geopolitical constraints of the world as it is.

Given this conclusion, Chapter 5 takes the next logical step: developing and refining a functionalist theory that can more fully realize this dual aspiration. It does so by turning to Anna Stilz's theory as a normative guide. Stilz offers a hybrid account that incorporates elements of functionalism and political autonomy. Her approach provides an essential starting point, but, as Chapter 5 will show, it also contains ambiguities – particularly regarding the role of collective self-determination, the legitimacy of territorial boundaries, and the balance between national sovereignty and international regulation.

Chapter 5 will therefore critically examine Stilz's theory, evaluating which elements should be retained and which require revision to construct a more action-guiding version of functionalism. Special attention will be given to three key challenges: (1) how to define and operationalize state legitimacy; (2) how to incorporate a concept of representation and self-determination without reverting to voluntarist or nationalist assumptions; and (3) how to address the boundary problem in a way that avoids utopianism while maintaining action-guidance.

CHAPTER 5
AN ACTION-GUIDING FUNCTIONALIST THEORY OF STATES' TERRITORIAL RIGHTS

Introduction

Chapter 4, which has just been concluded, has highlighted what is perhaps the most central point of this thesis, namely that functionalism provides the best guidance when we are to approach territorial rights' issues in the realm of ideal theory.

It is important to emphasize that this is an analysis that provides results for the ideal level, and that if the analysis were conducted at a utopian or non-ideal level, the results could differ.

The utopian level, as explained in Chapter 3, is conceived in my categorization as a level where constraints of all kinds are minimised. Thus, a theory is assessed regard to the structural feasibility of implementing its recommendations. An evaluation of Lockean, voluntarist, nationalist, and functionalist theories from a utopian perspective would likely have produced a different outcome than the one found, one that would have favoured theories that are unimplementable because they are utopian, while discarding those that generate contradictory or counterintuitive implications. Lockean or voluntarist theories would likely have been the preferred ones within a utopian perspective.

The non-ideal level, as further explained in Chapter 3, is conceived in my categorization as a level of analysis that does not aim to identify universal principles of justice, but rather principles that are useful and implementable in a specific and urgent case or for a particular and pressing issue, without these principles necessarily being compatible with the pursuit of a more universal or ideal goal. An evaluation of Lockean, voluntarist, nationalist, and functionalist theories from a non-ideal perspective would certainly have been more open to pluralism, in the spirit of drawing from each theory the most applicable recommendations for a given context.

The ideal level, within the same categorization, is thus understood as a sort of middle ground, a compromise between universalizability and applicability. The theories to be preferred for an analysis at the ideal level are those that are applicable (even if not immediately feasible, but in the sense of being action-guiding, meaning realizable through a series of intermediate steps) and, at the same time, generalizable. Since Lockean and voluntarist theories were overall found to be utopian, and nationalist theories were generally undesirable and weakly utopian, functionalist theories were identified as the most suitable for meeting the criteria of the ideal level. Specifically, in the version of Stilz examined, they are not strongly utopian and they are applicable and desirable even from the perspective of their implementation.

The distinction between ideal and non-ideal levels may not yet clarify a key point: the necessity of establishing an ideal level where a single principle of justice is determined. The argument thus far has been that addressing the territorial rights of states requires operating at multiple levels of ideality (Steiner 2017), including the ideal level. This is crucial because focusing solely on lower levels of ideality – where analysis is more concrete and context-specific – does not guarantee that the principle of territorial justice emerging from a particular case is truly generalizable.

Amartya Sen, on the other hand, has famously argued, using a metaphor, that one does not need to know the height of the tallest mountain to determine which of two nearby mountains is taller (Sen 2011; Meshelski 2019). Simmons, however, would reply that knowing the tallest mountain's height could still be necessary if it helps assess how far we are from achieving the ideal form of justice (Simmons 2010). In the case of territorial rights, while Simmons's point still holds, the challenge is deeper: we may not even be certain whether height is the correct measure of a mountain's value in the first place.

For instance, from a nationalist (or voluntarist) perspective, territorial justice might be assessed by the extent to which national self-determination is protected. A functionalist, by contrast, might argue that justice depends on a state's ability to uphold its citizens' human rights, while a Lockean might insist on the rectification of past injustices. While it is certainly possible that each of the principles mentioned holds its own validity, it remains crucial to establish a hierarchy of priorities in situations where upholding one of these principles may require the sacrifice of another. For example, prioritizing collective self-determination could, in some cases, come at the cost of fully protecting the human rights of all individuals. Conversely, placing the protection of universal human rights at the forefront might necessitate foregoing redress for past injustices, thus leaving some wrongs unaddressed. The standard for measuring territorial justice, therefore, depends on the underlying ideal of justice being applied as a priority, and once the priority has been identified, it remains possible, from a pluralist perspective, to attempt to safeguard more than one principle of justice. Establishing a hierarchy of principles enables us to navigate situations in which a plurality of potentially valid principles[71] might otherwise hinder our ability to make decisions and take action.

[71] What I refer to as principles of territorial justice are simply the sets of values advocated by the single theories.

The exploration undertaken thus far in the former Chapters has allowed me to identify a fundamental principle of territorial justice that I consider the leading principle. After having observed (in Chapter 4) that Lockean, voluntarist and nationalist theories seem to be less universally applicable and less (or not) action-guiding, I have identified the functionalist theories as potentially more desirable and action-guiding at the ideal level.

As seen in Chapter 2 and further discussed in Chapter 4, functionalism exists in various versions, the most comprehensive of which, and therefore taken as a reference point, is the one developed by Anna Stilz, particularly in the most recent 2019 version (Stilz 2019).

Stilz's theory has several strengths from the perspective of applicability, which are worth briefly revisiting.

First and foremost, it has been highlighted that Stilz's theory is not utopian but rather forward-looking, particularly because it clearly defines the conditions for state legitimacy and the limits of sovereignty. Emphasizing the constraints on sovereignty is a strength of Stilz's theory, a feature that was also partially present in Nine's collectivist theory. Incorporating the limits of sovereignty is valuable because it allows the analysis to take into account key realistic aspects that any action-guiding theory must consider, such as resource scarcity, overlapping territorial claims, and the non-exclusivity of territory. In Stilz's framework, the limitations on state sovereignty should be understood both as conditions for the legitimacy of a state's authority over its own citizens and as actual constraints on the state's power in relation to the rest of the world – other states, non-citizen individuals, and supranational organizations.

In the first sense, sovereignty is restricted in how it must be exercised – namely, by respecting and protecting a set of individual rights, which Stilz categorizes into the following four groups: security rights (such as the right not to be tortured or arbitrarily imprisoned), subsistence rights, autonomy rights (such as freedom of thought, the right to form a family, and control over personal property), and finally, the conditions for exercising collective self-determination (including the right to association, expression, and dissent) (Stilz 2019, 113). The state's respect for and protection of these rights delineates the boundary between legitimate and illegitimate sovereignty. From an action-guiding perspective, this distinction raises several key questions: what are the implications when these rights are not upheld? How fixed and objective is this list of rights? And what role should the international community play in ensuring their enforcement? I will address these three questions in Sections 5.1 and 5.2 of this chapter.

In this second sense, states' sovereignty over territory must be understood as limited by duties of distributive justice[72] (Stilz 2019, 15). These duties do not necessarily require redistributing resources but rather ensuring their non-exploitative use in a way that aligns with principles of distributive justice. Additionally, sovereignty is constrained by environmental and ecological obligations, which impose a duty on states to avoid resource exploitation that causes environmental harm (Stilz 2019, 162). Stilz further argues that a "defensible baseline arrangement" (Stilz 2019, 243) should grant both developed and developing nations the right to use their natural resources. However, developed countries should not have an unrestricted right to exploit resources beyond a certain limit. Their continued use should be conditional on demonstrating that they have implemented other emissions-reduction measures to offset the resulting carbon release. Developing countries, on the other hand, should be granted a prima facie right to exploit their resources – such as forests – to the extent necessary for their development.

The existence of external limitations on state sovereignty necessitates expanding the discussion of sovereignty to a supranational level (Stilz 2019, 16). Just as individual rights and duties – including property rights – derive their meaning only within a state capable of enforcing them, the rights and duties of states themselves are intelligible only within an international framework that provides regulation and safeguards. Therefore, the theory must clarify the relationship between state sovereignty, which remains predominant, and transnational or international authority. Specifically, it must define the conditions and justifications for legitimate interference with state sovereignty.

However, neither Nine – who, like Stilz, defended an intersection between supranational and national sovereignty, as discussed in Chapters 2 and 4 – nor Stilz clearly delineate the limits of state sovereignty.[73] In fact, Stilz broadly claims that having external limitations on states' exclusionary prerogatives is not incompatible with states' sovereignty and she points out how

> "states have already bound themselves, through multilateral institutions, in ways that limit their sovereign decision-making by norms of human rights, nonintervention, and self-determination. […] So

[72] Stilz is not concerned with defending a full-fledged theory of global distributive justice but instead identifies five global justice duties that align with her framework. These include the duty to eradicate global poverty (Stilz 2019, 15), the duty to ensure that the benefits and burdens of international trade are justly distributed (16), the duty to establish and uphold supranational regulatory institutions to prevent interference from more powerful states and multinational corporations (16), the duty to cooperate in addressing global challenges such as climate change and the refugee crisis (16), and the duty to rectify injustices that hinder the creation of a more just world (17).

[73] It may be useful to recall that this question was partially addressed in the discussion of cosmopolitanism in Chapter 1, while keeping in mind that cosmopolitanism – albeit with some variations depending on the specific version one adheres to – tends to advocate for a significant reduction in state sovereignty in favour of either a supranational level of authority or a sharp fragmentation of sovereignty, leading to a loss of centrality for the state. However, upon closer analysis, both of these options were found to be undesirable, even before considering whether they were action-guiding, and were therefore discarded.

long as this delegation is authorized from within the state's domestic legal system – as it would be, if the envisaged arrangements are established via multilateral treaty – these limitations do not compromise the state's internal sovereignty" (Stilz 2019, 254).

This chapter will therefore aim, among other things, to further examine – always with the goal of enhancing action-guidance – the relationship or balance that could exist, from an ideal (hence neither utopian nor non-ideal) perspective, between the predominant role of national sovereignty and the regulatory function of the international community.

The points mentioned so far serve to emphasize the non-utopian nature of Stilz's functionalism and its focus on a range of realistic conditions and circumstances. It is also worth noting the reasons why functionalism is not non-ideal.

The reasons why functionalism cannot be considered a non-ideal theory lie precisely in the objectives of the theory, which aims to identify a model of justice that is, first and foremost, universally applicable, and secondly, excludes from its goals those factors that would structurally prevent the theory from being realized, thus rendering it utopian. In other words, the theory does not aim for an unrealizable model of justice, but rather, for what could be described as the highest level of achievable justice, one that can only be improved at a utopian level.

Although, as noted, Stilz's functionalist theory aligns quite well with my search for an ideal, action-guiding theory, it is important to remember, on one hand, that the categorization I have employed may not necessarily align with the one implied by Stilz. Furthermore, regardless of this, there are aspects of Stilz's functionalism that still require further examination if we are to adapt it effectively to the goal of action-guidance at the maximum level.

Keeping in mind the main practical implications that seem to emerge from a functionalist theory and intersecting them with the aspects where Stilz's theory is less convincing – always without sacrificing action-guidance – an area of work is identified that still remains to be done in order to further refine the ideal action-guiding functionalist theory, which will, in part, depart from Stilz's approach.

In the first section of this chapter, Section 5.1, the focus will be on the topic of legitimacy, specifically on the conditions, also mentioned earlier, that make a state's authority fully legitimate. Keeping in mind that, in my categorization, a theory can be defined as action-guiding if it allows for the identification of a set of actions that, within a certain timeframe, would lead to the realization of a state of affairs as close as possible to the desired ideal, Section 5.1 will explore the attainability of legitimacy requirements, the issue of compliance, and the role of supranational organizations in making the theory realizable. Particular attention will be given to the capacity of states to enforce and protect basic rights, since, from a functionalist perspective, a state's legitimacy primarily depends on this aspect.

In the second section of the chapter, Section 5.2, the focus will be on the theme of representation and collective self-determination, a weak point both in Stilz's theory and in functionalism more generally. Since functionalism places considerable emphasis on a concept of legitimacy that seems to have little to do with autonomy and collective self-determination, this section aims to clarify the type of self-determination that can be compatible with an action-guiding version of functionalism, the role of democracy, and whether or not the theory risks potentially resulting in benign colonialism – a point to be examined alongside the issue of occupancy rights.

In the third section of the chapter, Section 5.3, the focus will be on the theme of the boundary problem, once again analysed with a particular interest for action-guidance. Specifically, the aim is to explore a potential demarcation criterion in the case where the theory might be applied to territorial disputes involving borders.

This will be followed, in section 5.4, by a review of the possible objections to the outlined functionalist theory, also useful for clarifying some secondary aspects of the theory that have not yet emerged.

5.1 Functionalism and the Issue of States' Legitimacy

Despite some differences among the various versions of the theory developed by Stilz (2009; 2011; 2019), it can generally be argued that, according to her, a state possesses "legitimate territorial jurisdiction" (Stilz 2019, 21) when it meets the following three (sometimes four)[74] criteria: basic justice, rightful occupancy, and self-determination (21). While the second and third conditions are, to some extent, shared with other theoretical frameworks analysed – since voluntarism, nationalism, and Lockean theories all rely on some notion of rightful occupancy and self-determination – it is the first condition that, in a sense, encapsulates the essence of functionalism. A legitimate must implement a system of law that defines and enforces rights, ensuring that at least the following individual rights are granted:

> "(i) security rights, such as freedom from torture, slavery, arbitrary imprisonment, or threats to personal safety; (ii) subsistence rights, to an economic minimum capable of meeting basic needs; (iii) core personal autonomy rights, to freedom of conscience and thought, personal property, and the freedom to form long-

[74] The fourth requirement – that a state cannot be a usurper – appears, for example, in Stilz's 2009 version of the theory. I will address the issue of rightful occupancy and non-usurpation later; for now, the three listed conditions should be taken as the fundamental criteria for legitimacy.

term family relationships; and (iv) the preconditions of collective self-determination, including the deliberative freedoms of speech, association, and public political dissent" (Stilz 2019, 113, 166).[75]

Let us now briefly assume that the other conditions of legitimacy are met and focus in this section on what happens if this specific condition – related to achieving a basic level of justice – is not fulfilled. Additionally, I will examine how this condition can serve as an action-guiding principle.

Since the list of rights indicated by Stilz is meant to represent a set of minimal conditions, it is clear that well-ordered states will go beyond these minimal conditions. While Stilz argues that, beyond this list of basic rights, it is still worthwhile to expand to a longer and more comprehensive list (Stilz 2019, 114) – which in this case would not constitute a condition of legitimacy for states but rather an invitation to adhere to a given and comprehensive ideal of justice – I anticipate (since I will return to this point in section 5.2) that I consider it more desirable to be cautious in expanding the list too much, as the value of a state-based rather than a cosmopolitan model of sovereignty lies precisely, as argued in Chapter 1, in respecting the possibility that multiple valid models of justice may coexist.

Having clarified these aspects, we can finally investigate the central point of this section, namely the action-guidance capacity of these conditions of legitimacy. These are non-utopian conditions from the perspective of U1, U2, and U3, as they do not aim at the realization of a perfectly just world but rather a minimally just one, where, moreover, various actors have already reached the threshold of legitimacy, making the listed conditions not infeasible. However, it is necessary to investigate further the issue of compliance.

Regarding the requirement that states must implement a legal system capable of providing a clear and unequivocal interpretation of the law and protecting individual rights at least at a minimal level, the most straightforward practical guidance would be that states should conform and comply to these standards or, just as importantly, should not prevent other states from reaching them. Individuals, moreover, should also comply and adhere to these standards, provided that the states they belong to respects the conditions of legitimacy.

[75] One might ask whether this list of basic rights – intended, after all, to establish only minimal conditions – should be accepted as it stands or whether it could be refined and modified. The rights in group (i), security rights, and group (ii), subsistence rights, appear indisputable. See also (Valentini 2012a). However, the rights in groups (iii) and (iv), while certainly desirable, pose greater challenges from an action-guidance perspective, as they significantly increase the percentage of real-world states that could be deemed illegitimate. At the same time, neglecting requirements (iii) and (iv) would align with a non-ideal level of justice and risks reinforcing the status quo. From an ideal standpoint, then, one could reaffirm all four conditions outlined by Stilz, with the clarification that achieving a satisfactory level of compliance with (iii) and (iv) would require progressing through a series of increasingly ideal states of affairs over a longer timeframe.

Concerning individuals, in order to fully understand the state's role in protecting individual autonomy, it's important to consider how it should respond to dissenters – those who reject the state's basic principles. Stilz asks how to treat dissenters, as asserting that a state must always protect the personal autonomy of individuals conflicts with the possibility that some individuals may refuse to support a political state. Stilz states:

> "where dissenters refuse to acknowledge the requirements of basic justice, to recognise a duty to cooperate in a legitimate state, or to respect others' equivalent claims to self-determination, then their values and priorities can be overridden without any moral loss" (Stilz 2019, 115).

It is important to note that here, the focus is not on individuals or groups of dissenters who simply feel unrepresented (which will be addressed in section 5.2), but solely on the case of individuals or groups of dissenters who do not comply with the condition that everyone has an equal claim to political autonomy.

From the perspective of action-guidance, this indication that dissenters can be forced to cooperate against their will seems to work, and the responsibility to "make dissenters cooperate" would fall on the state to which they belong, considering that within a functionalist theory, the possibility of not adhering to any state is not contemplated.

The situation becomes more complex when states themselves are non-compliant, whether because their institutions govern in favour of a few, failing to respect the self-determination of citizens, or because they are non-compliant even though they represent at least a majority of their citizens. In both of these cases, even according to Stilz, it is necessary to transcend state sovereignty (which is illegitimate in this context, as the conditions of legitimacy have been violated) and rely on the role of the international community. From an action-guidance perspective, the theory provides important practical instructions that no other theory is able to offer clearly, namely that (a) it is legitimate to acknowledge the existence of illegitimate states, which can therefore be identified as such; (b) they may be subject to sanctions or pressures; and (c) states could be entrusted with a duty to enable other states to reach the threshold of basic justice, by refraining from interfering, attacking, monopolizing natural resources, or economically undermining them. Stilz expands on and emphasizes the idea that non-complying states can be excluded from all the benefits of international cooperation, denied membership in advantageous international organizations, subjected to tariffs and trade restrictions, and so on (Stilz 2019, 245).

Building on the practical measures to hold illegitimate or non-complying states accountable, Stilz addresses specific global challenges where enforcement is critical. One prominent example is the climate crisis – a domain in which many states risk failing to meet necessary commitments. To tackle this, Stilz supports the "climate amendments" recommended by William Nordhaus (2015), which entail measures allowing for the taxation of goods from states that refuse to participate in a given climate agreement.

If, in relation to the topic of state legitimacy, these objectives do not appear utopian in the senses of U1, U2, and U3, nor do they fall within the realm of non-ideal theory, Stilz's hybrid version of functionalism – her "political autonomy theory" – can still present challenges for action-guidance, particularly regarding compliance and internal consistency.

Earlier, in Section 4.3 of Chapter 4, it was noted that Stilz considers functionalism inadequate for fully protecting political autonomy and collective self-determination. To address this, she hybridizes her functionalist theory with elements of voluntarism, such as Moore's, emphasizing that political communities must see themselves as the authors of their own institutions.

This emphasis on self-authorship, however, has important consequences: it significantly restricts the range of cases where functionalism can be applied. In other words, taking seriously the fundamental importance that Stilz assigns to self-determination, political autonomy, and especially self-authorship, we significantly limit the applicability of functionalism. This is partly because it demands a high level of compliance from actors – such as powerful states or dangerous organizations – that often have no incentive to comply[76] unless externally pressured, which would, in turn, undermine self-authorship. Additionally, it introduces an internal contradiction by attempting to reconcile two potentially incompatible principles of justice: the requirement that each state ensure a basic level of justice and, at the same time, the principle of collective self-determination and self-authorship. Without establishing a clear hierarchy between these principles, their coexistence within the theory remains problematic.

The possibility remains open to shift focus, not concentrating on the level of states and institutions, but rather on the realm of activism and grassroots movements, which are more often linked to non-ideal justice models. Since, as already mentioned, this analysis does not exclude that the improvement of global justice conditions can be advanced by both ideal and non-ideal theories, it seems worth considering the functionalist approach in such a way that it

[76] The reasons why states, even in the real world, fail to comply are numerous, and any theory must carefully balance incentives to maximize compliance while remaining aligned with the ideal level at which this analysis is conducted. More broadly, from an almost propagandistic/promotional perspective – one aimed at raising awareness but still consistent with the ideal level – it is important not to reinforce the notion that specific groups, by virtue of having clearly defined boundaries, inherently possess a right to self-determination.

As will soon be discussed in Section 5.2, this does not mean that functionalism entirely rejects the value of collective self-determination. Rather, it means that functionalism must reject the exclusivity, non-entanglement, and isolationism of territorial claims.

remains possible for the international community to act, agree on certain principles, and have the means to ensure their enforcement.

Under the assumption that functionalism is our best option and that the list of rights provided by Stilz reflects the idea of basic justice we wish to see guaranteed for all citizens, then, for the sake of action-guidance, it seems more appropriate to remain faithful to the core premises of functionalism and exclude the concepts of political self-authorship and pre-institutional self-determination from the theory's priorities.

From an action-guidance perspective, it may be that upon observing the real world as it is, one remains dissatisfied with the practical guidance provided by this analysis on the topic of states' legitimacy, and it is worth asking why. The reason, in fact, is probably contingent, and related to a highly non-ideal aspect of reality: the theory cannot account for the enormous imbalances of power that exist between real states, and when it refers to states, it tends to make implicit reference to generic states, as if each state were simply one state. In an ideal framework, the power relations among states are conceived as balanced, and even accepting that one state can be significantly larger than others in terms of population or resources, and so maybe entitled to greater representation based on a principle of proportionality, nevertheless such representation should still be proportional, ensuring that no single entity is in a position to pose a threat to any other. In reality, some states seem to carry significantly more weight than others. Certain states hold considerable power, both de facto and, in some cases, de jure, without counting that some of these powerful and influential states do not adhere to the conditions of legitimacy – something that, in the end, undermines the direct applicability of the theory. In response to this type of concern, it is important to emphasize that these issues do not seem to render the theory utopian or too detached from reality. The measures proposed by the theory concerning the legitimacy of states remain compatible with actions that are actually available within our set of actions (i.e., the set of actions available to states and international organizations), and the theory plays its role in setting a target for ideal justice. To reduce the gap between the excessive non-idealness of the condition of certain states and a more ideal level, the functionalist theory can collaborate and intersect with other disciplines or with context-specific, non-ideal theories, which are no longer concerned with pursuing an ideal of universal justice, but rather with improving the conditions of justice within a specific context with greater urgency.

It is finally important to specify that while functionalism opens the possibility of interference with state sovereignty in cases of non-compliance with legitimacy conditions, unlike what is argued by Nine in her collectivist Lockean theory,[77] here states that comply and satisfy the criteria for having legitimate territorial jurisdiction are guaranteed not only the permission to govern their constituents and territories, but also as an immunity against competitor organizations from interfering with their sovereignty or with their territory. I will revisit this aspect in Section 5.3.

5.2 Functionalism and the Issue of Representation and Collective Self-Determination

The issue of representation is closely linked to the theme of legitimacy, as, according to Stilz, as mentioned earlier, a state is legitimate not only if it enforces and protects a minimal set of rights, but also if it "represents the shared will of a significant majority of its rightful occupants" (Stilz 2019, 21).

Since I have suggested that I do not intend to support the same idea of self-determination as Stilz, it is important, first and foremost, to clarify the type of self-determination that I consider compatible with an action-guiding functionalist theory, how this idea of self-determination differs from Stilz's, and, given the connection between these two topics, also the relationship between functionalism and democracy in my vision and in Stilz's.

When Stilz discusses her idea of collective self-determination, she adopts an intermediate position between a fully institutional conception and an entirely exogenous view of self-determination. In other words, she interprets collective self-determination neither as something that arises entirely within institutions nor as something that originates completely outside of them. Consequently, she characterizes her perspective on peoplehood and self-determination as "endogenous" (Stilz 2019, 124) as she partially acknowledges that it is within institutions that collectives are formed and develop the corporate agency to act as peoples, though she also points out that an "actual popular will" (or "omnilateral will") (Stilz 2019, 94) can emerge even in the state of nature and before the institutions.

As seen particularly in Chapter 4, a fundamental problem with this interpretation of collective self-determination is that it makes the overall theory more utopian. This is because,

[77] It should be remembered that, in Nine's theory (2022), this resulted in a problem or, more specifically, a condition of political instability. The failure to establish a threshold for the absolute validity of state sovereignty (except for reasons arising from within the state itself) and immunity from external interference opened the door to the possibility of conflicts and contexts where it would be difficult to determine who holds authority. Nine had introduced greater flexibility in political boundaries to account for the issue of entangled territorial claims, but the treatment of this problem seems to benefit from a softening of sovereignty only from a utopian perspective.

unless one ventures into nationalism and its associated problems, it becomes difficult to identify a clearly applicable criterion of demarcation. Moreover, defending a concept of collective self-determination that transcends institutional boundaries requires emphasizing the idea of self-authorship and exclusivity of the relationship between a group and a specific territory.

As an alternative to this model, I would instead advocate for a fully institutional conception of collective self-determination.[78] What I aim to do, therefore, is not to completely abandon the value of political autonomy or the idea that a state should represent its citizens, but rather defending the value of collective self-determination when understood as something that arises within institutions and is, at most, a consequence of them.[79] I want to claim that a people is created only through representation by a state, and that the formation of political communities is fundamentally shaped by political and legal institutions, and the consequent social cooperation within a defined territorial space.

Defending this type of self-determination offers some advantages (some of which already mentioned), and it is still compatible with the idea that, within institutions, a genuine sense of community and belonging can develop, along with the desire for collective (in addition to individual) self-determination. This "territorial version" of the self-determination principle, as Jeremy Waldron has called it, essentially holds that "people of each territory have a right to work out their own constitutional, political and legal arrangement without interference from outside" (Waldron 2010, 407).

This brings us to the theme of representation: for collective self-determination to be respected within any institutional framework, there must be a form of "correspondence" (Kolodny 2014, 199) between what institutions do and represent and what citizens (or at least a majority of them) want, endorse, and demand.

This point, already present in Stilz's theory (Stilz 2019, 129), is closely linked to a rather straightforward question about the relationship between functionalism and democracy. I will therefore take this opportunity to provide further clarification on this matter as well.

[78] Once self-determination becomes fully institutionalized, ambiguity may arise concerning the different institutional layers in which we live—for example, as citizens of a state and then as citizens of an international organization or a supranational institution, such as the European Union. However, this does not pose a problem for the theory: the primary layer—the development of a sense of collective self-determination within a state – must remain the foundational level, since membership in an international organization is granted by the state itself.

That said, the presence of new institutions, including international ones, can transform and broaden the sense of collective belonging and may even lead us to reimagine – and expand – the boundaries of the collective.

[79] This view does not sound too distant from what most of us experience: we did not participate in the phase of institution building, but, depending on the context, we can still exercise individual and collective self-determination through voting, actively participating in politics, or by being members of an ethnic group, cultural group, religious group, political party or others.

The question regarding the relationship between functionalism and democracy naturally arises from the fact that the characteristics which make a state fully legitimate – the respect for basic rights and the representation of the will of the citizens – seem to suggest that fully legitimate states are those that are democratic. I align myself, however, with Stilz in rejecting this association and in arguing that a functionalist theory is not necessarily tied to a democratic precondition. Stilz offers a broad definition of democracy, according to which the term refers to "any system that ties the state's authorization to exercise political power to a process of shared deliberation among citizens" (Stilz 2019, 128), without necessarily including specific provisions regarding voting and elections. Especially in small-scale models, it is easy to imagine that a community endorses one or more representatives simply because they are well-prepared, elderly, or wise – depending on the various possible interpretations. A monarch or a religious leader could, in effect, represent the common will of the citizens, or at least that of a majority of them.

Regardless of the specific type of system that a non-democratic setting, yet still respectful of the criteria of legitimacy, might take, I would like to ensure that in setting the threshold for the level of justice that distinguishes legitimate from illegitimate states, the threshold is deliberately kept sufficiently low so that a functionalist theory remains neutral regarding a range of other possible principles and allows for the authentic and not imposed evolution of other potential systems. Imposing democracy would only be one of the many possible way to violate self-determination. A theocratic state might potentially be able to guarantee security rights, subsistence rights, personal autonomy rights, and representation, although we typically observe that theocratic states fail to uphold freedom of expression and the right to dissent (and the same problem usually applies to all types of authoritarian governments, which often feel threatened by freedom of expression). Theoretically, monarchic, theocratic or authoritarian states that respect fundamental rights appear possible, and this theory is intended to remain neutral and open to such possibilities.

Having established these two premises regarding the type of self-determination compatible with my version of functionalism and the relationship between functionalism and democracy, we can return to the central theme of the chapter, namely, the ways in which functionalism can actually be action-guiding. In this section, in particular, the focus is on the implications of the functionalist idea of representation and collective self-determination.

If representation plays such a central role, the key question is what should be done and what the implications are in situations where representation is denied, leading to the alienation of some or many members of a state.[80] Functionalism is often criticized – by scholars such as Simmons (2016, 78), Moore (2015, 100), Miller (2016, 872), and Ypi (2013, 168) – for not being action-guiding or desirable in this regard. The argument is that by emphasizing the functions that a "good" state must be able to perform rather than focusing on collective self-determination, functionalism risks significantly undermining representativeness.

This type of criticism directed at earlier versions of functionalism is one of the factors that lead Stilz, as we have seen, to strengthen the role of collective self-determination. She interprets it not only – as Waldron indicated – as a right to political participation but also as a right belonging to a group with collective consciousness, a transgenerational identity, and a desire for self-authorship.

This model of self-determination, combined with the conditions of a group's rightful occupancy of a territory and the principle of non-usurpation, is intended – according to Stilz – to shield her theory from the criticism that functionalism fails to adequately protect self-determination. Specifically, it aims to counter the concern that functionalism is compatible with some form of benign colonialism – that is, forms of colonialism that might be considered benevolent insofar as fundamental rights would still be respected and guaranteed for all.

Ypi (2013), however, presents a compelling argument that neither the condition of rightful occupancy nor that of non-usurpation – two of the four criteria for state legitimacy in functionalist theory (Sections 2.4.1 and 4.3) – adequately addresses the issue of benign colonialism. The requirement of rightful occupancy asserts that individuals cannot be displaced from a territory with which they have a particular but undefined connection, yet it fails to engage with the question of political representation. Meanwhile, the non-usurpation criterion is relevant but applies only in cases of violent occupation, physical invasion, or armed overthrow.

From a functionalist perspective – including Stilz's – it is not immediately clear what precisely constitutes the wrong of colonialism in a scenario like the following: imagine an island with 1,000 original inhabitants and an existing government. In a first possible scenario, 1,000 foreigners arrive and, using their superior means and knowledge, take control of the government while still maintaining basic justice. This scenario presents a challenge for functionalism in explaining why this form of colonialism is wrongful. In a similar second scenario, 1,000

[80] In relation to the previously discussed issue of degrees of interference with state authority, determining when a situation genuinely constitutes underrepresentation or alienation is not straightforward. While in cases where a state violates basic rights, the key question was the permissible degree of interference with that state's sovereignty, here the challenge arises even earlier – at the stage of identifying alienation as an ongoing problem in the first place. Consequently, the threshold for external interference is undoubtedly higher and likely must correlate with the state's violation of certain basic rights.

foreigners arrive, settle on the island, and gradually gain representation in the government without threatening the self-determination of the original inhabitants. In a third and last scenario, 8,000 foreigners settle on the island, and due to their numbers, resources, and influence, they gain overwhelming representation in the government. Despite this, the self-determination of the original inhabitants is not directly threatened.

I want to emphasize that adopting Stilz's hybrid version of functionalism, her "political autonomy account" (2019, 119), offers no advantage in addressing this case. While it does highlight the value of self-determination (which in a certain way I also defend), it still doesn't address the issue of territorial exclusivity.[81]

From the perspective of action-guidance and ideality, it had been shown how the hybridization of Stilz's functionalist theory with the voluntarist element of pre-institutional self-determination made functionalism more utopian and, thus, less action-guiding. Furthermore, this brief analysis has just revealed how the cost of becoming more utopian is not compensated by the theory's increased ability to address one of the two most classic challenges of functionalism (the other being the "boundary problem", which will be examined in the next section). For this reason, it is even more advisable to discard this aspect of Stilz's functionalism and instead advocate for a defence of institutional self-determination.

It remains to be clarified what is wrong with the island example provided, and also whether there is any kind of difference between the three scenarios described.

One option could be to argue that the second scenario, where the newcomers gradually settle within the governmental ranks, seems less problematic than the first due to the kind of political relationship the newcomers have established (Ypi 2013). Specifically, in the first case, the original settlers have been treated as unequal or inferior (Kolodny 2023), while in the second, they have not. This explanation seems valid, and it could indeed be better clarified as part of the non-usurpation condition. Case 1, after all, describes a sort of invasion, and although there may be situations where such an event happens peacefully,[82] it is more realistic to imagine that the first case is an episode of usurpation. Therefore, it represents, among other things, a very non-ideal condition, which might also need to be addressed with a non-ideal theory.

[81] It should be noted that only nationalist and Lockean theories would be able to account for this kind of wrong, although both theories would, however, face other types of problems. Voluntarism, on the other hand, is unable to account for the wrong of benevolent colonialism, as it cannot explain territorial exclusivity either.

[82] Peacefully would mean, for example, that the island has abundant resources and is scarcely populated. The 1,000 newcomers arrive on the island to individually pursue their life plans with better prospects for living.

If this explanation, based on the legitimacy of claims against inferiority, remains valid, it is not necessarily sufficient to address the example of the island in scenario 2, and even less so in scenario 3.

The issue seems to stem from functionalism's inability to account for the exclusivity of territorial claims by a group. If new people arrive in a given territory over time, functionalism lacks the internal resources to recognize this as problematic. While functionalism provides robust protection for individual basic rights, it offers little in terms of safeguarding collective rights, except within institutional frameworks. In practical terms, a group like Italians, if understood as a group with a distinct collective identity, a history spanning generations, and rights independent of their institutional form – would not be protected by functionalism, particularly not by my modification of Stilz's version of the theory. A key claim of the thesis I want to defend, however, is that from the perspective of action-guidance and the desirability of the theory at an ideal level, this factor should be interpreted as a virtue, not as a flaw of the theory.

From an ideal perspective, having a theory capable of accounting for the non-exclusivity of territorial claims is an advantage, partly because theories advocating for exclusivity do not provide satisfactory justifications, and partly because pressing contemporary issues, such as immigration, climate change, or the distribution of resources (despite not belonging to the realm of non-ideal theory) seem to be problems that can only be addressed starting from a theory that denies the absolute exclusivity of territorial claims.

Returning to the example of the island and the question of what is problematic in the second and third scenario, a partial answer, perhaps not entirely satisfying, is that there isn't necessarily anything problematic. If the situation were indeed problematic, meaning there is an actual relationship of inequality and unequal moral worth between the citizens, it is plausible to believe that in such a hypothetical context, tensions or conflicts would arise, precluding the foundations for peaceful coexistence. In terms of action-guidance, if we find ourselves at time t_0 when the newcomers are relocating, I would argue that my version of functionalism provides the tools to assert that the international community has the authority to intervene to prevent an escalation of instability in a given territory. Conversely, if we are at time t_n, subsequent to t_0, we could either find ourselves in a non-problematic situation or in a situation of unresolved instability. Since, at time t_n, it is plausible that all the occupants of a given territory have now developed a reasonable individual right to remain, nationalist or Lockean (individualist) theories would, in any case, lack the potential to be action-guiding in a resolutive sense. In contrast, functionalism could still appeal to the idea of non-exclusivity of territorial claims in order to reconsider the organization of the territory, with the aim of creating conditions for future political stability.[83]

Returning to the general theme of representation to clarify points raised in this section, we can start by reiterating that Stilz's proposal to strengthen the idea of collective self-determination by making it partially pre-institutional and trans-institutional renders Stilz's functionalism more utopian (in the sense in which voluntarism is utopian, as discussed in section 4.2.2), but without any benefits that justify this addition. The concern that functionalism could support a benign kind of colonialism remains even if we adopt Stilz's hybrid functionalist version. The concern that functionalism could, in some cases, justify a benign form of colonialism remains a real and non-trivial potential cost of the theory. However, I am deliberately biting the bullet: I acknowledge that the possibility of benign colonialism is a normative cost, and one that my version of functionalism shares with Stilz's. However, I accept this cost as compatible with the broader framework because it helps avoid what I take to be even greater costs – such as the essentialist and exclusionary tendencies of nationalism.[84]

Secondly, it is important to emphasize that abandoning this voluntarist aspect of Stilz's theory does not mean an absolute abandonment of the value of collective self-determination, but rather interpreting it as the right to participate within institutions, individually contributing to a political project that satisfies and fulfils the members of a community, without causing harm to others, including any internal minorities. By not postulating the exclusivity of territorial claims by specific groups, functionalism is indeed exposed to the risk of justifying a high degree of territorial sharing, which, however, also sounds ideally positive.

Where territorial sharing leads to forms of violence, abuse, or disrespect (a concern that, again, remains valid also for any internal minorities), the recommendations that can be coherently made within a functionalist framework would be that, in cases of severe and prolonged tension, one could consider territorial reconfiguration as a last resort - as will be seen in the upcoming section 5.3.

[83] The next section, 5.3, is more broadly dedicated to the topic of the reconfiguration of borders.

[84] The acceptance of a potential for benign colonialism should not be read as a defence of colonialism per se, but as an acknowledgment that, under certain highly constrained conditions, external governance may better fulfil the core functionalist criteria – such as securing basic rights and promoting justice – than the alternatives available within a weak or failed state. This concession is made not to endorse domination, but to preserve the theory's commitment to the primary normative aim: ensuring that political authority is justified by its capacity to serve the basic interests of all individuals within a given territory.

5.3 Functionalism and the Boundary Problem[85]

In section 5.2, I reiterated that functionalism is tied to the idea of the non-exclusivity of territorial claims, which should be understood in three key ways: as a limitation on the exploitation of a territory's resources beyond a threshold compatible with the idea of fair distribution, as the absence of a one-to-one correspondence between a given group and a given territory, and as a fundamental inclination toward open borders and the freedom to settle where one chooses.

One worry about this type of account is that it struggles to address the so-called "boundary problem" (Simmons 2013, 328) or "particularity requirement" (Simmons 1979, 31), namely the prerequisite for theories of territorial sovereignty to explain why a person's political obligations are specially owed to one particular political state or government and not others.

As illustrated in section 2.4.1, Stilz justifies the particular relationship between individuals and a specific territory through the idea of "located life plans" (Stilz 2019, 41), which presupposes that an individual holds occupancy rights over the area where they have situated their goals, relationships, and projects integral to their well-being. As Stilz herself notes, however, the extent of this area remains highly uncertain and "the satisfaction of most people's located life plans does not obviously require access to the entire territory of the modern state" (Stilz 2019, 55), so the boundaries of this area will remain somewhat vague.

It is partly to address this problem that Stilz extends her statist view to a pre-institutional phase, imagining that hypothetically, before the establishment of the state, "an overlapping web of individual attachments to land" takes shape, "with dense nodes formed by social practices where many people share located plans together" (Stilz 2019, 55). The land that is legitimately occupied by individuals who have situated their located life plans there and who are part of the network of "cooperators" (Stilz 2019, 94) in that area forms the state's core territory.

Previously, I described this aspect of Stilz's theory as a "hybridization with voluntarism" because, similar to Moore's voluntarism, Stilz departs from the idea of a fully endogenously[86]

[85] As already noted in footnote 25 of Chapter 2, by "boundary problem" I specifically mean what John Simmons (2016) identifies as the issue of particularity – that is, the difficulty territorial rights theories face in justifying why a state's legitimate borders should correspond to one specific set of established boundaries rather than another. This should not be confused with the debate concerning the democratic boundary problem (Goodin 2007; Owen 2012; Erman 2014).

[86] On the one hand, it is true that Stilz continues to claim that she holds a view she calls "endogenous" (Stilz 2019, 124) regarding the formation of collective identities. However, she clarifies that by "endogenous", she does not mean purely institutional but rather a middle ground between a purely exogenous view and a purely institutional one.

created political community within institutions to instead defend the existence of a pre-institutional network of individuals. Like Moore's voluntarism, there is also an emphasis on collective self-determination, as institutions are then required to exercise their authority by reflecting the shared political will of a significant majority of "cooperators" among those rightful occupants.

In section 5.2, I focused on how strengthening the role of self-determination does not shield Stilz from classic critiques of functionalism, such as the claim that it can justify benign forms of colonialism. In this section, I instead concentrate on how the idea of "cooperators" – the notion that there exists a pre-institutional network of people connected (to one another and to a specific territory) by their located life plans – makes Stilz's functionalism more utopian (especially in the U2 sense) without actually resolving the "boundary problem".

The idea that, at a pre-institutional (or trans-institutional) level, the connections between individuals' located life plans can somehow determine state borders or justify a citizen's legal obligations to a particular state is utopian – partly in the U1 sense, as it oversimplifies the complex interactions taking place in the real world (as already discussed in relation to voluntarism), and partly in the U2 sense, concerning infeasibility. It is the institutions, with their established borders, that create networks of relationships among people. While it is true that territorial proximity can naturally foster social and economic ties among individuals whose located life plans revolve around the same area, delineating these networks in a precise and politically actionable way is infeasible. For instance, the Italian region of Trentino-Alto Adige, where the majority language is German rather than Italian, shares a close border with Austria and maintains strong cross-border interactions, also in virtue of past arrangements in which these two areas were part of the same kingdom, the Habsburg monarchy (Anderson 1983). According to Stilz's framework, the network of individuals whose occupancy rights are tied to Trentino could, by extension, translate into rights to move freely within a broader region encompassing both Trentino and neighbouring Austria. Additionally, as argued in Chapter 1, the necessity of territorial contiguity should be more broadly justified. While in a pre-technological era a geographically fragmented state might have been inefficient and costly, this condition may no longer be a decisive obstacle today, even from the perspective of located life plans. Modern technologies have transformed the way people interact, work, and access state services, reducing the relevance of physical proximity in defining political and social relationships. If the argument of located life plans justifies a connection between individuals and territory, as Stilz upholds, it remains unclear why this connection must necessarily be tied to geographical contiguity.

The concept of located life plans, which Stilz uses as the basis for occupancy rights and, consequently, territorial rights, is itself inherently ambiguous and, precisely because of this ambiguity, problematic in terms of action-guidance. Essentially, the debate remains open on what exactly grounds individual occupancy rights: Stilz argues that stable territorial occupancy is important for personal autonomy, and that a precondition for exercising personal autonomy is having the ability "to carry out the life projects to which we are currently committed" and "to author our lives autonomously" (Stilz 2019, 42). Stilz's occupancy rights are rights composed of two elements: the freedom to live in a certain place permanently, and a claim-right against others who must not move a person from the place where she lives, and must not interfere with her located plans (Stilz 2019, 35) – both of these elements attach to individuals.

Valeria Ottonelli (2020) has correctly pointed out that defending occupancy rights on the basis of their instrumental value might not be sufficient: if the value of occupancy rights hinges on the fact that they allow individuals to be autonomous and pursue their life plans, it would seem that the right to stay in a place could weaken when that specific place loses its instrumental value. For example, if an individual lives in a very inhospitable, polluted, or damaged location where it is no longer possible to pursue any meaningful life plans, this could create an argumentative space to justify displacement.

More generally, expanding on Ottonelli's observation, grounding occupancy rights in the instrumental value of located life plans remains ambiguous because, for many people around the world, life plans are mobile, often developed in places where they are not citizens. It remains difficult to determine what constitutes, and what does not constitute, a precondition for one's personal autonomy.

A more robust approach would be to complement Stilz's notion of located life plans with Ottonelli's right to stay, while clarifying that Ottonelli's justification of the right to stay might allow individuals to remain anywhere that is not someone else's private property. While this may make sense in certain contexts, defending an inalienable right to stay anywhere can be problematic. A balanced approach could assert that a stronger right to stay, as defined by Ottonelli, applies to one's place of birth or citizenship. Individuals could possess a non-instrumental right not to be displaced from the place where they were born or hold citizenship, grounded in the fundamental right to control one's body and the intimate personal space where one resides (Ottonelli 2020, 102).[87] In places where an individual is neither born nor holds

[87] Since, as I have already anticipated, I will support the non-exclusivity of territorial claims as group-based claims, it is important to establish the right to stay as a fundamental and inalienable right, precisely because the issue of the non-exclusivity of territorial claims may raise concerns about the protection of this right.

citizenship, occupancy rights could still be valid where a person has developed located life plans and the conditions necessary for personal autonomy. Kim Angell's thesis on life plans partly moves in this direction. He replaces the traditional notion of life plans with the concept of "Political Life Plans" (Angell 2017), emphasizing that what matters is "a person's plan to exercise her democratic autonomy as a citizen of the state under which she (or her group) has lived, or is living" (Angell 2017, 232). This implies a requirement for active participation in the society where one lives or has chosen to live – a participation that depends on the existence of jurisdictional authority. While Angell's account aligns with the general direction suggested here, it may be too demanding in implying that, in order to have a right to stay, one must be an active citizen. In any case, his account should be complemented by Ottonelli's approach.[88]

Due to the ambiguity surrounding located life plans, combined with an additional ambiguity regarding occupancy rights, Stilz's theory remains weak on both fronts and weakly utopian if used for addressing the boundary problem.

From multiple perspectives, I have highlighted how – at least from the specific standpoint of action-guidance – the elements Stilz borrows from non-strictly functionalist premises make her theory more utopian. Given that none of the other options considered in Chapter 4 proved to be entirely desirable and action-guiding in response to the boundary problem, it is worth further exploring what a genuinely functionalist response to the boundary problem might look like.

By virtue of the fact that the theory – being grounded in individuals rather than collective rights – does not attribute exclusive value to the relationship between a group of people and a specific territory, it can be argued that there isn't a single, particular, definitive way to delineate the boundaries of a group, but rather multiple possible ways. According to the theories considered so far – with the exception of Nine's[89] – there seemed to be only one way in which a state's boundaries could be just, and that when in real life we end up considering multiple

[88] Since Angell's is a forward-looking justification, it faces some difficulty in accounting for the specific connection between a given political community and a particular territory. Unless one is willing to abandon the forward-looking nature of the justification and revert to more traditional grounds – such as historical claims or nationalist reasons – it becomes hard to explain why that specific group should be entitled to that specific land. In this sense, the theory risks either weakening its forward-looking appeal or relying on backward-looking elements it originally aimed to avoid.

[89] In section 4.1.2, I highlighted how one strength of Nine's theory is its ability to account for the entanglement and precarious nature of territorial claims. It is likely that Nine would benefit – at least in terms of action-guidance – by aligning more explicitly with functionalism, as she seems to share some of its key points. These include the non-exclusivity of territorial claims, as well as the understanding of the role of institutions in creating the conditions for peace and stability – what Nine refers to as "sociability". In contrast, her Lockean premises make the theory more utopian.

possible options for adjusting boundaries, that happens only because of external constraints. The account I would like to defend, on the other hand, assumes that there can be countless ways to draw just boundaries, and that throughout history, the boundaries that have endured the longest are possibly more just insofar as these boundaries created conditions of peace and stability. The role played by borders, therefore, also takes on a slightly different perspective – or at least a different priority. Other theories, as pointed out, seem to conceive of boundaries as a sort of ribbon, that binds and connects individuals who share a particular culture or identity together. On the other hand, I interpret the role of boundaries as a facilitating condition for creating the conditions of peace and stability, which, in turn, put the state in a position to uphold and enforce the conditions of legitimacy and basic justice.

In stating that it is a positive factor when certain borders remain more stable over time, I do not mean to suggest that time should necessarily be understood as a factor of progress. As already argued by Ypi (2014), and mentioned in section 2.4.2, borders can be considered just only in a contingent sense, based on the specific circumstances, needs, and challenges posed by the world at any given moment. This is not to suggest that borders alone play such a vast role, but rather that if functionalism, as a theory, revolves around the idea that the justification for the presence of states' authority is that they should ensure a good life for their citizens and protect a set of rights, then borders can also be understood as a component of this task. Since the theory is concerned not only with justice within a state but also with external justice – meaning international cooperation and at least a minimal degree of distributive justice – borders can indeed have a role to play.

If we shift the reasoning from the level of action-guidance to that of feasibility, it is clear that altering a state's borders could come at extremely high costs. Furthermore, it is important to note that while the functionalist conception of the state of nature does not ascribe a significant role to the value that a particular territory holds for a community, within an institutional framework, this value is subsequently generated and, all else being equal, must be safeguarded. Therefore, I contend that the reconfiguration of borders should be considered only when the potential benefits clearly outweigh the associated costs.

A situation where this type of approach could be genuinely useful and applicable is territorial disputes. In historically unstable regions, a proposal for reconfiguring boundaries following functionalist criteria would involve not prioritizing, except as secondary considerations, arguments based on proprietarian or Lockean theories, which assert that what matters is who first occupied and settled in a particular place. Nor should one prioritize nationalist arguments, which claim that a territory is intrinsically linked to a people and their culture – approaches that (as argued in Chapter 4) fail to resolve issues and often perpetuate myths about who arrived first and who is most closely connected to a certain place. Instead, functionalist theories could be applied, according to which, in redrawing the borders in a given region, one should: (a) deprive borders of the meaning and mythology that contributed to the conflict; (b) assert that just borders are those that enable stability in a region and fulfil basic justice; and (c) guarantee the right to stay and the right against displacement for individuals who wish to invoke these rights.

A final consideration on the issue of borders concerns immigration, and the consideration is that the only consistent way to approach the topic of open or closed borders, according to the theory, is to favour open borders. Stilz had already argued that states have a "duty to allow harmless migration" (Stilz 2019, 188), with only a conditional right to exclude migrants if their settlement would significantly harm the state's inhabitants (Carens 1987; 2003). One objection to this point could be that adding this duty to the list of responsibilities that states must uphold conflicts with the already relatively low level of protection (compared to other theories) of collective self-determination according to the version of functionalism I am defending. To clarify and defend what I argued earlier, I want to specify that I do not consider the violation of the duty to facilitate migration to be on the same level as those duties whose violation by states renders them illegitimate, and therefore, such a violation does not give other states the right to interfere with the sovereignty of the state in question. It can still be advisable for the international community to exert certain forms of pressure and to enter into binding agreements in order to push for a wider respect of this duty and to a greater sharing of such a responsibility.

Returning, in conclusion, to the issue of the boundary problem, it can be reiterated that the best solution to this problem, consistent with the functionalist premises, closely aligns with what Ypi had defined (as described in section 2.4.2) as "a permissive theory" (Ypi 2014) of territorial rights. Her theory is called "permissive" because it posits that the claims of states to specific territories (not just generic territories, but specific ones) are only conditionally and provisionally justified, rather than being definitively valid. Geographical factors, Ypi argues, may initially justify a particular configuration of borders, but become much less relevant over time. In the same spirit, what I argued in this section is that state borders, as much as the choices made by institutions, can play a role in making a certain state better – whatever "better" means, a determination that can be made by the people involved in rethinking the borders of a region.

5.4 Objections to Functionalism

In chapters 1 and 3, in particular, of this thesis, I highlighted how the analysis conducted in this work takes place on an ideal level and from a universal perspective. I explained what I mean by "ideal level", which, in short, is a level of analysis that allows for reconciling the desirability of a principle from a universal point of view with the possibility of that principle being put into practice. I pointed out how theories that focus on the universal desirability of principles, like mine, but neglect their applicability or the desirability stemming from their application, can be considered utopian. I then described as non-ideal those theories that, like mine, focus on the applicability and desirability of a principle or action but, unlike mine, overlook universality in favour of particularity. Universality can be understood as related either to a spatial context or a temporal one: non-ideal theories are particularly suitable for addressing a specific context, whether spatial or temporal, while utopian theories tend to focus on a generalized idealized space-time context, and ideal theories aim at a generic but realistic space-time context. If a non-ideal theory were, in a certain sense, applicable to a given context without being in conflict with an ideal theory or without being applicable only to that specific context, that theory could fundamentally be defined as ideal – or at least more ideal than others on a scale of ideality.

The point I wish to emphasize is that an ideal theory, as I define it, aims to be a universal model, a primary reference for addressing all cases that universally concern a given subject – and I have previously argued that this type of model is necessary. However, it is evident that the very fact that a theory aspires to be universally valid is both a strength and a weakness, as the complexity of the situations that need to be addressed seems much more often to require context-based considerations, exceptions to the universal principle, or recourse to more than one principle.

However, there remains an issue, which has been previously mentioned. Even at the context-based level, we begin with universal principles of justice and adapt them to the specific situation. Accepting a plurality of principles may result in deadlocks, leading to situations that cannot be resolved. It is therefore crucial that the ideal theory chosen is as coherent and consistent as possible.

It is therefore important that the ideal theory selected is as comprehensive and robust as possible, so that it does not need to be constantly set aside and can respond sufficiently solidly to a range of potential objections, particularly those related to the strengths that other theories might have in comparison to the one deemed most universally valid.

In this section, therefore, I will examine some objections to a functional theory of territorial rights that may still hold validity, despite those already addressed earlier in the chapter.

The objections I will examine are as follows. The first concerns the issue of the supersession of past injustice and how functionalism can account for forms of redress – Section 5.4.1. The second addresses the protection of culture, group rights, minority rights, and indigenous rights – Section 5.4.2. The third objection concerns the role of international organizations and the international community, and what role they should assume if functionalism is valid – Section 5.4.3. The fourth objection pertains to the issue of ecological refugee states, i.e., what functionalism could say about states losing their territory due to climate change and their right to self-determination – Section 5.4.4. Finally, the last objection deals with the issue of action-guidance and compliance, as an additional check or consideration regarding whether the theory, as conceived, truly respects the declared purpose, with a hint at how it could be compatible with the requirement of compliance - Section 5.4.5.

5.4.1 Objection 1: Rectification of Past Injustices

One of the many challenges that theories justifying territorial rights must address is that many states have developed and evolved in ways that no theory would have prescribed – particularly by committing injustices against other states, groups, or individuals. Lockean theories, such as Simmons's, place particular emphasis on this issue, as they are tied to a notion of historical justice and the requirement of a valid, historically justified title to claim rights over a territory.

Functionalist theories, on the other hand, seem less equipped to deal with past injustices, as they are inherently forward-looking and do not link the legitimacy of territorial claims to a historical relationship between a territory and a group. As I argued in Sections 5.2 and 5.3, this feature can also be seen as a strength of the theory.

A valid objection, however, is that if a territorial injustice – such as the invasion of a territory, forced displacement, or colonial domination – occurred in the past, a functionalist theory struggles to fully address this type of wrong.

A useful clarification in response is that, at least in terms of identifying wrongdoing, functionalism can still recognize the nature of the harm and, potentially, the responsible party.

If, in the past, an individual's right to remain in their place of residence was violated, that constitutes a breach of the right to stay. Similarly, if a state was conquered or annexed by force, these are instances of past wrongs that can be acknowledged within a functionalist framework.

However, identifying that a wrong occurred is different from determining how it should be remedied, since additional factors come into play. In cases of past territorial injustice, the passage of time – along with social, political, and economic transformations – complicates the question of how to appropriately redress those wrongs.

Consider the following example: a state located along a fertile river historically derives its wealth from access to that resource. Within this state, a politically dominant majority oppresses a minority group, which is eventually forcibly displaced to a neighbouring, poorer desert region. Two hundred years later, however, the river's fertility has significantly declined due to overuse, while large oil reserves have been discovered in the desert region, bringing prosperity to its inhabitants. At this point, those currently living are no longer the original perpetrators or victims of the injustice.

Does it still make sense to demand compensation from the present-day descendants of the state by the river? It seems reasonable to argue that the answer is no – or at least that a simple affirmative response would require further justification. The example illustrates a key intuition: that assessing past injustices must involve careful consideration of current circumstances. A wrong committed in the past does not automatically justify redress in the present.

Jeremy Waldron (1992b; 1992a; 2002; 2004; 2012) in line with this kind of reasoning, has argued that in the domain of territorial rights, historical injustices do not necessarily generate a perpetual right to restitution. Instead, he contends that changes over time – such as shifts in population, economic developments, and the establishment of new legal and political structures – can result in a situation where the original injustice is "superseded" by present-day realities. Supersession is not always appropriate, but it becomes relevant especially when attempting to correct a past wrong would create new injustices or significantly destabilize contemporary arrangements that are, themselves, just.

As argued by Meyer and Waligore (2018), the supersession of claims resulting from past injustices can be the result of a range of possible circumstances, including a change in the distribution of material goods and resources, a change in the relationship or attachment to particular places or objects, a transformation of collective identities, and a possible change in the legitimacy or continuity of claims to sovereignty. Each of these factors can have an impact on whether, and to what extent, a historical claim remains valid in the present.

If this debate is approached from the perspective that territorial claims are exclusive, and that there is a symbolic or even constitutive link between a people and a particular territory –as most of the authors discussed tend to assume (Nine 2008b)[90] – then one is unlikely to fully accept Waldron's thesis that entitlements can change over time and past injustices can be superseded.

If, by contrast, the debate is approached from functionalist premises, it becomes more plausible to think that, from a practical and action-guiding point of view, the available options for addressing a past injustice must necessarily take present-day circumstances into account.

Even in this second case, however, the question of how best to redress a historical injustice remains complex and open-ended, and falls outside the scope of this thesis. Still, it is possible to identify some key distinctions and variables that a functionalist perspective would need to consider when engaging with the issue of historical injustice in the present.

First, one should distinguish between cases where the effects of a past violation continue into the present, and cases where they no longer do. The first category can then be further subdivided: either the individuals directly responsible are still alive and identifiable, or they are not, and direct responsibility can no longer be assigned to anyone living today.

From a functionalist point of view, it seems reasonable to argue – following Waldron – that redressing a past injustice does not necessarily involve restoring the situation to what it would have been had the injustice not occurred. This is because, as said, over time new and morally relevant factors come into play. Among the most significant of these is that the land or territory in question may now be inhabited by people who, for generations, have had no connection to the original injustice, nor are they its direct beneficiaries. Justice, then, might entail that those who originally held title to land are obligated to make space for others, potentially even for those who came into possession of the land through wrongful appropriation (Waldron 2004).

If there is no longer a present injustice that can be traced back to a specific past event – even if the territorial arrangement that resulted from that event remains in place – then Waldron's idea that the injustice has been *superseded* appears applicable.

If, however, the effects of a past injustice are still present – manifesting in ongoing harm, exclusion, or structural disadvantage – then some form of rectification remains morally justified and the conditions for supersession are not met (Meyer 2004). However, even in such cases,

[90] In 2008, Nine wrote a paper specifically in response to Waldron, in which she argues that Waldron did not give due importance to the distinction between the right to reside in a given territory and territorial sovereignty. Since Nine's thinking has evolved from (2008a) to (2022), it is not certain that she would still hold the same position towards Waldron.

the aim should not be to re-create past conditions; rather, it should be to promote future-oriented stability and fairness, through forms of “partial”, when not “full”, supersession (Meyer and Waligore 2018).

Finally, determining who should bear the burden of rectifying historical injustices is a complex and contested issue. When the descendants of those who originally committed the injustice no longer have meaningful connections to it – whether in terms of benefiting from it, sharing the intent behind it, or identifying with its legacy – it is far from obvious that they ought to shoulder the costs of repair. The link between past wrongdoing and present responsibility becomes weaker in such cases, raising difficult questions about fairness and accountability.

Nonetheless, even in these circumstances, as well as in situations where the original injustice has been formally or practically superseded by subsequent developments, symbolic acts of acknowledgment remain morally significant. Public apologies or official statements issued on behalf of the original perpetrators can fulfil an important ethical role. They serve not only to recognize the harm inflicted but also to demonstrate a willingness to assume moral responsibility for it, thereby contributing to processes of reconciliation and healing (Galeotti 2010a; 2010b).

5.4.2 Objection 2: Group Rights and Indigenous Rights

A second objection to functionalism pertains to the issue of group rights. Since functionalism is grounded in individual rights, it is essentially an established fact that it provides more robust protection for individual rights than for group rights.

In section 5.2, I discussed the theme of representation and collective self-determination, fundamentally arguing that the type of collective self-determination compatible with my account is what Waldron has defined as “territorial self-determination” (Waldron 2010, 406), in contrast to “identity-based self-determination” (401). Territorial self-determination refers to the idea that a distinct people, within its particular boundaries, have the right to govern themselves and control the political structures within their territory, and the term “people” has no particular meaning except for including anyone living permanently within that territory. Identity-based self-determination, on the other hand, is the view shared by voluntarist and nationalist theories according to which a “people” can be identified by a particular identity even before (or regardless of the fact that) a territory is institutionally delineated. Identity in this case is generated by factors such as ethnicity, culture, historical experiences, or social bonds.

Territorial self-determination, as mentioned earlier, protects an individual right to political participation, but does not provide explicit protection for group rights. Functionalism, within institutional contexts, safeguards individuals to the extent that it allows them to express themselves and associate freely.

Beyond individual freedom of expression, there remains the issue of how to address cases in which a minority group seeks political representation. Individual freedom of expression may not be sufficient to protect more specific group rights, such as those concerning certain indigenous groups, linguistic minorities, or national minorities – such as the Québécois in Canada (Kymlicka 1995).

The objection could also extend to another aspect: the fact that functionalism denies or does not sufficiently protect the exclusivity of territorial claims. According to many scholars (Moore 2003; Kymlicka 1995; Miller 2012; Stilz 2019), this is particularly problematic in relation to indigenous rights, based on the claim that at least indigenous peoples, having a distinctive relationship with the land they occupy, should be granted not only specific group rights, but also specific right to occupy and use a particular portion of territory.

Functionalism, by grounding itself in the idea of territorial self-determination, does not link political self-determination to a specific ethnic, cultural, or political group. In contrast, theories based on identity-based self-determination, such as voluntarism or nationalism, provide explicit protection for the majority group while often failing to extend the same safeguards to minority groups. Functionalism, which is especially compatible with pluralistic constitutions, does not offer special protections even for the majority – aside from the fact that it is generally easier for the majority to secure political representation – therefore it does not seem structurally incompatible with the accommodation of internal autonomies for minorities..

However, since a functionalist approach to state legitimacy does not explicitly include group rights among the protections a state must ensure, there indeed appears to be a gap in the theory regarding how to justify the importance of safeguarding certain group rights in addition to fundamental individual rights. In other words, the objection to functionalism could be that in a state where self-determination is understood purely in territorial terms, it is unclear how to account for the value of protecting group identities.

In response to this objection, it can be argued that, from a functionalist perspective, the protection of individual rights should not be seen as an alternative to the protection of group rights – just as the opposite is true for voluntarist or nationalist theories. The safeguarding of fundamental individual rights is clearly a priority, as it constitutes a condition of state legitimacy. However, particularly in the case of persistently alienated minorities, if ensuring greater political autonomy is feasibly compatible with the protection of other basic rights, then from a functionalist standpoint, it is appropriate to incorporate this form of protection (Stilz 2019, 135).

From the perspective of the action-guidance of the theory, it is legitimate to ask what implications arise when a minority group finds itself in a situation of alienation, assuming that the protection of basic individual rights is still granted.

The options to consider include, for example, advocating for increased representation, adopting federalism, granting internal autonomy, supporting secession, permitting migration, or pursuing boundary reconfiguration. With the exception of secession, which I do not wish to support, all the other options are compatible with functionalism, albeit with varying degrees of preference.

When members of a minority group are systematically treated as inferior or exist in long-standing situations of mutual intolerance, secession might appear desirable (Altman and Wellman 2009). However, there are two major issues with secession: (1) when a minority group seeks independence, there are often others living in the territory that would become part of the new state who do not support secession (Stilz 2019, 136). (2) Since my view of functionalism emphasizes states fulfilling certain functions rather than representing a specific national culture, secession seems to incorrectly promote the notion that the only way to politically represent a particular culture is through independent governance. Federalism or internal autonomy are the best options in functionalist terms.

Although this discussion is not exhaustive, it still clarifies the type of response a functionalist theory might provide regarding the issue of group rights. However, it remains to be clarified whether the case of indigenous rights, as mentioned earlier, is an exception or if the same considerations that apply to other minorities also apply to it.

The UN Declaration on the Rights of Indigenous Peoples (United Nations 2007) states that indigenous peoples have a "right to self-determination, […] to freely determine their political status and freely pursue their economic, social and cultural development" (Article 3) and a "right to autonomy or self-government in matters relating to their internal and local affairs" (Article 4). From these perspectives, it seems that the considerations made for minority groups in general can simply be extended, in particular, to indigenous groups

If, however, there is an extra particularity in the case of indigenous rights, that particularity is that it is sometimes argued that "the way of life [of indigenous peoples] requires them to live in a particular place" (Moore 2015, 41). This argument suggests that, at least for indigenous groups, there exists a certain exclusivity in the relationship between a group and a specific territory. The rationale is that only one particular territory can fully guarantee the respect of the autonomy of the individual members belonging to an indigenous group, so the relationship between a group and its land acquires moral and normative significance.

It is clear that this type of argument would also deserve a more in-depth analysis, which, however, falls outside the scope of my inquiry. Nonetheless, isolating the objection that if indigenous groups have a normatively significant relationship with a specific geographic area, then functionalism cannot be applied, one can respond in defence of functionalism in two ways. One option is to argue that indigenous territorial rights indeed constitute an exception and grant indigenous groups an exclusive (or more exclusive) right to make decisions regarding their territories. If this option is adopted, indigenous rights would be the sole exception to functionalist premises, meaning the overall theory would still remain highly robust. The second option is to deny that indigenous rights entail something more than what is granted to other types of minorities. This could be done, for example, by not arguing that they have a right to a specific territory, but rather that they have a right to a territory with particular characteristics or access to specific resources necessary to ensure the personal autonomy of individual group members. Both of these options are viable and compatible with the functionalist premises outlined in detail in this chapter.

5.4.3 Objection 3: the Role of International Organizations

Another potentially problematic aspect of functionalism, both in Stilz's version and in the one defended in this chapter, is its emphasis on the role of the international community and international organizations. One could argue that the theory either permits too many exceptions to state sovereignty, thereby eroding true state autonomy, or that, from an action-guidance perspective, the international community fails to effectively fulfil the role assigned to it.[91]

While this thesis defends the value and desirability of state sovereignty, which remains deeply entrenched in the sovereignty debate, the value of absolute state supremacy has weakened in public discourse. States increasingly face pressure to align their domestic policies with international norms, challenging the former traditional view of sovereignty, which held that states are free to adopt any internal organization, even if unjust (Nine 2022, 130). With the implementation of human rights legislation and the need for more international legal

[91] From a different angle, the objection might also relate to the relationship between functionalism and cosmopolitanism. Since cosmopolitanism was ruled out in Chapter 1, one might question whether functionalism is, in effect, quite similar to it.

frameworks to tackle global issues such as climate change, the concept of sovereignty as absolute state supremacy has been progressively replaced by the expectation that states adhere to globally recognized standards. The argument presented in this chapter aligns with this trend. The question is whether this might excessively weaken the very value of state sovereignty.

A plausible answer to this question is that as long as competences are clearly distinguished, both the role of the international community and the role of states remain clear and necessary. From this perspective, it is worth highlighting out how Nine's theory, discussed in section 4.1.2, by not sufficiently delineating the boundaries of state sovereignty, proves to be less action-guiding than functionalism, despite sharing some of its underlying principles.

Both in my and Nine's (and Stilz's) view, having a right to occupy a particular geographical area does not equate to an exclusive right to exploit the resources of that territory, but instead to a right to ensure access to the basic resources necessary for the group's (in Nine's terms) sustenance. Factors such as having a secure access to drinkable water, having an access to the fundamental resources of the area (such as river basins), and having a right against displacement and removal count, according to Nine (2022, 5), as the fundamental and basic rights that every collective with legitimate claims to a territory must be guaranteed. Since Nine defends the idea of overlapping self-determination, it is possible that the same set of resources is shared among more collectives and that self-determining groups become interdependent in exercising control over overlapping territories (Nine 2022, 25). From this perspective, despite the presence of any supranational regulation or legislation governing the interconnected collectives, adopting such a theory could give rise to highly contentious scenarios, where the boundaries of state sovereignty risk becoming so uncertain that they compromise the action-guidance of the theory – that is, the ability to realistically conceive ways in which the idea of overlapping self-determination could be translated into action.

Functionalism, as defended in this chapter, differs from Nine's theory in that it recognizes the overlapping nature of territorial claims but maintains a clearer distinction between the responsibilities of states and those of the international community. It avoids framing territorial control in terms of "overlapping" or "interdependent" authority, instead preserving a more defined separation of competences.

From the perspective of action-guidance, and the relationship between ideal and non-ideal theory, another objection to all theories that delegate many responsibilities to the international community is that the international community is not a neutral space that enforces justice principles neutrally, based on agreements made by the entire international community. Instead, it is a space where partisan interests often prevail.

As previously noted, a major limitation of international organizations is their often non-ideal functioning. This raises concerns that a theory relying heavily on their role may be too detached from reality and, as a result, lack practical applicability or action-guiding relevance.

If it is certainly true, as Stilz also argues, that it is necessary to reform international organizations and to redistribute power and resources more equitably (Stilz 2019, 16), at the same time, it must be acknowledged that, given the types of challenges the international community faces, no theory can overlook the role that must be attributed to international organizations. As seen in Chapter 4, theories that assert, in a certain sense, the exclusivity of territorial claims and thereby limit the role of international coordination would still ultimately require it. In reality, the exclusivity of claims is often contested, necessitating international involvement.

5.4.4: Objection 4: Ecological Refugee States

Ecological refugee states are states that are losing their entire territory as a consequence of climate changes and the environmental crisis, due to phenomena such as rising sea levels and desertification. Tuvalu, the Maldives, or Kiribati are real-world examples of states that are predicted to lose their entire territory in the near future.

In a 2010 paper, Cara Nine explores whether displaced groups, when an entire state or the vast majority of their territory is lost, have legitimate claims to new land and what principles should govern their redistribution (Nine 2010). Since Nine conceives territorial rights not as a binary relationship between a nation and its territory, but as a plural and shared relationship among multiple communities, she argues that the environmental crisis necessitates a reconfiguration of currently recognized territorial rights. Given that states losing their territory still retain their right to self-determination, existing territorial rights must be revised, redefined, and adapted to ensure that displaced communities can claim territorial rights over new land.

Similarly, Kim Angell has defended a comparable thesis, essentially arguing that if shared territorial attachment has moral weight, then communities that lose their territory must have a right to be allocated new land – gradually made available, in particular, by states with the greatest environmental responsibilities (Angell 2021). In doing so, he supports a notion of flexibility and adaptability of borders that, in some respects, aligns with the idea defended in this thesis.

The key question, then, is how a functionalist approach would address this challenge.

The reason why this type of challenge might be complicated to address for a functionalist theory like the one I defend is that I have upheld what Waldron defines a "territorial conception of self-determination" (Waldron 2010), or what I have previously defined as an institutionalist conception of self-determination. This interpretation entails the idea that the self-determination of a political community exists and is exercised within an institution and through participation in that institution, with the institution exercising its sovereignty over a specific territory. From this perspective, it remains unclear what occurs if the territory is no longer accessible or available.

Nine does not face the same issue, as her theory places a stronger emphasis on collective self-determination and adopts a form of self-determination that is not strictly institutionalist, or at least not entirely so.

While the theory I defend is less explicitly centred on self-determination in this context, it aligns with Nine's perspective on the provisional and conditional nature of territorial claims, as well as the potential for border reconfiguration when necessary.

Although the case of ecological refugees remains relatively limited for now, even if one were to adapt the functionalist premises defended thus far to accommodate its specificities, it would still be difficult to modify them enough to justify an unconditional right to a new independent territory for ecological refugee states. Such a claim would require a level of revision that contradicts the core arguments made so far, particularly the idea that national identity does not necessarily depend on exclusive territorial claims.

A more compatible approach, within the framework advanced in this chapter, would be to integrate displaced groups into existing states – where feasible – even potentially through boundary reconfiguration if additional space is required.

In doing so, the primary objective would be to safeguard newcomers' fundamental individual rights and, where possible, also preserving their group identity through special recognition mechanisms, such as specific autonomies, special rights, and, if necessary (though not as a priority), a designated geographic area that reflects their place of origin. In line with the functionalist theory defended, the territory inhabited by ecological refugees would not be exclusively theirs, but the requirement would be that, where possible (i.e., where compatible with other priorities), conditions should be ensured to also protect group identities.

It remains for now an open question whether this functionalist approach is merely a second-best (if compared to the one proposed by Nine) pragmatic solution for the case of ecological refugee states or if, once further refined, it could represent the most compelling proposal.

However, even in the former case, functionalism still offers a satisfactory response to this challenge.

5.4.5: Objection 5: Action-Guidance and Compliance

One final objection to consider, particularly directed at the functionalist proposal developed within this thesis, is whether the fact that it is largely based on the concept of action-guidance actually finds practical application.

The point is the one already addressed regarding whether the theory actually meets the outlined requirements – that is, whether it is genuinely ideal, non-utopian, and not non-ideal, even from the delicate perspective of compliance. This analysis, partially already conducted, can be revisited afterward for a final check. The issue also lies in asking, now that the theory has been refined, if we can realistically expect that it will actually be action-guiding.

Regarding utopianism, it can be briefly reaffirmed that the theory outlined is indeed non-utopian in the three senses U1, U2, and U3. It is not utopian in the sense of U1, as it does not assume a fully just world but rather a realistic one, acknowledging certain facts as unchangeable – the fact that territorial claims are entangled, that resources are increasingly scarce, and that there is reasonable disagreement on the principles of justice that should form the basis of state constitutions. It is not utopian in the sense of U3, as it is not structurally constrained by time factors that make it inapplicable; on the contrary, it has been shown to be almost necessarily forward-looking. As for U2, the theory does not appear to be infeasible, if only by comparison with other available options. Perhaps the most challenging aspect for the type of functionalism defended so far is the issue of compliance.

If we try to summarise the key points defended in this chapter, we could say that this version of functionalism (1) establishes legitimacy conditions that classify certain states as genuinely illegitimate, thereby justifying partial international intervention; (2) defines self-determination as exclusively institutional, making it incompatible with the more widespread identity-based conception of self-determination, which is typically nationalist; (3) advocates for the non-exclusivity of territorial claims and, consequently, the conditionality of borders, supporting the possibility that, over time, state boundaries may be adjusted to address priority concerns of the theory – such as ensuring that everyone has access to the conditions necessary for achieving a minimal level of justice.

While international organizations have, to some extent, already taken on a similar role, there is still a clear need for improvement, particularly in terms of representation. For the theory to be genuinely action-guiding, states at the international level must fundamentally commit to making decisions inspired by these principles of justice. This is why the most compelling objection, especially regarding the non-exclusivity of territorial claims, is that it remains uncertain whether a sufficient level of compliance could be achieved for the theory to be effectively implemented.[92]

The issue of compliance is undoubtedly more complex than the considerations I will present here, but I suggest to reconsider it by distinguishing between a non-ideal, an ideal, and a utopian level of compliance and non-compliance.

At the non-ideal level, compliance must occur spontaneously as a condition for the feasibility of a theory, driven primarily by pragmatic considerations. In contrast, at the utopian level, compliance is not realistically expected to materialize, as utopian theories inherently assume full compliance, the absence of disagreement, and an exceptionally demanding level of adherence to principles of justice.

The ideal level, from the perspective of compliance, can be seen as a compromise between two extremes. Compliance should not be viewed as something that must necessarily arise spontaneously due to highly pragmatic considerations, nor as something that requires adherence to an overly demanding level of justice. The version of functionalism I defend in this thesis can thus be seen as compatible with this intermediate – therefore ideal – level of compliance, which requires those who must comply to make an "effort" to go beyond overly pragmatic reasons for action, while still safeguarding pragmatic reasons against unrealistically demanding requests.

If the theory were compatible with a very high level of compliance, it would likely be feasible rather than action-guiding, since beyond compliance there are no other significant obstacles (aside from technical ones) to implementing a functionalist theory. The fact that the compliance required is ideal, though not overly demanding, suggests that raising the expected level of compliance in relation to a functionalist proposal for territorial justice should be one of the goals of the theory itself, creating the conditions for an increasingly higher level of compliance in the future.

The functionalist theory presented in this thesis thus seems compatible with the action-guidance requirements outlined (particularly in Chapter 3), as it provides practical, coherent, and desirable guidance on the conditions that make states internally legitimate, and, more

[92] This type of concern at the very least leads us to exclude the possibility that the theory could be defined as non-ideal or status-quo biased.

importantly, legitimate in relation to the international community and the challenges that must necessarily be addressed by the global community. Even from the perspective of comparing available options at the ideal level, the functionalist theory has proven to be the most desirable, including in its implications, something that which positively impacts the issue of compliance, making the goal of raising the level of compliance for this type of theory not utopian, but ideal and action-guiding.

Conclusion

This chapter has ultimately defended the central claim that functionalism – particularly in its most comprehensive form as developed by Anna Stilz – offers the most promising theoretical framework for addressing territorial rights within the domain of ideal theory. Building on the foundations laid in Chapter 4, it demonstrated why functionalism is to be preferred to competing approaches such as Lockean, voluntarist, and nationalist theories, especially under the condition that there is an interest for safeguarding the two criteria of universal desirability and action-guidance. Unlike overly abstract utopian models or narrowly case-specific non-ideal theories, functionalism strikes a delicate balance between universal applicability and practical feasibility.

The discussion centred around three interrelated dimensions: legitimacy, collective self-determination, and boundary demarcation. Functionalism grounds the legitimacy of state authority in a core set of rights that states must uphold – personal security, subsistence, autonomy, and conditions conducive to collective self-determination. This minimal yet essential rights framework not only clarifies when states qualify as legitimate but also guides the assessment of compliance both internally and internationally. Importantly, states are not only responsible for protecting these rights within their territories but must also refrain from obstructing other states in fulfilling these duties. When states fall short, the theory justifies legitimate international intervention – ranging from sanctions to exclusion from cooperation and trade restrictions – thereby reinforcing the normative standards of global governance.

However, this chapter also highlighted internal tensions within Stilz's account, especially stemming from her hybridization of functionalism with voluntarist elements that emphasize pre-institutional self-authorship. While this hybrid model seeks to deepen the theory's normative appeal, it introduces utopian assumptions that complicate action-guidance and risk diluting the focus on practical justice. By contrast, a fully institutional conception of collective self-determination – one grounded in stable political and legal institutions and representation –

was defended here as both more realistic and conducive to political stability. This institutionalist view maintains the value of autonomy without falling into the unwanted scenario of territorial exclusivity or essentialist claims to territory.

Furthermore, the chapter argued that functionalism's refusal to endorse exclusive territorial claims is a theoretical strength rather than a weakness. This stance facilitates a more inclusive and adaptable approach to pressing global challenges, including migration and equitable resource distribution. Although this openness may risk scenarios resembling benign colonialism, the trade-off is justified by the avoidance of the exclusionary, essentialist implications characteristic of nationalist theories. Representation thus remains central within a functionalist framework, but always as a means to inclusive political stability within institutions, rather than as a justification for rigid territorial sovereignty.

Turning to the "boundary problem", this chapter critically examined Stilz's use of located life plans and pre-institutional cooperation networks as grounds for political obligations. While these concepts aim to account for territorial claims beyond mere possession, they proved overly idealistic and difficult to implement in real-world contexts marked by complex social realities and contested occupancy rights. To address these shortcomings, the chapter proposed embracing the plurality and contingency of just boundaries rather than seeking a single definitive delimitation. Emphasizing peace and stability as primary objectives, this approach allows for the conditional reconfiguration of borders when the benefits outweigh the costs, thereby offering a practical framework for resolving territorial disputes while discarding proprietarian and nationalist myths. Consistent with a permissive view of territorial claims, open borders and a duty to allow migration – with reasonable exceptions – are also endorsed, reinforcing the provisional and institutional nature of territorial justice.

In sum, this chapter has laid the groundwork for a more robust and pragmatically oriented ideal theory of territorial justice rooted in a functionalist paradigm. While acknowledging areas for further refinement, it affirms functionalism's distinctive potential to set normative standards and guide international action toward greater legitimacy and justice in territorial governance.

CONCLUSION

In this thesis, I have defended the position that states' territorial rights should be primarily evaluated from a functionalist perspective – one that assesses the legitimacy of a state's claim over a given territory based on its ability to fulfil specific conditions. These conditions include the protection and promotion of fundamental rights (primarily individual rights), the regulation of property rights, and the legitimate, non-exploitative use of the territory.

The preference for functionalist justifications over alternative theories – including those that exhibit comparable internal coherence – derives from their greater capacity to guide practical decision-making. The concept of action-guidance is central to this thesis, as one of the primary sources of contemporary geopolitical instability lies in the proliferation of overlapping territorial claims. In such contexts, multiple states or groups assert competing rights to the same territory, each grounded in normative principles that are, at least theoretically, equally plausible. In these circumstances, internal consistency alone is insufficient; what is required are theoretical frameworks that not only uphold universal normative legitimacy but also provide criteria that are practically applicable for the resolution of territorial disputes.

Reconciling universality with applicability posed a significant challenge. The pursuit of universal validity often involves a degree of idealization that risks detachment from practical realities, while the pursuit of applicability demands sensitivity to concrete, context-specific factors, sometimes at the expense of generalizability. The action-guidance criterion developed in this thesis is intended to meet both of these demands. It aims to identify theories that occupy a balanced middle ground: meeting the standards of ideal theory without falling into utopian abstraction, while remaining sufficiently applicable to avoid collapsing into an overly non-ideal framework. Importantly, applicability here does not imply full or immediate feasibility, but rather the capacity for meaningful practical implementation.

In the relationship between ideality, universality, and applicability, I have understood applicability as subordinate to the first two: it represents a secondary level of a theory's overall desirability. That is, for a theory to be considered action-guiding – or practically applicable – it must first be regarded as normatively desirable, or at least more desirable than alternative theories situated at a comparable level of ideality. Only once this normative threshold has been met does it make sense to assess whether the theory can legitimately guide action.

One way to retrace the key stages of this thesis is through the lens of this central challenge: the search for a delicate balance between generalizability and applicability. Chapter 1 aimed to identify ideal and desirable theories of territorial rights, excluding those that failed to meet these criteria. Chapter 2 then compared several equally desirable ideal theories, but this analysis revealed a practical problem – none of the available theories could be clearly favoured over the others solely based on their desirability. In response, Chapter 3 developed a criterion for assessing equally desirable theories based on their applicability. Chapter 4 demonstrated that functionalism best combines both desirability and applicability among the theories examined. Finally, Chapter 5 refined a version of functionalist theory that is optimally suited to this purpose. What follows is a comprehensive review of the arguments developed in each of the five chapters, along with their respective conclusions.

Chapter 1 critically examined alternative frameworks to state-based territorial sovereignty to assess their normative desirability as foundations for territorial rights. The chapter began by highlighting the structural inequalities, environmental irresponsibility, and lack of global accountability within the current state-centric system. Despite these shortcomings, the analysis found that non-territorial and cosmopolitan alternatives fail to offer more desirable solutions.

Non-territorial models, including Agnew's disaggregated sovereignty and Tucker and De Bellis's panarchism, were shown to generate instability, weaken accountability, and exacerbate inequalities through competitive governance and ambiguous jurisdiction. These frameworks undermine the essential clarity and stability that legitimate political authority requires.

Cosmopolitanism, though morally compelling in its emphasis on global justice and equality, also proves normatively insufficient. Attempts to vertically disperse sovereignty – through proposals by Pogge, Held, and Benhabib – introduce significant challenges regarding legitimacy, democratic representation, and the management of moral disagreement. While cosmopolitan theories aim to transcend state power, they either replicate existing hierarchies or collapse into unworkable or undemocratic forms of global governance.

The chapter concludes that a minimal, yet normatively robust, conception of the state – defined by three core features: a defined territory, a resident population, and a governing authority with legitimate coercive power – remains the most desirable basis for territorial rights. This "core state" model is not conservative in nature, as it deliberately excludes assumptions like contiguity, cultural homogeneity, or historical stasis, allowing for flexible and evolving configurations of sovereignty.

Thus, Chapter 1 establishes that while the current international system requires reform, the state remains the most viable and justifiable unit for territorial authority. This foundational conclusion sets the stage for the subsequent inquiry into which theories best justify state-based territorial rights.

Chapter 2 provided a comprehensive theoretical overview of the main philosophical justifications for state territorial rights, laying the foundation for a critical assessment of their normative plausibility and practical applicability. Building on Chapter 1's conclusion that states were the most suitable entities to hold territorial authority, the chapter investigated the various normative grounds advanced in the literature to justify such authority over specific territories.

Four main families of theories were reconstructed and critically examined: Lockean, voluntarist, nationalist, and functionalist. Lockean theories – both individualist and collectivist – grounded territorial rights in original acquisition through labour and the Lockean proviso, though they faced challenges in addressing collective claims, resource distribution, and applicability to complex contemporary territorial disputes. Voluntarist theories, particularly Moore's political self-determination model, emphasized collective identity and political relationships as justifications for territorial rights but struggled with demarcating groups, accommodating dissenters, and resolving overlapping claims.

Nationalist theories, considered in their liberal form, asserted that shared culture, history, and symbolic attachment to land justified territorial claims. While potentially suitable for addressing certain cases, they risked exclusionary implications and relied on often-contested narratives of identity. Functionalist theories, lastly, posited that territorial rights depended on the state's ability to perform essential governance functions – an approach that ultimately emerged as the most compelling. Crucially, Chapter 2 did not endorse a monist view privileging one theory but also rejected a fully pluralist relativism. Instead, it defended a hybrid framework: while multiple theories offered prima facie justifications, their plausibility had to be constrained by a criterion termed "action-guidance," which is elaborated in detail in the subsequent Chapter 3.

Chapter 3 served as the methodological core of the thesis, developing a framework to assess competing theories of territorial rights not only by their normative appeal but also by their practical utility. Building on the recognition – emerging from Chapters 1 and 2 – that no single theory (whether Lockean, voluntarist, nationalist, or functionalist) offered a fully satisfying or universally applicable solution or guidance, the chapter introduced action-guidance as an external evaluative criterion. This shift responded to the practical challenge of how to normatively prioritize among multiple, often conflicting, justifications for territorial claims.

To clarify the theoretical landscape, the chapter distinguished between utopian, ideal, and non-ideal theories, placing them on a spectrum where ideal theories occupy a central position rather than being treated as an extreme.

Utopian theories, positioned at one end of the spectrum, articulate highly ambitious visions but prove ultimately unfeasible; non-ideal theories, at the other, remain closely constrained by existing conditions. While non-ideal theories are not rejected in absolute terms and may be suitable in specific contexts, privileging ideal, action-guiding theories reflects a deliberate methodological commitment to the kind of normative guidance political theory should provide. As noted, ideal theories occupy a middle ground by balancing abstract, aspirational goals with practical relevance, making them best suited to be classified as action-guiding.

This chapter argued that only theories capable of action-guidance can effectively direct political reasoning. Action-guidance was defined not simply as strict feasibility, but as second-order feasibility – the ability of a theory to offer structured, motivating, and plausible pathways toward its normative aims. The chapter also introduced diagnostic criteria for failed action-guidance, including a lack of motivational force, impractical intermediate steps, or internal contradictions when applied.

By establishing this conceptual framework, Chapter 3 laid the foundation for the evaluation of territorial rights theories in Chapter 4, equipping the thesis with tools to assess which theories are not only normatively compelling but also capable of guiding action within a complex and pluralistic global context.

Chapter 4 represented the central evaluative moment of the thesis. Building directly on the methodological framework developed in Chapter 3 – particularly the spectrum of ideality and the concept of action-guidance – it systematically reassessed the main normative theories of territorial rights introduced in Chapter 2. While the earlier chapters had mapped the theoretical landscape and clarified key concepts, Chapter 4 applied these tools to evaluate whether, and to what extent, each theory could serve as a viable guide for action in a complex world marked by overlapping claims, historical injustices, and practical constraints.

The chapter evaluated four main families of territorial rights theories: Lockean, voluntarist, nationalist, and functionalist. Two primary criteria structured this evaluation: their position on the spectrum from utopian to non-ideal theory, and their capacity to provide effective action-guidance. Lockean theories, both in their individualist form (as developed by Simmons) and collectivist variant (as proposed by Nine), were found to be normatively rigorous but ultimately utopian and impractical. Their reliance on idealized historical entitlements and difficulties in defining morally relevant relationships with land undermines their ability to guide real-world action.

Nationalist theories, exemplified by Miller, proved weakly utopian and faced significant challenges, including unrealistic assumptions about a one-to-one fit between nations and territories and an inability to handle pluralistic or entangled claims. Nationalism ultimately fails to offer coherent normative guidance, risking internal contradictions and exclusion.

Voluntarist theories, particularly Moore's, suffered from conceptual ambiguity around group boundaries and depended on abstract notions of collective identity. This rendered them highly utopian and limited their practical applicability beyond specific contexts.

In contrast, functionalist theories, especially Stilz's, emerged as the most action-guiding. Despite some limitations, functionalism grounded territorial rights in the moral function of states – the capacity to secure justice, autonomy, and rights—thereby providing coherent and forward-looking guidance without falling into utopian idealism.

Chapter 4 thus concluded that among the theories examined, functionalism best combined normative appeal with practical applicability, making it the most promising framework for territorial justice.

Chapter 5 concluded the thesis by refining and defending a functionalist theory of territorial rights that is both normatively desirable and action-guiding at the ideal level. Building on the findings of Chapter 4, where functionalism emerged as the most promising framework, the chapter developed a version of functionalism that explicitly addressed its limitations and enhanced its applicability to complex real-world territorial challenges.

The chapter began by reaffirming the methodological importance of the ideal level, positioned between utopian abstraction and non-ideal contextualism. The ideal level required theories to be normatively robust, practically realizable through intermediate steps, and universally applicable. Functionalist theories, particularly the account offered by Anna Stilz, best met these criteria. Yet, the chapter recognized the need to critically revise Stilz's formulation to fully satisfy the demands of an ideal, action-guiding theory.

Three core issues structured this refinement: legitimacy, representation and self-determination, and the boundary problem. First, on legitimacy, it was reaffirmed that states must satisfy basic conditions – such as securing security, subsistence, and autonomy rights – to qualify as legitimate. These conditions established a realistic threshold, not a utopian ideal, allowing for international sanctions against non-compliant states and emphasizing shared duties to uphold minimal justice.

Second, the chapter addressed representation and collective self-determination by rejecting pre-institutional cultural or historical foundations. Instead, it advocated a fully institutional understanding of political communities, avoiding exclusivist nationalist logics and reinforcing the theory's coherence and action-guidance.

Third, the boundary problem was approached functionally: borders were understood as provisional tools to promote peace, stability, and justice rather than fixed markers of identity or ancestry. This allowed for just borders that support openness and respond to contemporary challenges like migration and climate change.

Chapter 5 thus presented a refined, ideal-level functionalist theory of territorial rights that balanced normative ambition with practical applicability, offering a coherent solution to the persistent problem of overlapping territorial claims.

An action-guiding functionalist theory of territorial rights, developed throughout this thesis, provides a robust normative and practical framework for evaluating and justifying state territorial claims in a complex and pluralistic world. This theory rejects the idea that territorial rights are absolute or intrinsic; instead, it holds that such rights are justified provisionally and conditionally, based on the functions that territorial states can and ought to perform.

At the core of the functionalist perspective is the premise that the legitimacy of territorial rights stems from the capacity of political institutions to fulfil morally significant functions – such as protecting basic rights, ensuring political participation, and promoting distributive justice. These functions serve as the moral foundation for territorial authority. According to this view, states are justified in exercising territorial rights not by virtue of historical claims or cultural continuity, but because they can effectively carry out these essential functions within clearly defined borders.

Crucially, this theory is designed to guide action under non-ideal conditions, while aiming toward ideal normative goals. It assesses territorial arrangements by their ability to approximate justice, even in contexts marked by conflict, asymmetry, and historical injustice. As said, this approach involves a spectrum-based evaluation of theories, where practical relevance grows with a theory's capacity to guide action without sacrificing normative rigor and universality.

The motivation behind seeking a theory with these dual qualities – both ideal and action-guiding – arises from the highly entangled, and precisely for this reason, highly conflictual nature of territorial claims in the real world.

This phenomenon, which can be described as territorial entanglement, refers to situations in which multiple actors assert incompatible claims over the same territory, each grounded in principled justifications. These disputes are not mere struggles over interests or power but are deeply rooted in competing identities, histories, and claims of legitimacy. As a result, territorial conflicts are not simply difficult to resolve; they are structurally resistant to resolution because the normative frameworks invoked are themselves incommensurable. Yet, the failure to address these conflicts carries severe consequences – ranging from prolonged violence, as exemplified by the Israeli-Palestinian conflict, the Kashmir dispute between India and Pakistan, and ongoing clashes in Ukraine in the context of Russia's larger invasion; to international instability, as seen in the South China Sea tensions involving China and several Southeast Asian nations and the Western Sahara dispute; and environmental degradation resulting from contested resource extraction and land use in regions like the Amazon rainforest, the Arctic's melting ice territories, and the Niger Delta's oil conflicts.

The central normative challenge, then, has been: how can we fairly assess territorial claims in a world where multiple, valid justifications coexist? The answer identified in this thesis is that a theory must be both universalizable and practically applicable. Functionalism – particularly the revised version advanced by Stilz and elaborated in chapter 5 – emerges as the most promising framework for meeting this challenge.

Naturally, after placing such sustained emphasis on the concept of action-guidance, one might expect this thesis to conclude with concrete case studies or specific recommendations about how to resolve ongoing territorial disputes. However, it is important to recall a key distinction developed throughout this work: the difference between action-guidance and feasibility. A theory can guide action – by offering normative direction and shaping the trajectory of institutional and political reform – even if immediate implementation remains out of reach under current conditions.

Certainly, one could imagine, as a prospective exercise, how today's most entrenched territorial conflicts—such as those in Israel-Palestine, Kashmir, or Ukraine – might be addressed if the functionalist framework were broadly adopted. However, the truth is that before we can reach the point where such conflicts are realistically resolvable, certain foundational conditions must be in place. As the idea of action-guidance suggests, these conditions are not simply technical or institutional – they are conceptual and attitudinal. We must undertake preparatory steps that would make the functionalist theory of territorial rights not only normatively compelling, but eventually feasible at some future time, t_n.

The most crucial of these preparatory steps, I argue, involves a shift in mindset – both at the institutional level and among individuals. We must begin to reframe how we think about territorial rights: not as historical entitlements or expressions of collective identity, but as moral claims justified by the performance of essential state functions. This means revising our normative preferences, and moving toward a conception of territory grounded in what states do – that is, how effectively they protect basic rights, secure democratic participation, and promote justice – rather than in who they are culturally or historically.

This shift is especially urgent given the global context. While territorial disputes may be geographically localized, the climate crisis is universal. It forces us all to reconsider our relationship to land, borders, and sovereignty. The lens of functionalism offers a way to rethink territory not as an object of exclusion and control, but as a platform for delivering morally necessary functions, including environmental governance. In this light, the legitimacy of a state's territorial claim must rest not on cultural continuity or ancestral belonging, but on the capacity to meet the pressing needs of the people who inhabit that land – now and in the future.

Embracing the "core definition of the state" proposed in Chapter 1 is an essential part of this normative reorientation. That definition views the state, at its core, as a coercive institution whose legitimacy depends on its ability to serve the fundamental interests of individuals. This perspective requires a disentangling of the state from the nation, or with any particular cultural, ethnic, or historical group. Instead, the state must be understood as a morally justified institutional arrangement – one tasked with enabling justice, well-being, and security within defined territorial boundaries.

A functionalist theory of territorial rights, therefore, does more than offer criteria for evaluating claims; it encourages a deeper transformation in how we conceive of political space, collective identity, and legitimate authority. Encouraging this shift through education, dialogue, policy, and reform is key to making the resolution of territorial conflicts properly feasible.

BIBLIOGRAPHY

Agnew, John. 2005. ‘Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics’. *Annals of the Association of American Geographers* 95 (2): 437–61. https://doi.org/10.1111/j.1467-8306.2005.00468.x.

Allen, John. 2003. *Lost Geographies of Power*. Blackwell Publishers Ltd.

Altman, Andrew, and Christopher Heath Wellman. 2009. *A Liberal Theory of International Justice*. Oxford University Press.

Anderson, Malcolm. 1983. *Frontier Regions in Western Europe*. Routledge.

Angell, Kim. 2017. ‘A Forward-Looking Justification of Territorial Rights’. *Political Studies* 65 (1): 231–47. https://doi.org/10.1177/0032321715619432.

Angell, Kim. 2019. *Property and Territorial Rights in Political Philosophy*. 1–25.

Angell, Kim. 2021. ‘New Territorial Rights for Sinking Island States’. *European Journal of Political Theory* 20 (1): 95–115. https://doi.org/10.1177/1474885117741748.

Angell, Kim. 2023. ‘Should Rawlsian End-State Principles Be Constrained by Popular Beliefs about Justice?’ *Critical Review of International Social and Political Philosophy*, August 19, 1–23. https://doi.org/10.1080/13698230.2023.2247313.

Angell, Kim, and Robert Huseby. 2020. ‘Secession and Political Capacity’. *Critical Review of International Social and Political Philosophy* 26 (7): 1073–93. https://doi.org/10.1080/13698230.2020.1851858.

Archibugi, Daniele, and David Held. 2011. ‘Cosmopolitan Democracy: Paths and Agents’. *Ethics & International Affairs* 25 (4): 433–61. https://doi.org/10.1017/S0892679411000360.

Barry, Brian. 2001. *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Harvard University Press.

BBC. 2014. ‘Crimea Referendum: Voters “Back Russia Union”’. Europe. *BBC News*, March 16. https://www.bbc.com/news/world-europe-26606097.

BBC. 2022. *China and Taiwan: A Really Simple Guide*. January 12. https://www.bbc.com/news/world-asia-china-59900139.

Benhabib, Seyla. 2014. ‘Defending a Cosmopolitanism without Illusions. Reply to My Critics’. *Critical Review of International Social and Political Philosophy* 17 (6): 697–715. https://doi.org/10.1080/13698230.2014.930784.

Benhabib, Şeyla, Robert Charles Post, Jeremy Waldron, Bonnie Honig, and Will Kymlicka. 2008. *Another Cosmopolitanism*. Oxford University Press.

Biale, Enrico, and Corrado Fumagalli. 2023. 'A Progressive Approach to Normative Political Theorizing'. *European Journal of Political Theory*, 1–21. https://doi.org/10.1177/14748851231189598.

Biersack, John, and Shannon O'Lear. 2014. 'The Geopolitics of Russia's Annexation of Crimea: Narratives, Identity, Silences, and Energy'. ResearchGate, December. https://www.researchgate.net/publication/276234844_The_geopolitics_of_Russia's_annexation_of_Crimea_Narratives_identity_silences_and_energy.

Blackburn, Jessie Yeung, Piper Hudspeth. 2025. 'Trump Renews Threat of Military Force to Annex Greenland'. CNN, May 5. https://www.cnn.com/2025/05/04/world/greenland-annexation-threat-trump-nbc-interview-intl-hnk.

Buchanan, Allen E. 2003. 'Boundaries: What Liberalism Has to Say'. In *States, Nations, and Borders: The Ethics of Making Boundaries, Ed. by Margaret Moore and Allen Buchanan*. Cambridge University Press.

Buchanan, Allen E. 2007. *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*. Oxford University Press.

Burelli, Carlo. 2021. 'A Realistic Conception of Politics: Conflict, Order and Political Realism'. *Critical Review of International Social and Political Philosophy* 24 (7): 977–99. https://doi.org/10.1080/13698230.2019.1604045.

Carens, Joseph H. 1987. 'Aliens and Citizens: The Case for Open Borders'. *The Review of Politics* 49 (2): 251–73. https://doi.org/10.1017/S0034670500033817.

Carens, Joseph H. 2003. 'Who Should Get in? The Ethics of Immigration Admissions'. *Ethics & International Affairs* 17 (1): 95–110. https://doi.org/10.1111/j.1747-7093.2003.tb00421.x.

Carens, Joseph H. 2013. *The Ethics of Immigration*. Oxford University Press.

Cohen, Gerald Allan. 2008. *Rescuing Justice and Equality*. Harvard University Press.

Elden, Stuart. 2010. 'Land, Terrain, Territory'. *Progress in Human Geography* 34 (6): 799–817. https://doi.org/10.1177/0309132510362603.

Erman, Eva. 2014. 'The Boundary Problem and the Ideal of Democracy'. *Constellations* 21 (4): 535–46. https://doi.org/10.1111/1467-8675.12116.

Erman, Eva, and Niklas Möller. 2020. 'A World of Possibilities: The Place of Feasibility in Political Theory'. *Res Publica* 26 (1): 1–23. https://doi.org/10.1007/s11158-018-09415-y.

Estlund, David. 2014. 'Utopophobia'. *Philosophy & Public Affairs* 42 (2): 113–34. https://doi.org/10.1111/papa.12031.

Fung, Archon. 2013. 'The Principle of Affected Interests: An Interpretation and Defense.' In *Representation: Elections and Beyond, Ed. by Rogers M. Smith and Jack H. Nagel*. University of Pennsylvania Press.

Galeotti, Anna Elisabetta. 2010a. 'Multicultural Claims and Equal Respect'. *Philosophy & Social Criticism* 36 (3–4): 441–50. https://doi.org/10.1177/0191453709358833.

Galeotti, Anna Elisabetta. 2010b. 'Respect as Recognition: Some Political Implications'. In *The Plural States of Recognition, Ed. by Michel Seymour*. Palgrave Macmillan.

Gellner, Ernest. 1983. *Nations and Nationalism*. Cornell University Press.

Geuss, Raymond. 2008. *Philosophy and Real Politics*. Princeton University Press.

Gheaus, Anca. 2013. 'The Feasibility Constraint on The Concept of Justice'. *The Philosophical Quarterly* 63 (252): 445–64. https://doi.org/10.1111/1467-9213.12058.

Giddens, Anthony. 1985. *The Nation-State and Violence*. Polity Press.

Gilabert, Pablo, and Holly Lawford-Smith. 2012. 'Political Feasibility: A Conceptual Exploration'. *Political Studies* 60 (4): 809–25. https://doi.org/10.1111/j.1467-9248.2011.00936.x.

Goodin, Robert E. 2007. 'Enfranchising All Affected Interests, and Its Alternatives'. *Philosophy and Public Affairs* 35 (40): 40–68.

Gunderson, Lance H., Craig R. Allen, and Ahjond Garmestani. 2022. *Applied Panarchy: Applications and Diffusion across Disciplines*. Island Press.

Habermas, Jürgen. 2001. *The Postnational Constellation*. Polity Press.

Habermas, Jürgen. 2017. 'Citizen and State Equality in a Supranational Political Community: Degressive Proportionality and the Pouvoir Constituant Mixte'. *JCMS: Journal of Common Market Studies* 55 (2): 171–82. https://doi.org/10.1111/jcms.12517.

Hall, Edward. 2017. 'How to Do Realistic Political Theory (and Why You Might Want To)'. *European Journal of Political Theory* 16 (3): 283–303. https://doi.org/10.1177/1474885115577820.

Harding, Sandra G. 1986. *The Science Question in Feminism*. Cornell University Press.

Hayward, Tim. 2006. 'Global Justice and the Distribution of Natural Resources'. *Political Studies* 54 (2): 349–69. https://doi.org/10.1111/j.1467-9248.2006.00606.x.

Held, David. 2009. 'Restructuring Global Governance: Cosmopolitanism, Democracy and the Global Order'. *Millennium* 37 (3): 535–47. https://doi.org/10.1177/0305829809103231.

Helmore, Edward. 2025. ‘Trump Says He “Doesn’t Rule out” Using Military Force to Control Greenland’. US News. *The Guardian*, May 4. https://www.theguardian.com/us-news/2025/may/04/trump-greenland-denmark-military-force.

Hobbes, Thomas. 1991. *Leviathan, Ed. by Richard Tuck*. Cambridge University Press.

Honeywell, Carissa. 2007. ‘Utopianism and Anarchism’. *Journal of Political Ideologies* 12 (3): 239–54. https://doi.org/10.1080/13569310701622127.

Jennings, Ivor. 1956. *The Approach to Self-Government*. Cambridge University Press.

Jewell, Jessica, and Aleh Cherp. 2020. ‘On the Political Feasibility of Climate Change Mitigation Pathways: Is It Too Late to Keep Warming below 1.5°C?’ *WIREs Climate Change* 11 (1): e621. https://doi.org/10.1002/wcc.621.

Jewish Learning Institute, dir. 2024. *PM Netanyahu Answers US Congress on Who Owns He Land of Israel*. YouTube. https://www.youtube.com/shorts/ZA6FlKLL5UM.

Johnson, A. 2006. ‘Global Covenant: An Interview with David Held’. *Democratiya* 1 (7): 163–81.

Kolodny, Niko. 2014. ‘Rule Over None I: What Justifies Democracy?’ *Philosophy & Public Affairs* 42 (3): 195–229. https://doi.org/10.1111/papa.12035.

Kolodny, Niko. 2023. *The Pecking Order: Social Hierarchy as a Philosophical Problem*. Harvard University press.

Krasner, Stephen D. 2011. *Problematic Sovereignty. Contested Rules and Political Possibilities*. Columbia University Press.

Kukathas, Chandran. 2003. *The Liberal Archipelago: A Theory of Diversity and Freedom*. Oxford University Press.

Kymlicka, Will. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Clarendon Press.

Lawford-Smith, Holly. 2009. ‘Debate: Ideal Theory—A Reply to Valentini*’. *Journal of Political Philosophy* 18 (3): 357–68. https://doi.org/10.1111/j.1467-9760.2009.00357.x.

Lawford-Smith, Holly. 2013. ‘Understanding Political Feasibility*’. *Journal of Political Philosophy* 21 (3): 243–59. https://doi.org/10.1111/j.1467-9760.2012.00422.x.

Leclerc, Gabija. 2025. ‘Greenland: Caught in the Arctic Geopolitical Contest’. *European Parliament. Directorate-General for Parliamentary Research Services*, March 10. https://epthinktank.eu/2025/03/10/greenland-caught-in-the-arctic-geopolitical-contest/.

Liebermann, Oren, Dana Karni, and Lucas Lilieholm. 2025. ‘Netanyahu Vows to Relocate Gaza’s Population after Security Cabinet Approves Plan to “Conquer” the Enclave’.

CNN, May 5. https://www.cnn.com/2025/05/05/middleeast/israel-gaza-expansion-hnk-intl.

Locke, John. 1966. *The Second Treatise of Government : An Essay Concerning the True Original, Extent and End of Civil Government ; and A Letter Concerning Toleration, Ed. by Library of Alexandria*. Blackwell Publishers.

Macdonald, Terry. 2008. *Global Stakeholder Democracy: Power and Representation beyond Liberal States.* Oxford University Press.

Margalit, Avishai, and Joseph Raz. 1990. 'National Self-Determination': *Journal of Philosophy* 87 (9): 439–61. https://doi.org/10.2307/2026968.

Meisels, Tamar. 2003. 'Liberal Nationalism and Territorial Rights'. *Journal of Applied Philosophy* 20 (1): 31–43. https://doi.org/10.1111/1468-5930.00233.

Meshelski, Kristina. 2019. 'Amartya Sen's Nonideal Theory'. *Ethics & Global Politics* 12 (2): 31–45. https://doi.org/10.1080/16544951.2019.1622398.

Meyer, Lukas H. 2004. *Historical Injustice and the Right of Return*. 5 (2): 305–16.

Meyer, Lukas H., and Timothy Waligore. 2018. 'Die Aufhebungsthese. Grundlinien einer Theorie des gerechten Umgangs mit historischem Unrecht'. In *Zeit – eine normative Ressource?, ed. by Frank Dietrich, Johannes Müller-Salo, and Reinhold Schmücker*, 1. Auflage 2018. Klostermann RoteReihe 106. Klostermann. https://doi.org/10.5771/9783465142775.

Mill, John Stuart. 1859. *On Liberty*. John W. Parker and son.

Miller, David. 1993. 'In Defence of Nationality'. *Journal of Applied Philosophy* 10 (1): 3–16. https://doi.org/10.1111/j.1468-5930.1993.tb00058.x.

Miller, David. 1999. *On Nationality*. Repr. Oxford Political Theory. Clarendon Pr.

Miller, David. 2002. 'Cosmopolitanism: A Critique'. *Critical Review of International Social and Political Philosophy* 5 (3): 80–85. https://doi.org/10.1080/13698230410001702662.

Miller, David. 2007. *National Responsibility and Global Justice*. 1st publ. Oxford Political Theory. Oxford Univ. Press.

Miller, David. 2012. 'Territorial Rights: Concept and Justification'. *Political Studies* 60 (2): 252–68. https://doi.org/10.1111/j.1467-9248.2011.00911.x.

Miller, David. 2016a. 'Neo-Kantian Theories of Self-Determination: A Critique'. *Review of International Studies* 42 (5): 858–75. https://doi.org/10.1017/S0260210516000115.

Miller, David. 2016b. *Strangers in Our Midst: The Political Philosophy of Immigration*. Harvard University Press.

Mills, Charles W. 2005. '"Ideal Theory" as Ideology'. *Hypatia* 20 (3): 165–83.

Moore, Margaret. 2003. 'An Historical Argument for Indigenous Self-Determination Part II: Intrastate Autonomy: Section 4'. *NOMOS: American Society for Political and Legal Philosophy* 45: 89–118.

Moore, Margaret. 2012. 'Natural Resources, Territorial Right, and Global Distributive Justice'. *Political Theory* 40 (1): 84–107. https://doi.org/10.1177/0090591711426999.

Moore, Margaret. 2015. *A Political Theory of Territory*. Oxford Political Philosophy. Oxford University Press.

Moore, Margaret. 2024. 'Territorial Rights and Territorial Justice'. In *The Stanford Encyclopedia of Philosophy*, Winter 2024, edited by Edward N. Zalta and Uri Nodelman. Metaphysics Research Lab, Stanford University. https://plato.stanford.edu/archives/win2024/entrieserritorial-rights/.

Morozzo Della Rocca, Roberto. 1999. *Kosovo. La Guerra in Europa. Origini e Realtà Di Un Conflitto Etnico*. Guerini e Associati.

Mouffe, Chantal. 2000. *The Democratic Paradox*. Verso.

Mouffe, Chantal. 2013. 'Democratic Politics and Conflict: An Agonistic Approach'. In *Political Power Reconsidered. State Power and Civic Activism between Legitimacy and Violence*. LIT Verlag Münster.

Nine, Cara. 2008a. 'A Lockean Theory of Territory'. *Political Studies* 56 (1): 148–65. https://doi.org/10.1111/j.1467-9248.2007.00687.x.

Nine, Cara. 2008b. 'Superseding Historic Injustice and Territorial Rights'. *Critical Review of International Social and Political Philosophy* 11 (1): 79–87. https://doi.org/10.1080/13698230701880513.

Nine, Cara. 2010. 'Ecological Refugees, States Borders, and the Lockean Proviso'. *Journal of Applied Philosophy* 27 (4): 359–75. https://doi.org/10.1111/j.1468-5930.2010.00498.x.

Nine, Cara. 2012. *Global Justice and Territory*. Oxford University Press.

Nine, Cara. 2022. *Sharing Territories. Overlapping Self-Determination and Resource Rights.* Oxford University Press.

Nordhaus, William. 2015. 'Climate Clubs: Overcoming Free-Riding in International Climate Policy'. *American Economic Review* 105 (4): 1339–70. https://doi.org/10.1257/aer.15000001.

Nozick, Robert. 1974. *Anarchy, State, and Utopia*. Blackwell Publishers.

Ochoa Espejo, Paulina. 2014. 'People, Territory, and Legitimacy in Democratic States'. *American Journal of Political Science* 58 (2): 466–78. https://doi.org/10.1111/ajps.12064.

Ochoa Espejo, Paulina. 2016. 'Taking Place Seriously: Territorial Presence and the Rights of Immigrants'. *Journal of Political Philosophy* 24 (1): 67–87. https://doi.org/10.1111/jopp.12061.

Ochoa Espejo, Paulina. 2018. 'Why Borders Do Matter Morally: The Role of Place in Immigrants' Rights'. *Constellations* 25 (1): 71–86. https://doi.org/10.1111/1467-8675.12340.

Ochoa Espejo, Paulina. 2020. *On Borders: Territories, Legitimacy, and the Rights of Place*. Oxford University Press.

O'Neill, Onora. 1987. 'Abstraction, Idealization and Ideology in Ethics'. *Royal Institute of Philosophy Lecture Series* 22: 55–69. https://doi.org/10.1017/S0957042X00003667.

Orgad, Liav. 2015. *The Cultural Defense of Nations. A Liberal Theory of Majority Rights*. Oxford University Press.

Ottonelli, Valeria. 2020. 'The Right to Stay as a Control Right'. In *Oxford Studies in Political Philosophy Volume 6*, 1st edn, edited by David Sobel, Peter Vallentyne, and Steven Wall. Oxford University Press. https://doi.org/10.1093/oso/9780198852636.003.0001.

Owen, David. 2012. 'Constituting the Polity, Constituting the Demos: On the Place of the All Affected Interests Principle in Democratic Theory and in Resolving the Democratic Boundary Problem'. *Ethics & Global Politics* 5 (3): 129–52. https://doi.org/10.3402/egp.v5i3.18617.

Phillips, Anne. 2009. *Multiculturalism without Culture*. Princeton University Press.

Phillips, Michael. 1985. 'Reflections on the Transition from Ideal to Non-Ideal Theory'. *Noûs* 19 (4): 551. https://doi.org/10.2307/2215353.

Pogge, Thomas W. 1992. 'Cosmopolitanism and Sovereignty'. *Ethics* 103 (1): 48–75.

Pogge, Thomas W. 1994. 'An Egalitarian Law of Peoples'. *Philosophy & Public Affairs* 23 (3): 195–224. https://doi.org/10.1111/j.1088-4963.1994.tb00011.x.

Prinz, Janosch, and Enzo Rossi. 2018. 'Abstraction, Idealization and Ideology in Ethics'. In *Realism in Political Theory, Ed. by Rahul Sagar and Andrew Sabl*. Routledge.

Raekstad, Paul. 2018. 'Realism, Utopianism, and Radical Values'. *European Journal of Philosophy* 26 (1): 145–68. https://doi.org/10.1111/ejop.12193.

Rankin, Jennifer. 2025. ‘Donald Trump Says Residents of Greenland Want to Be Part of US’. US News. *The Guardian*, January 26. https://www.theguardian.com/us-news/2025/jan/26/donald-trump-residents-greenland-us.

Rawls, John. 1971. *A Theory of Justice*. Cambridge, Mass.: Belknap.

Rawls, John. 1993. *Political Liberalism*. Columbia University Press.

Rawls, John. 2001. *The Law of Peoples: With ‘The Idea of Public Reason Revisited’*. Harvard University Press. https://doi.org/10.2307/j.ctv1pncngc.

Renan, Ernest. 2018. *What Is a Nation? And Other Political Writings*. Columbia University Press.

Rossi, Enzo. 2019. ‘Being Realistic and Demanding the Impossible’. *Constellations* 26 (4): 638–52. https://doi.org/10.1111/1467-8675.12446.

Sack, Robert David. 1986. *Human Territoriality: Its Theory and History*. Cambridge University Press.

Schertzer, Robert. 2017. *Liav Orgad, The Cultural Defence of Nations: A Liberal Theory of Majority Rights*. 80 (1): 155–59. https://doi.org/10.1111/1468-2230.12247.

Sen, Amartya. 2011. *The Idea of Justice*. 1. Harvard Univ. Press paperback ed. Belknap Press of Harvard Univ. Press.

Shear, Michael D., Aaron Boxerman, and Adam Rasgon. 2025. ‘Netanyahu Warns of “Intensive” Escalation From Israel in Gaza Campaign’. World. *The New York Times*, May 5. https://www.nytimes.com/2025/05/05/world/europe/israel-buildup-soldiers-hamas-gaza.html.

Shezaf, Hagar. 2022. ‘“Natural Right to the Land of Israel”: Netanyahu Lays Out Far-Reaching West Bank Settlement Plans - Israel News - Haaretz.Com’. Haaretz Israel News. https://www.haaretz.com/israel-news/2022-12-28/ty-article/.premium/natural-right-to-the-land-of-israel-netanyahu-lays-out-west-bank-annexation-plans/00000185-5955-dbd5-abe7-59f5c5d60000.

Simmons, A. John. 1979. *Moral Principles and Political Obligations*. Princeton University Press.

Simmons, A. John. 1994. *The Lockean Theory of Rights*. Princeton University Press. https://press.princeton.edu/books/paperback/9780691037813/the-lockean-theory-of-rights.

Simmons, A. John. 2010. ‘Ideal and Nonideal Theory’. *Philosophy & Public Affairs* 38 (1): 5–36.

Simmons, A. John. 2013. ‘Democratic Authority and the Boundary Problem’. *Ratio Juris* 26 (3): 326–57. https://doi.org/10.1111/raju.12017.

Simmons, A. John. 2016. *Boundaries of Authority*. Oxford University Press.

Steiner, Hillel. 2009. *Left Libertarianism and the Ownership of Natural Resources*.

Steiner, Hillel. 2017. ‘Debate: Levels of Non-ideality’. *Journal of Political Philosophy* 25 (3): 376–84. https://doi.org/10.1111/jopp.12128.

Steiner, Hillel. 2018. ‘Territorial Justice’. In *National Rights, International Obligations, Ed. by Simon Caney, David George, Peter Jones*. Routledge.

Stemplowska, Zofia. 2008. ‘What’s Ideal About Ideal Theory?’ *Social Theory and Practice* 34 (3): 319–40.

Stilz, Anna. 2009. ‘Why Do States Have Territorial Rights?’ *International Theory* 1 (2): 185–213. https://doi.org/10.1017/S1752971909000104.

Stilz, Anna. 2011. ‘Nations, States, and Territory’. *Ethics* 121 (3): 572–601. https://doi.org/10.1086/658937.

Stilz, Anna. 2019. *Territorial Sovereignty. A Philosophical Exploration.* Oxford University Press.

Tamir, Yael. 1996. ‘Theoretical Difficulties in the Study of Nationalism’. *Canadian Journal of Philosophy Supplementary Volume* 22 (January): 63–92. https://doi.org/10.1080/00455091.1997.10716810.

Taylor, Charles. 2009. ‘The Politics of Recognition’. In *Multiculturalism. Examining the Politics of Recognition, Ed. by Charles Taylor and Amy Gutmann*. Princeton University Press.

Tilly, Charles. 1990. *Coercion, Capital and European States, AD 990-1990*. Basil Blackwell.

Tucker, Aviezer, and Gian Piero De Bellis. 2016. *Panarchy. Political Theories of Non-Territorial States.* Routledge.

United Nations. 1945. ‘Charter of the United Nations’. https://www.un.org/en/charter-united-nations.

United Nations. 2007. ‘United Nations Declaration on the Rights of Indigenous Peoples’. September 13. https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

Valentini, Laura. 2009. ‘On the Apparent Paradox of Ideal Theory*’. *Journal of Political Philosophy* 17 (3): 332–55. https://doi.org/10.1111/j.1467-9760.2008.00317.x.

Valentini, Laura. 2012a. ‘Human Rights, Freedom, and Political Authority’. *Political Theory* 40 (5): 573–601. https://doi.org/10.1177/0090591712451721.

Valentini, Laura. 2012b. ‘Ideal vs. Non-ideal Theory: A Conceptual Map’. *Philosophy Compass* 7 (9): 654–64. https://doi.org/10.1111/j.1747-9991.2012.00500.x.

Waldron, Jeremy. 1992a. ‘Historic Injustice: Its Remembrance and Supersession’. In *Justice, Ethics and New Zealand Society, Ed. by Graham Oddie and Roy W. Perrett*. Oxford University Press.

Waldron, Jeremy. 1992b. ‘Superseding Historic Injustice’. *The University of Chicago Press* 103 (1): 4–28.

Waldron, Jeremy. 1999. *Law and Disagreement*. Oxford University Press.

Waldron, Jeremy. 2002. ‘Redressing Historic Injustice’. *The University of Toronto Law Journal* 52 (1): 135–60. https://doi.org/10.2307/825930.

Waldron, Jeremy. 2004. ‘Settlement, Return, and the Supersession Thesis’. *Theoretical Inquiries in Law Ed. by Ronen Avraham* 5 (2): 237–68. https://doi.org/10.2202/1565-3404.1093.

Waldron, Jeremy. 2010. ‘Two Conceptions of Self-Determination’. In *The Philosophy of International Law, Ed. by Samantha Besson and John Tasioulas*. Oxford University Press.

Waldron, Jeremy. 2012. ‘Superseding Historic Injustice’. In *Intergenerational Justice, Ed. by Lukas H. Meyer*. Routledge.

Walzer, Michael. 1983. *Spheres of Justice: A Defense of Pluralism and Equality.* Blackwell Publishers.

Wellman, Christopher Heath. 2008. ‘Immigration and Freedom of Association’. *Ethics* 119 (1): 109–41. https://doi.org/10.1086/592311.

Williams, Bernard. 1985. *Ethics and the Limits of Philosophy*. Harvard University Press.

Young, Iris Marion. 1990a. *Justice and the Politics of Difference*. Princeton University Press.

Young, Iris Marion. 1990b. *Justice and the Politics of Difference*. Princeton University Press.

Young, Iris Marion. 2000. *Inclusion and Democracy*. Oxford University Press.

Young, Mitchell, Eric Zuelow, and Andreas Sturm. 2007. *Nationalism in a Global Era. The Persistence of Nations*. Routledge.

Ypi, Lea. 2012. *Global Justice and Avant-Garde Political Agency*. Oxford University Press.

Ypi, Lea. 2013. ‘What’s Wrong with Colonialism’. *Philosophy & Public Affairs* 41 (2): 158–91. https://doi.org/10.1111/papa.12014.

Ypi, Lea. 2014. ‘A Permissive Theory of Territorial Rights’. *European Journal of Philosophy* 22 (2): 288–312. https://doi.org/10.1111/j.1468-0378.2011.00506.x.