

Kant, Contemporary Cosmopolitanism and Territory

WORKING COPY – DO NOT CITE WITHOUT PERMISSION

Territory Workshop February 21-22, 2009
Barton T. Edgerton
Tufts University
Barton.Edgerton@tufts.edu

Abstract

Many of the cosmopolitans who have played important roles in the development of global justice and international law take their start from Kant. The Kantian legacy continues through the political theories of thinkers such as Charles Beitz, David Held and Thomas Pogge. Kant offers a jurisdictional conception of territory, which emphasizes the importance of a plurality of sovereign states. However, unlike Kant, a number of contemporary deontological cosmopolitans are skeptical towards any claims to territory. In their repudiation of colonialism and turn towards global justice these cosmopolitans develop a crude territory as property thesis. In developing such a claim they not only reject several of Kant's central insights, but also fail to appreciate the important role of territory within their own claims.

Introduction

The Kantian conception of morality is universal in the sense that it applies equally to all individuals. No individual or set of individuals is morally privileged as members of a particular class, family or political community. Moral commitments, therefore, do not end at territorial borders. Several influential deontological cosmopolitan such as Charles Beitz, David Held and Thomas Pogge argue that this moral universalism has important implications for the justification of territorial borders.¹ They argue that if borders can be justified at all, they must be justified through a 'territory as property' conception. Yet, they reject this argument for territorial claim to

¹ Consider C. Beitz, *Political Theory and International Relations* (2nd edition), Princeton University Press, 1999; D. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, Polity, 2004 and T. Pogge, *Realizing Rawls*, Cornell University Press, 1988. Others include B. Barry, *Justice as Impartiality*, Oxford University Press, 1995; S. Caney, *Justice Beyond Borders: A Global Political Theory*, Oxford University Press, 2005; K. Tan, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism*, Cambridge University Press, 2004, L. Wenar, "We all own stolen goods" *Cato Unbound*, <http://www.cato-unbound.org/2008/05/12/leif-wenar/we-all-own-stolen-goods/> accessed June 2008

account for the necessary redistribution of global resources to meet the demands of justice and in doing so are skeptical towards any claims to territory.²

The central claim of this essay is that cosmopolitans who follow Kant are wrong to reject substantial claims to territory so quickly. Territorial borders, many argue, are historically contingent, unjust and morally arbitrary.³ They contend that nothing so constructed ought to be claimed as property when great inequalities result from their distribution. ‘Territory as property’ claims are therefore illegitimate. This is a crude ‘territory as property’ perspective, which leaves the world un-owned. However, the arguments put forth by many of these same cosmopolitans often presuppose a more complex, yet unstated, conception of territory. To tease out the implications of such claims, I will focus the work of three contemporary cosmopolitans, Charles Beitz, David Held and Thomas Pogge. All three thinkers are important players in contemporary debates and their arguments fit together in a way that allows the importance of territory to come to light. They are not intended to stand for all possible forms of cosmopolitanism. Nor is this essay intended to serve as a conclusive critique of cosmopolitanism as a whole. Rather it is intended to raise difficulties with the ways in which some contemporary cosmopolitans approach territory.

This paper is divided into six sections. The first section briefly describes how cosmopolitanism came to its current understanding of territory. The next three sections more closely consider the role of territory in three influential cosmopolitans, Beitz, Held and Pogge. In

² I realize that there are a wide variety of non-deontological cosmopolitans. One need not subscribe to a duty-based ethic to believe that moral prescriptions are universal. Both utilitarianism and virtue ethics offer a possible grounding for cosmopolitanism. However, here I consider only deontological cosmopolitanism and in particular those who are self consciously inspired by Kant.

³ Kant himself recognized that actual boundaries are often contingent. More recently Rawls states something similar. As this essay will show, such claims need not to entail skepticism towards territorial claims.

the fifth section I articulate Kant's conception of territory. The final section offers some conclusion that can be drawn from the three modern cosmopolitans in light of Kant's thinking.

Cosmopolitanism and territory

Contemporary versions of these deontological theories arose out of a critical engagement with John Rawls work on justice.⁴ A good deal of this work centers on global justice and identifying difficulties with traditional forms of international relations and political theory that focus on sovereignty, state autonomy and the norm of non-intervention. Each of these issues takes a clear position on territory. Global justice theorists argue that territory is a property claim and that this property ought to be subject to redistribution.

Cosmopolitan theories reject arguments that favor weighing the scope of moral concern towards one's compatriots. At first glance cosmopolitanism appears to reject the possibility of any normative claims to territory. Many cosmopolitans argue that particular state institutions, those associated with sovereignty in particular, ought to be subordinated to moral concerns.

Often, these moral concerns take the form of human rights. The principle of sovereignty traditionally grants states absolute authority over what takes place within the borders of their territory. In contrast, cosmopolitans argue that states ought not to violate the human rights of their citizens and that if they do, that state's claim of authority over its territory ought not to be respected. Additionally, some argue that given the structure of global economic interaction, the global poor can make claims against the rich and demand a redistribution of the earth's resources. Traditional conceptions of territorial sovereignty argue that states have an unlimited right to the resources within their borders. Some cosmopolitans, such as Charles Beitz and Thomas Pogge

⁴ See, the works cited above in note 1.

have argued that a global resources tax is necessary.⁵ They do so because they believe that both alignment of state borders and the allocation of the earth's resources are morally arbitrary. The natural resources that happened to be inside the borders of a state are largely a matter of luck. Cosmopolitans argue that state control over the exclusive use of these resources leads to great disparities in the wealth of states that happen to be rich or poor in particularly valuable resources. Justice seems to require that all individuals have the same access to the means of economic and personal success regardless of where they happen to be located. However, in the world in which we find ourselves it matters greatly if one is born in a rich country rather than a poor one. Beitz and Pogge, for example, have suggested that a tax on global resources is necessary to meet the demands of global justice. This challenges claims to territory because it rejects out of hand the scope of control a state has over the resources under its jurisdiction.

Cosmopolitans like Beitz, Held and Pogge are deontological theorists and give normative reasons to respect political institutions and offer strong arguments for justifying those institutions. Yet, they are also skeptical towards claims to territory. One might have reasons to respect institutions without at the same time pushing the claim that these institutions ought to be located in a particular place. This would mean that the general form of the institution is worthy of respect. So long as they meet a set of minimum requirements, the institutions should be respected no matter where their boundaries happen to reside. A theory of territory would suggest one of two things: either that the institution is worthy of respect because it resides in a particular place or an institution that is justified has a right to a particular place. Neither of these defenses of territory is acceptable to thinkers like Beitz, Held and Pogge. They claim that if there is a claim to territory it must be a property like claim. Such a conception, they argue, is

⁵ C. Beitz, Political Theory of International Relations, T. Pogge 'An Egalitarian Law of Peoples', Philosophy and Public Affairs, (23) 1994, pp. 198-99

misguided because it fails to meet the demands of global justice. As a result they appear to reject all claims to territory in favor of a world that is un-owned. To tease out these issues, I will consider how territory fits within the thinking of these prominent deontological cosmopolitans. I begin with Pogge and his idea of a resource tax. From here I turn to Held who has a more thorough rejection of territory. I then consider the role of territory in Beitz's theory which offers perspective that sits in the middle of the two. With this complete I turn to Kant's conception of territory as an alternative to these contemporary views and then draw several critical conclusions about the cosmopolitan approach to territory.

Pogge's conception of territory

Thomas Pogge argues that territory is a property claim that ought to be rejected to facilitate obligations of international justice. He is explicit in his conception of territory and claims that a property based conception of territory is a necessary part a sovereign state system that he ultimately rejects. The argument he presents is cosmopolitan in character and is concerned with individuals as the ultimate source of moral worth. Pogge contends that present borders are morally problematic because they lead to radical inequalities in material resources. Partly following from the horrors of colonialism, some states are rich in resources, while others are poor. Often those who are rich in resources cannot be said to deserve the resources under their control. State boundaries, he argues, come to where they are through force, fraud and accident. It is through a combination of conquest and luck that some states have many resources and others have few.

Pogge takes Rawls as his starting point for thinking about justice. He argues that Rawls' argument for justice within political societies ought to be extended to justice between political

societies. Rawls does not ignore relations between states. In A Theory of Justice, he suggests that a second original position, without the veil of ignorance, would be appropriate when representatives of states meet.⁶ He makes this explicit in Law of Peoples. Here Rawls argues that representatives from liberal and acceptable non-liberal political communities would agree to something that looks very much like traditional international law.⁷ Pogge contends that this argument is misguided because it fails to rectify gross inequalities that result from the distribution of the earth's resources across state boundaries.

The traditional understanding of international law takes state sovereignty as a fundamental precept. Tied to this is an argument about territory. The claim is that states are justified to their respective territory and that they have exclusive access to the resources inside that territory. Pogge argues that this is wrong for several reasons. First, because title to territory is often the result of subterfuge, the claims themselves are morally unacceptable. This is the basis of his critique of colonialism. Second, the exclusive right to the resources in one's territory is a principle that representatives would reject in Pogge's second original position. Pogge argues that representatives of states should meet under conditions similar to individuals in Rawls' domestic original position. He contends that representatives, not knowing where their state is or which resources they control, would choose a scheme to redistribute the earth's resources. Pogge suggests a global resource tax to facilitate this redistribution. In making this argument, he takes a crude territory as property view and distinguishes himself from Rawls.

The purpose of Pogge's argument is to provide support for a larger argument regarding international distributive justice. He begins by arguing that it matters a great deal what side of a

⁶ J. Rawls, A Theory of Justice, pp. 331-335

⁷ J. Rawls, The Law of Peoples, pp. 30-35.

border one lives on. For example, the fortunes of those on the Mexican side of the US-Mexico border are radically different than those on the American side. Pogge argues that we need to:

justify to a Mexican why we [those in the United States] should be entitled to life prospects that are so much superior to hers merely because we were born on the other side of some line—a difference that, on the face of it, is no less morally arbitrary than differences in sex, in skin color, or in the affluence of one's parents. Justifying this is more difficult when national borders are historically arbitrary or, to put it more descriptively, when the present distribution of national territories is indelibly tainted with past unjust conquest, genocide, colonialism, and enslavement.⁸

From this we gain insight into two central features of Pogge's understanding of resource redistribution and its relationship to territory. First, it is clear that he believes that borders cannot be morally defended. It is not just some, but all territorial boundaries that were determined in ways that cannot be morally justified. This is one reason why he believes that redistribution of the earth's resources is a fundamental part of global justice. Second, the bad luck of being born on one side of a border or another ought to be evened out. One way to do this, he argues, is through resource redistribution.

These two ideas help to explain Pogge's understanding of territory as property. He argues that contemporary state-centered theorists prioritize the territorially bounded sovereign state. Such a conception ought to be rejected because the borders that underlie sovereign states are illegitimate. This brings Pogge to the central problem of territory. He asks: "How can he

⁸ Pogge, Thomas, 'An Egalitarian Law of Peoples', p. 198-99

justify that boundaries are, and would continue to be, associated with ownership of, full control over, and exclusive entitlement to all benefits from, land, natural resources, and capital stock?”⁹ With this, the idea of territory is associated with ownership. Pogge’s argument is at the same time an acceptance of the territory as property view and a rejection. He accepts territory as property as *the* concept of territory.

This understanding of territory helps one to understand his conception of global justice and his solution to the problem of resource distribution. Being born in one state as opposed to another has a great impact on one’s life chances. This is a matter of luck for which no individual should be held responsible. States are territorially bounded entities that have exclusive rights to resources within their borders. The boundaries between these states are illegitimate and cannot be morally defended. The answer Pogge proposes is two-fold. First, he argues that states ought to redistribute resources to even out the luck of individuals being born on one side of a border as opposed to another. He suggests a global resource tax to do this. Second, he claims that state sovereignty needs to be viewed from a cosmopolitan perspective, which will facilitate people and states in meeting their obligations of justice.

Unlike Rawls, Pogge argues that representatives in the global original position ought to go under the veil of ignorance like representatives in the domestic situation. Here, Pogge contends that global representatives should not know the size and strength of their state nor should they be aware of the natural resources in their territory. He, like Rawls is willing to assume a plurality of states. Both contend that it is wrong to focus on the distribution of borders per se. Pogge has no interest in changing borders. Rather, he is concerned with what the borders mean. He argues that in the global original position not knowing which state is yours and which

⁹ Pogge, Thomas, “An Egalitarian Law of Peoples”, Philosophy and Public Affairs, Vol. 23, No. 3, (Summer, 1994) p. 198

resources lie in each state, representatives would be as risk averse as those in the domestic original position and chooses a scheme of redistribution.

Territory is a resource owned by states, the distribution of which is largely the result of accident and fraud. Pogge treats territory like Rawls treats property in the domestic situation. It is something that is subject to the two principles of justice. Pogge makes it clear that territory is something that states own. However, unlike movable property in the domestic situation, territory cannot be redistributed because Pogge presupposes an existing relationship between states and their territory. He suggests a tax on the extraction and use of territorially bound resources the proceeds of which are distributed to those lacking access to the resources. This is an obligation placed on states from the outside. It is a moral obligation that they must meet without respect for their desire to do so. This is at odds with the international relations realist conception of sovereignty. Pogge offers a critique of sovereignty to facilitate the resource tax.

Pogge is interested in looking at the ideas of sovereignty, and the role of property and territory within it, with an eye towards understanding what forms of these concepts can be defended from his particular cosmopolitan perspective. Contemporary realist conceptions of sovereignty prevalent in international relations theory conceive of sovereignty vertically where there is a single ultimate authority over each piece of territory.¹⁰ From the perspective of cosmopolitan morality this understanding of sovereignty is not appropriate. The alternative is not a world state. Pogge rejects ‘any variant of the preeminent state idea’, in favor of a conception of sovereignty where authority is distributed among a number of levels. This retains some aspects of territory and property, but limits them within a larger scheme of social justice. Sovereignty needs to be centralized in cases such as environmental controls, which are

¹⁰ T. Pogge, ‘Cosmopolitanism and Sovereignty’, p. 58

coordinated at a global level, and decentralized in others, like those relating to the political rights of minorities, that dispersed among a number of bodies.

For questions of territory the most important part of Pogge's work is a discussion of shaping and reshaping political bodies. Overall he characterizes this as a series of nested political units and believes that this will 'strengthen political units above and below the level of the state'.¹¹ Pogge devises two guiding principles for dealing with this 'multilayered scheme.' The first principle is one of confederation. Inhabitants of any contiguous territory of sufficient size may decide, through some sort of majority procedure, to merge with an adjacent territory that is willing to accept them as members. The second principle is one of secession. Groups of sufficient size may form themselves into appropriate political units.¹² Pogge believes that these principles will help to alleviate the intensity of border disputes. Yet this presupposes a more substantial position on territory and the nature of territorial claims.

Pogge's two principles suggest different things. The first appears to presuppose some sort of prior division of territorial units. The language he uses, 'the inhabitants of any contiguous territory of reasonable shape...' suggests an identifiable group of people. This might be something like Québec, a recognized sub-state unit within an existing state, or Kurdistan, an unorganized territory spread across several sovereign states and everything in between. This might suggest that the territorial issue is already settled and there ought to be no disputes with regard to claims to territory, rather only disputes over who has ultimate control over a territory.

However, the second principle that Pogge presents offers a much more skeptical interpretation of territory. Recall the secession principle: inhabitants of a territory...' may decide

¹¹ T. Pogge, 'Cosmopolitanism and Sovereignty' p.11 69

¹² Pogge give a more detailed formulation of each, T. Pogge, 'Cosmopolitanism and Sovereignty' 11 pp.69-70

to form themselves into a political unit.’ At first glance, this again suggests that territorial units have already been demarcated. However, Pogge places several restrictions on the right to secession. The upshot of these restrictions is that subgroups may reject membership in this new political entity and, more importantly from my perspective, may separate from the initial group and create two political units. Presumably, any subgroup may do this so long as it can remain a viable political unit. Pogge understands viability as contiguous territory and a sufficient population size.

This excludes the possibility of normative claims to territory for several reasons. First, it fails to explain how an individual or group of individuals becomes linked to a territory. One need not be a member of a particular community, political or otherwise, or have any particular ties to other individuals living in the same area. The only requirement is that one be an inhabitant. Perhaps because he is concerned about other issues, Pogge does nothing to show how habitation is sufficient to justify a claim to territory. Second, there are no restrictions on why a group may choose to separate other than the desire to reconfigure political arrangements. There may be an obligation to separate as a result of human rights concerns, but there is no reason not to separate if a group simply wants to. The problem from the perspective of territory is that no claims to territory are normatively justified, which for Pogge is territory as property. Rather territory is always contingent on other factors.

Consider a pie chart. Assume that this represents a single political unit. Say, in accordance with the secession principle, the right half of the pie chooses to secede. After a number of years, a smaller part of the right half have decides to secede from the larger portion of the right half. Again, according to the second principle this there is no problem with this. Now, let us say this most recent political unit chooses to merge with the left side of the pie, in

accordance with the first principle. The territories of these states have shifted; no political unit has claims to the other territory. The question is who has claims to what and why. For Pogge, habitation is the only refuge, but for reasons described above, this is unsatisfactory.

Pogge argues that territory is land owned by a political community. This is a property based conception of territory that Pogge contends must be overcome through a redistribution scheme. However, this is not an abandonment of territory. Rather, it is an accommodation that Pogge makes in moving away from ideal theory. Yet, not all thinkers who aspire to offer practical solutions make such accommodations. David Held attempts to meet demands of global justice by de-territorializing global governance.

Held's conception of territory

David Held takes different tack on territory. Held is sympathetic with the global governance articulated by Pogge, but argues more strongly that global governance needs to be de-territorialized. Facts about globalization and world trade require world-wide social democratic features to justify their impact on individuals. He rejects the possibility of any normative claims to territory and his argument helps to connect justice and decolonization. Territorial claims that now correspond to nation states outside of Europe were created through the illegitimate use of power. Held writes that:

It was not enough for the colonials to say 'first come, first served' when it came to claims to territory, for there were usually other people living in the colonies first! Instead, the principle of effective power was devised. It asserted that if you possess a territory and can demonstrate the continuous presence of your flag, then you have a right to it in

international law. This claim legitimized the seizure of over half the world's territories for colonial purposes.¹³

This appears to echo the sentiments of Pogge and Rawls who reject the normative basis of present day states' territorial claims. However, if we probe deeper into Held's argument and its presuppositions, it is not clear exactly what sort of argument Held actually has about territory. He could be arguing that there is a way to justify claims to territory, but that states simply failed to acquire their colonies in an appropriate manner. Here, it is the way in which the colonies were established that is the problem. States used the illegitimate effective power principle instead of some other, unspecified, more defensible claim. Held seems to suggest that the 'first come first served' principle is at work. The problem with colonization is that an outside power illegitimately takes territory that belongs to someone else. This presupposes that the original inhabitants have some prior claim to territory. The source of this claim, however, is left unstated.

Alternatively, Held could be arguing that, in principle, claims to territory cannot be justified at all. A clue to this line of argument rests in his larger concerns about global governance. Claims to territory, Held believes, are intimately tied with claims to sovereignty.¹⁴ European nation states gained their legitimacy through a series of contingent events that tied sovereignty, identity and territory together. Here, territorial claims are a fact of history, but cannot be justified on a normative basis because no political community ought to be able to restrict others from the benefits available from particular areas of the earth's surface. Held and

¹³ D. Held, Global Covenant p. 119

¹⁴ D. Held and A. McGrew, Globalization/Anti-Globalization, Oxford, Blackwell 2002, p. 7, 10-11

others argue that the facts of social interaction have changed since the nation-state model was created and this helps to explain why the exclusive right to use the resources in one's territory is no longer legitimate.¹⁵ This changes the ways in which political obligation ought to be distributed thought the globe. He writes that

It seemed compelling that political power, sovereignty, democracy and citizenship were simply and appropriately bounded by a delimited territorial space. These links were by and large taken for granted and generally un-explicated. But this can no longer be. Globalization, global governance and global challenges raise issues concerning the proper scope of democracy and of a democracy's jurisdiction, given that the relationship between decision-makers and decision-takers were not necessarily symmetrical or congruent with respect to territory.¹⁶

In response, Held suggests we adopt a multi-level conception of political membership where citizenship is not based on exclusive membership in a territorially based community, but rather on rules and principles which can be entrenched and drawn out in diverse settings. This is different than Pogge who appears less concerned about membership than with authority. For Held, the upshot is that

the meaning of citizenship shifts from membership in a community which bestows, for those who qualify, particular rights and duties, to an alternative principle of world order

¹⁵ D. Held, et. Al. Global Transformations, Stanford University Press, 1999

¹⁶ D. Held, Global Covenant, p. 98

in which all persons have equivalent rights and duties in the cross-cutting spheres of decision making which affect their vital needs and interests.¹⁷

This global civil society replaces the domestic civil society that bound individuals to the authority of their particular nation states. Recall that Held closely ties territorial claims to sovereignty. In the past, territorial claims were made conclusive with the exercise of sovereign power. Now the facts of globalization have changed, requiring a new form of global citizenship. Here, powers of sovereignty are, or perhaps more properly ought to be, decoupled from territory and distributed among the various levels of citizenship. However, since territorial claims were about sovereignty to begin with, the absence of sovereignty removes the possibility of territorial claims.

At least this is what the argument seems to be. Yet, as with Pogge, a deep look at Held's argument suggests that there is some unspecified background theory of territory. Recall that one of the problems with colonization was that the colonizing powers asserted claims to territory over an area that was already claimed by native inhabitants. If this is true, then there is some way to justify claims to territory. If this is wrong, then Held's critique of colonization is mitigated. Charles Beitz offers a possible alternative. He takes more seriously the role of territory in international politics and tries to present a middle way between Held and Pogge.

Beitz's conception of territory

Beitz notes that the status quo conception of territory from the perspective of international law is rooted in a property claim. Like Pogge, he argues that peoples or their

¹⁷ D. Held, Global Covenant p. 114

governments have ownership claims on the lands in which they inhabit. This includes not only an inviolability of borders, but associated rights to natural resources. A state's right to territory is derived from a conception of group property rights promulgated under international law. He writes that

international property rights assign exclusive ownership and control of a territory and its natural resources to the recognized government of the society established on it, or reserve partial or total control of common areas (the sea and outer space) to the international community.¹⁸

States are therefore able to treat their territory as you or I would treat our own personal property. The state accrues benefits from the wise use of its resources and bears the burden of the loss when the property is destroyed.

Beitz offers a substantial critique of the status quo position. He argues that a state's claim to its territory is not viable from the perspective of international political theory. For the most part, his claim is rooted in a substantial argument for global distributive justice. Like Pogge, Beitz would like to extend Rawls' difference principle globally.¹⁹ This would require that, among other things, states rich in natural resources transfer those resources to states that lack them. This is intended to even out the luck associated with the vast disparity in the distribution of resources around the globe. This removes the possibility of any normative claims to territory. In this view, states might make claims to particular bits of land, but this claim is

¹⁸ C. Beitz, Political Theory and International Relations, p. 149

¹⁹ C. Beitz, Political Theory and International Relations, p. 129-177

relatively weak because states would lack the ability to determine the way in which their territory is used. This serves as a clear attack on the position in international law holding that states ought to have exclusive ownership over their territory.

However, Beitz cautions that his indictment of state autonomy is not as straightforward as it might first seem. He cautions that although this autonomy is neither ‘fundamental, nor adequate as a justification’ for self-determination and non-intervention...this is not to say that there are never cases in which a right of state autonomy ought to be respected.’²⁰ The right to state autonomy, instead of being thought of as a core principle, ought to be derived from principles of justice. This places clear boundaries around state autonomy and by extension what states are allowed to do with their territory. The easy cases for Beitz are negative, when state autonomy ought not to be respected, in cases of colonialism or imperialism for example. This in turn suggests that communities subjected to external domination have a right to autonomy, which ties together the central themes of de-colonization and global justice.

However, Beitz wants to be careful not to suggest that *all* forms of association are covered under this limited right of political autonomy. Voluntary associations, for example, may be geographically consolidated, but they need not be.²¹ Such associations might be clubs with local chapters yet have international membership or be virtually connected over the Internet with no physical interaction. Beitz extends this and argues simply that

voluntary associations are not territorial groups: they do not normally have to live together on a separate territory or to deprive others of the territory they inhabit

²⁰ C. Beitz, Political Theory and International Relations, p. 69

²¹ This is why some argue that nations ought to be the unit of self-determination, see J. Raz and A. Margalit, ‘National Self-Determination’ Journal of Philosophy (87) 1990, pp. 439-61 and D. Miller, On Nationalism

previously. While the creation of a voluntary association involves a partitioning of some population, it does not involve a partitioning of territory.

This creates a narrow definition around ‘voluntary association’ that excludes the possibility that political communities are voluntary associations. By definition, voluntary associations are not the sort of things that make territorial claims. Political communities must therefore be another type of entity. He writes that

typical cases of self-determination, on the other hand, have an essential territorial component. A group’s claim to be recognized as an independent political community is accompanied by a claim that boundaries be redrawn to afford a separate territory to the independent group.²²

The basis of such claims, Beitz argues, arise from justice and morality. Domination in the form of colonialism is unacceptable not because it is a violation of state autonomy, but rather because it is a morally indefensible act against people. It might be the case that state sovereignty ought to be restricted in some way and that the autonomy of states ought to be drastically curtailed.

Colonialism is wrong not because it impinges on the autonomy of political communities, but rather because it creates and perpetuates political and material inequalities among individuals.

This is an argument against colonialism from the perspective of cosmopolitan global justice.

However, the difficulty with this argument, from the perspective of territory, is that it remains unclear how political communities become attached to particular portions of the earth’s

²² C. Beitz, Political Theory and International Relations, p. 109

surface. For Beitz, there are at least two alternatives. There is either a prior and unstated argument that explains how political communities come to have claims to territory or it is impossible to justify any particular claims to territory. From Beitz's description of the sovereign state it is clear that he understands the former to be the territory as property argument accepted by Pogge. The latter is a rejection of any normative claims to territory. Beitz seems to intend the latter. After all, the global difference principle is intended to even out any distribution of resources that unfairly disadvantages those who are unlucky to inhabit resource poor territory. Yet this it is not clear. In his discussion of the possible grounds for political autonomy, Beitz suggests that some identity forming features bind individuals together into territorially distinct groups. Yet often this is not the case. Cultural and other group identities are often distributed in geographically challenging ways. Although it might be desirable to draw boundary lines in a way that corresponds to cultural identities, he suggests that it is practically impossible to make political boundaries match identity groups.²³ This says something important about the way boundaries may be drawn, but it fails to establish why a particular political community ought to be located in this place as opposed to that place.

Beitz, Held and Pogge were each self-consciously inspired by Kant's cosmopolitanism. Yet, whereas Kant acknowledges the importance of territorial boundaries the thinkers discussed above argue that territory is something to be overcome. Contemporary cosmopolitans take a great deal from Kant, but it seems that they ignore important parts of his political philosophy. For Kant, territory is a necessary feature of perpetual peace and is conceived of as jurisdiction, not property. In the next section I present Kant's conception of territory. This serves two purposes. It will provide an alternative to the 'territory as property' view described above and it

²³ Beitz, Charles. 1979/1999. Political Theory and International Relations. p. 111

offers a standpoint evaluate the positions of Beitz, Held and Pogge.

These contemporary cosmopolitans argue that territory is a property concept. When states claim territory, the argument goes, they are making a claim to the exclusive use of the land and resources within their borders. This sort of thinking, Beitz, Held and Pogge argue underpinned colonization and led to large inequalities in the material and social resources available to individuals in different political communities. As a result, cosmopolitans reject any substantial conception of territory as illegitimate. Held appears to want to do away with territory all together while Beitz and Pogge accept it as a concession to the real world so that we can meet our obligations of global justice. There are real difficulties with the territory as property thesis. While identifying these may not eliminate the need for resource redistribution, problems with the territory as property thesis may raise the bar for such redistribution.

Kant's conception of territory

In this section I aim to describe Kant's conception of territory and its relationship to his political theory. This conception of territory will be labeled as 'territory as jurisdiction' to distinguish it from the 'territory as property' view discussed in later sections. 'Territory as jurisdiction' differs from 'territory as property' in the way it characterizes the relationship between people and things. Whereas the property perspective views territory as a relationship between people and things, the jurisdiction perspective views it as a relationship between peoples with respect to things.

At the start of the Third Definitive Article of a Perpetual Peace, Kant argues for a limited right to universal hospitality. He writes that here 'hospitality means the right of a stranger not to

be treated with hostility when he arrives on someone else's territory.²⁴ What I would like to draw attention to is not the limited right to hospitality itself, but rather that the right to hospitality requires a conception of territory, which entails a plurality of states. A right to hospitality is the right to be treated fairly when one leaves their own territory and enters the territory of another. This presupposes multiple territories. Some argue that in Perpetual Peace, Kant meant no such thing and that his call for a federation of states is actually an endorsement of a world state.²⁵ Others claim that Kant's federation is a plurality of states and a second best alternative to a desirable, yet unpractical world state.²⁶ Both of these interpretations are misguided. Kant provides moral reasons for a plurality of states and in doing so develops an implicit conception of territory. In this section I aim to articulate Kant's conception of territory and show its importance to his political theory, despite the fact that this aspect of his political philosophy is often ignored in contemporary discourse. This is a conception of territory that differs from that of Beitz, Held and Pogge described above.

Kant argues that the state is necessary for individuals to make property claims conclusive. The moral necessity of property rights is derived from the supreme law of morality, the Categorical Imperative. His conception of territory is developed out of an analogy with property. The property/individual and territory/states analogy will help to clarify not only the federal structure of an organization of states in Perpetual Peace and the boundaries of different jurisdictional schemes, but also the territorial claims of states excluded from the federation.

²⁴I. Kant, 'Perpetual Peace,' Kant: Political Writings, Cambridge University Press, 2003, p 105. Kant also speaks about territorial boundaries in at least two sections of I. Kant, The Metaphysics of Morals, Cambridge University Press, 1996 AK 265-267 and AK 338.

²⁵ See for example H. Bull, The Anarchical Society, Basingstoke, Palgrave 2002

²⁶ See M. Luz-Bachmann, 'Kant's Idea of Peace and the Philosophical Conception of a World Republic' Perpetual Peace: Essays on Kant's Cosmopolitan Idea, Cambridge, MA, MIT Press, 1997, p 73

I will not go into the details of Kant's property argument. The conclusions are clear enough and should serve the purposes of this paper. Kant argues that one can provisionally acquire an object by a unilateral act of an individual will. Full acquisition, however, requires a civil society. Yet it is the initial claim of possession that compels rational beings to enter civil society. Civil society confirms rightful possession of objects of choice. 'For a civil constitution is just the rightful condition, by which what belongs to each is only secured, but not settled and determined.'²⁷ While the right to property, derived from the Categorical Imperative, exists in the state of nature, it can only be enforced in a civil condition. A rational being can deduce a right to property, but can only coerce others who fail to recognize this right with the apparatus of the state. As Kant explains:

Prior to a civil constitution...external objects that are mine or yours must...be assumed to be possible, and with them a right to constrain everyone with whom we could have any dealings to enter with us into a constitution in which external objects can be secured as mine or yours. – Possession in anticipation of and preparation for the civil condition, which can be based only on a law of a common will, possession which therefore accords with the *possibility* of such a condition, is *provisionally rightful* possession, whereas possession found in an *actual* civil condition would be *conclusive* possession.²⁸ (emphasis original)

Yet, Kant argues that prior to any unilateral act of an individual making a claim to possession, the entire surface of the earth was possessed in common by all inhabitants. When an individual first made a property claim, this claim was only provisional. Such provisional claims are

²⁷ I. Kant, The Metaphysics of Morals, 256, this is an emphasis on the determination of property claims that is absent in Locke

²⁸ I. Kant, The Metaphysics of Morals, 256-57

justified by Kant's Universal Principle of Right, derived from the Categorical Imperative, which states that one is able to act in a way that can coexist with the freedom of others so long as the act is in accordance with a universal law.

Kant articulates a conception of territory that is like those of Locke and Pufendorf in that property plays a fundamental role. At this point one might see an affinity with the conception of territory seen in Beitz, Held and Pogge as well. Yet this is a superficial similarity. For Kant, the right to claim things as private property initiates a duty to form the state. The concept of property is a relationship between peoples, not between peoples and things. This distinguishes Kant's property argument and by implication his conception of territory. Territory becomes a claim about jurisdiction and initiates a distinct set of arguments by which a people may justify claims to territory.

Kant's conception of territory rests in his analogy between people and states.²⁹ Territory, like property, is provisional in a pre-civil condition and can become fully realized only in a rightful social condition where states come to a reciprocal understanding about each other's claims.³⁰ For individuals, the state is the civil condition. For states it is a federation of republican states.³¹ States are collections of people and 'peoples who have grouped themselves into nation states may be judged in the same way as individual men living in the state of nature, independent of external laws.'³² Individuals in the state of nature can make provisional claims to property by exercising a unilateral will over an object of choice. This compels others to join

²⁹ See I Kant, 'On the common saying: 'This may be true in theory, but it does not apply in practice' Kant Political Writings, Cambridge University Press 199, p 90 and I. Kant 'Perpetual Peace' p. 102. On the dangers of taking this analogy too seriously, see C. Bottici, 'The Domestic Analogy and the Kantian Project of Perpetual Peace' The Journal of Political Philosophy,(11) 2003

³⁰ A similar interpretation is in B.S. Byrd and J. Hruschka, 'Duty to recognize private ownership: Kant's theory of property in his doctrine of right' University of Toronto Law Journal, (56) 2006, pp. 217-282

³¹ This is famously detailed in I. Kant, 'Perpetual Peace' but is also noted in I. Kant, The Metaphysics of Morals 350

³² I. Kant, 'Perpetual Peace' p. 102

them in the civil condition where property is secured. The same goes for states. ‘Each nation, for the sake of its own security, can and ought to demand of the others that they should enter along with it into a constitution, similar to the civil one, within which rights of each could be secured. This would mean establishing a *federation of peoples*.’³³ Without such a federation, a state’s claim to territory, like an individual’s claim to property, is provisional. Definitive rights to territory can only exist in a condition of right where states recognize their claims in light of the fact that other states can make similar claims.³⁴

There are, however, several differences between the people/property relationship and the state/territory relationship. First, people without property are still people, while states could not be states without territory. Although both people and states are moral agents,³⁵ they are constituted differently and therefore do not necessarily function in the same ways. Second, for individuals, public right entails coercion, while for states a condition of right cannot be secured by force.³⁶ States, Kant explains, have internal constitutional schemes and are justified to use coercive force against its citizens. In a wider constitution, between states in accordance with right, coercion is unnecessary because all individuals in this wider arrangement are already part of a coercive arrangement.³⁷ This is evident in the fact that the Kantian federation is not a world state, but rather a federal structure. Kant explicitly states that this federation between individual states is not equivalent to a world state. A world state, a state of states, is contrary to right ‘since every state involves a relationship between a superior (the legislator) and an inferior (the people obeying the laws), whereas a number of nations forming one state would constitute a single

³³ I. Kant, ‘Perpetual Peace’ 102, also I. Kant, *Metaphysics of Morals* 350-51

³⁴ There are some interesting parallels with this interpretation and some variants of constructivism in international relations theory, notably A. Wendt, *Social Theory of International Politics*, Cambridge University Press, 1999

³⁵ I. Kant, *The Metaphysics of Morals* 343-344

³⁶ I. Kant I. Kant, *The Metaphysics of Morals* 231

³⁷ I. Kant, ‘Perpetual Peace’ 104

nation.’³⁸ States would cease to be states if they were subordinate to a greater sovereign. This suggests that Kant presupposes a world of independent states. There may be several explanations for this.

First, Kant provides a number of practical reasons why a plurality of states would be favored to a world state. A federation of states is ‘preferred to an amalgamation of the separate nations under a single power which has overruled the rest and created a universal monarchy. For the laws progressively lose their impact as the government increases its range, and a soulless despotism, after crushing the germs of goodness will finally lapse into anarchy.’³⁹ These however are mere practical concerns rooted in human experience. Such explanations seem rather un-Kantian for at least two reasons. First, it would be odd for Kant to conclude that duties of right can arise from knowledge rooted in experience. Second, this suggests that a federation of states is a second best solution, as if a world state is preferred except for some contingent factors. One could easily imagine how technological developments, particularly in the ability to communicate over large distances, might make these practical and contingent concerns less relevant.

However, one may turn to a second set of arguments that provides more principled reasons for multiple states, which Kant suggests immediately after he presents the practical reasons above. He states that it is not merely that a world state is unpractical, but that ‘nature wills it otherwise, and uses two means to separate the nations and prevent them from intermingling – *linguistic* and *religious* differences.’⁴⁰ These are not mere practical concerns that make it difficult to get a world state up and running. Rather Kant is here referring to the

³⁸ I. Kant, ‘Perpetual Peace’ 102

³⁹ I. Kant, ‘Perpetual Peace’ 113, contrast with Hobbes

⁴⁰ I. Kant, ‘Perpetual Peace’ 113-14

empirical character of human beings. Simply put, humans are not the type of beings that will develop a homogenous culture and, as a result, are destined to live in a plurality of states.

Although experience may not provide knowledge of right, empirical circumstances do however determine the ways in which right is cashed out. Right cannot be determined by experience. For Kant, ‘natural Right is the *a priori* knowledgeable provisions of a constitution, which may not be violated by whatever statutory provisions are added on the basis of experience.’⁴¹ But this does not exclude the possibility that Right may be realized in multiple ways. We know, *a priori*, that $2+2=4$. Yet, there are a wide variety of ways in which this can be expressed, $(1+1)+(1+1)=4$, $(16/8)+(8/4)=4$, for example. The mathematical relationship here remains the same, but it can be expressed in different ways. The different expressions of $2+2=4$ might be analogous to different empirical facts. If the world contained no groupings of 2, it would be difficult to show $2+2=4$ with objects from the world. But if there were groupings of 4, we could express the same relationship as $(8/4)+(8/4)=4$. The *a priori* relationship is the same in each case. The difference is simply in the ways in which the relationship is expressed. At least one commentator suggests that this is the whole point of The Metaphysics of Morals. ‘A metaphysics of morals is bounded, on the empirical end, only by the fact that it limits itself to duties that can be derived from the pure principles as applied to human nature in general, leaving more broadly empirical moral philosophy all duties that involve reference to particular conditions of people and special human relationships.’⁴² It must be clear, however, that Right, as a product of pure practical reason, is primary to any experience and absolute in its command. Empirical concerns simply determine the ways in which Right is applied in the world.

⁴¹ M. Gregor, ‘Kant on Natural Rights’ 69

⁴² A. Wood, ‘The Final Form of Kant’s Practical Philosophy’, Kant’s Metaphysics of Morals, Oxford University Press, 2002 3

One might use a possible worlds argument as a tool to help explain how this might work. Imagine two different worlds, each inhabited with rational beings. One is like ours with beings who scattered across the globe, predisposed to an ‘unsocial sociability.’⁴³ The other is a world where exceptionally social beings are closely grouped in a land with limited physical space. As rational beings each world will come to discover what is required by right. While the empirical facts of the first world might tend towards a plurality of states, those of the second world might tend toward a single state. If in the first world, a plurality of states begins to appear, the creation of a world state would be redundant. It is possible for both worlds to meet the requirements of Right. An individual in each world might use a unilateral will to claim an object of choice. This claim would be provisional in the state of nature, yet the claim itself would compel other rational beings to enter civil society. The difference is simply the form of the social relationship. Candidate forms are acceptable so long as they meet the test of right and conform to the Universal Principle of Right. The exercise of one’s freedom is right so long as it is consistent with the freedom of others.

Kant makes it clear that he, like Hume, believes that actual states themselves may have developed out of contingent historical forces.⁴⁴ This may be analogous to the way in which a unilateral will of an individual makes an initial acquisition of property. The fact that certain states happen to be here, while others happen to be there is of no importance. The relationship between a state and its territory may be a fact of history, but a state’s claim to its territory rests on the acknowledgement of the territory by others and the fact that the principle of right is

⁴³ I. Kant, ‘Idea for a Universal History from a Cosmopolitan Point of View’, On History, New York, Macmillian, 1963

⁴⁴ I. Kant, Metaphysics of Morals 318-319 and more forcefully 339, ‘It is futile to inquire into the historical warrant of the mechanism of government that is, one cannot reach back to the time at which civil society began (for savages draw up no record of their submission to law; besides, we can already gather from the nature of uncivilized men that they were originally subjected to it by force).’ For similar comments from Hume, see D. Hume, ‘Of the original contract’, Essays, moral, political and literary, Indianapolis, Liberty Fund, 1985, p. 471

consistent with more than one state. A plurality of states is the result of applying a moral duty to finite rational beings who are biologically constituted like us: unsocial sociable beings are spread across the globe. We start with right and then apply principles of right to the facts of our world.⁴⁵ Beitz, Held and Pogge seem to start with a similar premise about the contingent nature of territorial claims. However, they come to a conclusion that differs a great deal from Kant. Whereas Kant embraces these lines of demarcation, the contemporary theorists take this as a call to abandon territory.

Further support for Kant's plurality of states might be found in his distinction between individual right, international right and cosmopolitan right.⁴⁶ As mentioned above, coercion may be used to enforce individual right in a civil condition. However as one moves towards international right and cosmopolitan right coercion plays less and less of a role. For Kant, individual right and the civil condition can only be fully realized in a system of cosmopolitan right.⁴⁷ If there were only a single world state, there would be no room to move beyond the civil condition and no way to move beyond coercion. International right concerns relations between states and finds its full form in an organization of states. Unlike domestic civil society, coercion is not to be used between states. In fact, Kant makes it clear that this congress of states is 'a voluntary coalition of different states which can be dissolved at any time, not a federation (like that of the American states)...and can therefore not be dissolved.'⁴⁸

⁴⁵ I believe that phrasing the question this way is an extension of the Copernican Turn began in the Critique of Pure Reason

⁴⁶ For the distinction between the three see G.W. Brown, 'State Sovereignty, Federation and Kantian Cosmopolitanism', European Journal of International Relations, (11) 2005, pp. 495-522

⁴⁷ This is clearly seen in the second appendix to 'Perpetual Peace,' entitled 'On the agreement between politics and morality according to the transcendental concept of public right,' I. Kant, 'Perpetual Peace' p. 125-130

⁴⁸ I. Kant, The Metaphysics of Morals 351

For individuals there are few limits on the amount of property an individual can acquire. A similar statement can be made about the limits of a state's territorial claim. Inequalities between the size and content of territorial claims are not terribly important. A state's claim to territory begins with a unilateral will, similar to an individual's original acquisition of property. This initial claim, though important, is provisional. Full territorial claims are only possible in a society of states where each state recognizes the claims of others, similar to the way in which an individual's claim to property becomes confirmed only after civil society is entered. This is a thin conception of global rights. States have obligations to each other, but these obligations concern the right relationship of actions between states, not the distribution of resources between peoples.

Relations between peoples are regulated in other ways. The first, and most basic is between people in a domestic setting. Peoples, as collections of individuals, deal with each other collectively, in inter-state relations. Finally, individuals from different states have obligations towards each other, but these are limited to hospitality.⁴⁹ The first set of relationships is formalized in domestic law, the second in international law and the third in cosmopolitan law. Because each of these legal structures deals with a distinct set of individuals or groups clear jurisdictional boundaries are formed. The geographic jurisdiction of domestic law is limited by land property claims of those in the polity. International jurisdiction is limited by the territorial claims of relevant states. Cosmopolitan law seems to have no boundaries and it is the thinnest of the three legal concepts.

There are at least three items to note from the relationships between property, territory and jurisdiction that arise from this interpretation. First, as mentioned above, it is quite thin in

⁴⁹ I. Kant, The Metaphysics of Morals 351 – 354 and I. Kant, 'Perpetual Peace' p. 105-108

the limits it places on individuals and states on the amount of property they may acquire and how property is to be distributed. This stands in stark contrast to thick theories of distributive justice in contemporary philosophy. Second, Kant's political theory is deeply metaphysical. Contemporary thinkers have tried hard to avoid deep metaphysical commitments, yet, Kantian metaphysics may work well to get a thin cosmopolitan global justice up and running.⁵⁰

Finally, Kant argues that the sovereign of a state is outside of domestic Right. The sovereign's job is to enforce public law and this authority cannot be questioned by the citizens of the state.⁵¹ Sovereigns may act poorly; they may enforce poor laws or poorly enforce laws worth having. But there can be no authority higher than the sovereign, because to have a higher authority would contradict with sovereign's claim to ultimate authority. Sovereigns, however, can be in a relationship of Right amongst themselves. The international congress Kant advocates in 'Perpetual Peace' does just this, a world state cannot. In a world state, there is a single sovereign that sits outside the bounds of any scheme of right. With a plurality of states, sovereigns are in a relationship of right between each other. This is not the same relationship individuals have with each other under domestic right, but here, a sovereign is bound in some way.

Kant makes an analogy between people and states. In doing so he endorses a plurality of states, whose territorial claims are analogous to the property claims of individuals. Unlike Beitz, Held and Pogge, Kant's conception of territory is fundamental and primary in the moral structure of political relations. Kant's conception of territory is neither rooted in identity, possession, nor popular conceptions of property. For him, territory is analogous to a property concept of a

⁵⁰B. Shaw, 'Rawls, Kant's Doctrine of Right and Global Distributive Justice', *The Journal of Politics* (67) 2005, pp. 220-249

⁵¹I. Kant, *The Metaphysics of Morals* 323-326, 338-342

particular type: one that is established between individuals and made conclusive through the common will available only in civil society. There are at least three arguments to be found in Kant's writings that endorse this interpretation. First, Kant offers practical reasons why a world state would either fail or become despotic and undesirable. Second, he suggests that beings like us need a plurality of states to fulfill our moral duties. Finally, multiple states allow sovereigns to be in a relationship of right with each other. The first set of reasons is based on generalizations from experience and therefore cannot provide moral reasons for a plurality of states. The second and third reasons are applications of the Categorical Imperative and the Universal Principle of Right to the human condition and provide a moral grounding for a plurality of states. From the perspective of this essay, Kant's conception of territory takes seriously the view that there ought to be a plurality of state and that territory matters. States, and their associated territory, play an important role in Kant's moral system. They are not simply allowed, but required by his political theory. Furthermore, though the particular territory of a state may be contingent, its jurisdiction over territory is not

Difficulties with the cosmopolitan position

The position on territory taken by the Beitz, Held and Pogge, is a result of their collective interest in decolonization and global justice. Kant had an interest in discrediting colonialism as well. Whereas contemporary thinkers are skeptical about state powers, Kant embraces them. The contemporary conception of territory as property and the subsequent rejection of normative claims to territory serve as an anchor that links decolonization and resource distribution. If territory is property then colonization can be addressed as a wrongful takings. At the same time, these thinkers argue, such a conception should be rejected because it inhibits the ability of

individuals and groups to meet their obligations of global justice.

One problem is that such a view is a crude, territory as property thesis. There are good reasons to abandon this view of territory, yet, there are alternatives to abandoning territory all together. Kant offers one of these alternatives, territory as jurisdiction. If these, or other alternatives, are viable, then the argument for resource distribution must change. This would raise the bar for resource distribution because the obligation to redistribute resources would be initiated at a higher level of inequality. The reason for this is that if territory is not property, but something else, then individuals as members of states have a competing claim for the resources within their territory. Recall, the resource redistribution argument is compelling when one accepts that all individuals have a claim on the earth's resources, no matter where they lie. The global resource tax is a method of working this out. Now, if it turns out that a claim to territory is a special type of claim to a particular part of the earth's surface, this might serve as a countervailing claim against resource redistribution. Kant's argument is one for a moral global order within a scheme of territorially bounded states.

A further difficulty with the arguments for redistribution is that proponents presuppose a positive community where all have a common claim to the earth's resources. Remember, resources need to be redistributed because the inequality in access to resources leads to larger social inequalities. Resources must be redistributed because each individual has a claim to all the earth's resources. Consider two individuals living on opposite sides of a border. Suppose there is a great difference in the resources available to each country and that this leaves the person living in the resource poor state with a worse set of life chances. The solution that Pogge and Beitz suggest is that resources should be moved from the resource rich to the resource poor. This is because they argue that every individual has a claim to the earth's surface. This is a

positive community and can be distinguished from a negative community where the earth's surface is un-owned. For Beitz and Pogge territory is a property conception. Only, instead of a plurality of territories belonging to states there is a single territory, the surface of the earth, which collectively belongs to all humans. Yet it is not clear why this inference is made. As others argue, there are good reasons to conceptualize the earth's surface as a negative community. If this is the case, then cosmopolitans must look elsewhere to ground the argument for redistribution.

None of the cosmopolitans described above is a world state theorist. Each of them is willing to concede that the world is divided into territorial states. As each thinker made clear there is a background territory as property thesis. They ultimately reject this because the source of these property claims is illegitimate. It is important to note that it is not simply the idea that property claims were made illegitimately, but rather that territory as property itself is indefensible. However, the problem with leaving the without territorial claims, it is difficult to tell who is harmed and why by wrongful takings of land.⁵² Colonialism may be wrong for a number of reasons. It may be wrong a wrongful taking of land. It may be wrong to impose rule on a people without their permission. The land may have been up for the taking, but was acquired through force, fraud or other illegitimate means. A conception of territory is required in order to explain the wrong and point to a possible means of compensation. Here, distributive justice links up with compensatory justice. The present distribution is problematic because it is the result of a past wrong.

⁵² This difficulty is mentioned by a number of thinkers including, C Nine, 'The Moral Arbitrariness of State Borders: Against Beitz', Contemporary Political Theory (forthcoming)

