

Political Self-Determination and the Normative Significance of Territorial Boundaries

Ayelet Banai¹

I. Introduction

Proponents of global egalitarian justice often argue that their positions are compatible with the principle of self-determination.² This argument is not merely a strategy of reassuring and appeasing nationalist and statist opponents; rather it conveys the intuition that self-determination is pertinent for just institutions, protecting liberties and rights. Especially in the context of international justice, the principle of self-determination assumes a strong normative

¹Senior Research Fellow in Political Theory | Centre for Advanced Studies – *Justitia Amplificata* | Goethe University Frankfurt am Main | Email: banai@soz.uni-frankfurt.de

² Simon Caney, *Justice beyond Borders* (Oxford: Oxford University Press, 2005), p. 173; Kok-Chor Tan, *Justice without Borders* (Cambridge: Cambridge University Press, 2004), chap. 3; Darrel Moellendorf, *Cosmopolitan Justice* (Boulder, Colo.: Westview Press, 2001), pp. 128-141; Charles Beitz, *Political Theory and International Relations* (Princeton, N.J.: Princeton University Press, 1979), pp. 104-5. Thomas Pogge, “Cosmopolitanism and Sovereignty,” *Ethics* 103, no. 1 (1992): 48, 69ff. The term self-determination is not employed by Pogge, but he lends support to a cosmopolitan order in which geographical borders of political units are shaped according to the “autonomous preference of situated individuals” (p. 75); and in which “borders could be drawn...to accord with the aspirations of peoples and communities” (p. 48). As a preliminary definition, I take egalitarian justice to include “any view that seeks to limit the range of permissible social inequalities among individuals, whatever the distributive principles or operative *distribuendum*”. Andrea Sangiovanni, “Global Justice, Reciprocity and the State,” *Philosophy and Public Affairs* 35, no. 1 (2007): 20. Further specifications are in Section II below.

power due to its primacy in theoretical and political opposition to colonial rule.³ At the same time, the arguments in favour of global egalitarian justice reject one customary component of what it has meant for a polity to be self-determining: namely, that the boundaries of states (or other self-determining political units) are normatively significant for the allocation of rights and duties. They reject, in other words, the proposition that duties of social justice and rights of political participation stop or significantly change at borders.⁴

³ According to Daniel Philpott's argument for self-determination as a democratic right "[t]he democratic intuition in international relations is that just as self-governing people ought to be unchained from kings, nobles, churches and ancient costumes, self-determining peoples should be emancipated from outside control – imperial power, colonial authority, Communist domination", Daniel Philpott, "In Defense of Self-Determination," *Ethics* 105, no. 2 (1995): 352-3. According to Charles Beitz "[w]hile self-determination derives its importance from its role in the justification of colonial independence, it derives its obscurity from attempts to use it to justify other international realignments," Beitz, *Political Theory and International Relations*, 94. Allen Buchanan's argument for a decidedly restricted theory of territorial self-determination (i.e. secession), does approve of 'classic decolonization', as a case to which the right applies. See, Allen Buchanan, *Justice, Legitimacy and Self-Determination* (Oxford: Oxford University Press, 2004), pp. 332-333, 338-340.

⁴ Central contributions making the global egalitarian claim include: Moellendorf, *Cosmopolitan Justice*; Caney, *Justice beyond Borders*; Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002). Major arguments denying this claim include, John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999); David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007); An effective overview of the critiques of the global egalitarian claim is available in Christian Barry and Laura Valentini, "Egalitarian Challenges to Global Egalitarianism: A Critique," *Review of International Studies* 35, no. 3 (2009), pp. 485-512; see also Gillian Brock, *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009), chap. 2.

In this paper, I propose a new argument in defense of the normative significance of territorial boundaries, which draws on a *political* interpretation of the principle of self-determination. This specific interpretation of the principle of self-determination emerges from the detailed analyses of the relationship between self-determination and boundaries-making, developed in theories of secession.⁵ Theories of secession have focused on disputed territories, assessing the validity of various claims to territory in light of the principle of self-determination. These discussions are of direct relevance for global egalitarian arguments and their critiques in regard to territories that are not currently disputed, because much of the debate concerns the validity of claims by polities to their territories and the scope of their self-determination. The political interpretation explored here defines the claim for self-determination as *a claim by a group with a shared political identity to establish (or maintain) separate political institutions with jurisdiction over identifiable territory*. The political interpretation is distinct, in the normative principle that it invokes, from two other conceptions of self-determination: the national and the democratic. In the national version, self-determination derives its normative claim from the value of nationality; in the democratic interpretation, self-determination is a

⁵ See, e.g., Allen Buchanan, "Theories of Secession," *Philosophy and Public Affairs* 26, no. 1: 31-61; Margaret Moore, *National Self-Determination and Secession* (ed.) (Oxford: Oxford University Press, 1998); Allen Buchanan and Margaret Moore, *States, Nations and Borders: The Ethics of Making Boundaries* (eds.) (Cambridge: Cambridge University Press, 2003); David Miller and Sohail H. Hashmi, *Boundaries and Justice: Diverse Ethical Perspectives* (eds.), (Princeton N.J.: Princeton University Press, 2001); Christopher Wellman, *A Theory of Secession: A Case for Political Self-Determination* (Cambridge: Cambridge University Press, 2005); Percy Lehning, *Theories of Secession* (ed.) (London Routledge, 1998).

claim to an equal participation in decision-making, deriving its normative claim from the value of democracy.⁶

Different to the democratic and the national, the political interpretation of self-determination draws upon the value of personal autonomy, according to which ‘...individuals are entitled to form and pursue their own conceptions of what makes life worth living’.⁷ The argument defending the normative significance of boundaries, which follows from the political interpretation of self-determination is not necessarily in opposition to cosmopolitan egalitarianism as such.⁸ Rather, the principle of self-determination challenges those global egalitarian positions, which deny *altogether* the normative significance of boundaries and

⁶ For arguments from democracy see, Philpot, “In Defense of Self-Determination;” David Held, *Democracy and the Global Order* (Cambridge: Polity Press, 1995). For arguments from nationality see, Yael Tamir, *Liberal Nationalism* (Princeton N.J.: Princeton University Press, 1993); David Miller, *On Nationality* (Oxford: Oxford University Press, 1995).

⁷ Jeremy Waldron, “Moral Autonomy and Personal Autonomy,” in *Autonomy and the Challenges to Liberalism: New Essays*, John Christman and Joel Anderson (eds.) (Cambridge: Cambridge University Press, 2005), p. 315. As explained in Section IV below, the autonomy-based right to self-determination defended here is distinct in its justification and content from other arguments from autonomy, e.g. Wellman, *A Theory of Secession*; Michael Blake, “Distributive Justice, State Coercion and Autonomy,” *Philosophy and Public Affairs* 30, no. 3 (2001): 257-296.

⁸ Global egalitarianism includes a variety of positions. The argument here is compatible with some versions of the position but not with others. The discussion here (Section V) singles out the global egalitarian positions which are not compatible with the right to political self-determination. On the variety of global egalitarian positions, see Chris Armstrong, “National Self-Determination, Global Equality and Moral Arbitrariness,” *The Journal of Political Philosophy* forthcoming.

which advocate global egalitarian justice or global democracy, while invoking arguments from the ‘moral arbitrariness’ of geographical locations and political membership.⁹

My argument proceeds in four parts. First, I clarify the analytical framework: what it means for territorial boundaries to be normatively significant; according to which criteria and dimensions the judgment about boundaries’ normative significance is reached (Section II). Second, I examine the central arguments against the normative significance of boundaries, showing that they are valid only for boundaries that derive their normative claim from national and from democratic conceptions of the principle of self-determination, but do not apply to boundaries that are justified by political self-determination (Section III). Third, I flesh out the political interpretation of the principle of self-determination, specifying the normative claim that boundaries derive from it (Section IV). Finally, it remains to see whether the autonomy-based normative claim that boundaries hold in light of political self-determination is not overridden by global demands of justice. I argue that it is not (Section V).

II. The Normative Significance of Territorial Boundaries: An Analytical Framework

The problem of the normative significance of boundaries consists in determining whether they should play a role in defining the scope, content or justification of principles of justice.¹⁰ This

⁹ See, e.g.: Simon Caney, “Cosmopolitan Justice and Equalizing Opportunities,” *Metaphilosophy* 32, no. 1-2 (2003): 115. Thomas Pogge, “An Egalitarian Law of Peoples,” *Philosophy and Public Affairs* 23, no. 3 (1994): 196. For other useful critiques of moral arbitrariness in global egalitarian arguments see, Armstrong, “National Self Determination”; Lea Ypi “Political Membership in the Contractarian Defense of Cosmopolitanism,” *The Review of Politics* 70 No. 3, (2008): 442-472.

¹⁰ I examine here the normative role of *boundaries* and not of *states*, because my argument is indifferent to whether the self-determining territorial political units should be classified as states.

complicated problem has been conveniently summarized in the question: “should boundaries have a role in the allocation of rights?”¹¹ In the context of distributive justice, for boundaries to bear normative significance means that they constitute a factor in determining the scope, content or justification of principles of distributive justice.¹² Scope is understood as ‘the *range of persons* who have claims upon and responsibilities to each other arising from considerations of justice’.¹³ For example, according to a principle of fair reciprocity, defended by Andrea Sangiovanni, state borders delineate the scope of egalitarian principles of distributive justice, due to relations of reciprocity that exist among citizens and permanent residents of a state only.¹⁴

Boundaries may also be considered normatively significant if they pertain to the content of principles of distributive justice. Boundaries, then, would have a role in determining the

¹¹ Will Kymlicka, “Territorial Boundaries: A Liberal Egalitarian Perspective,” in *Boundaries and Justice*, Miller and Hashmi ed., 249.

¹² Despite variations regarding the dimensions of principles of justice the positions overlap sufficiently for the argument here. See, Sangiovanni, “Global Justice, Reciprocity and the State,” 3-8; Arash Abizadeh, “Cooperation, Pervasive Impact and Coercion: On the Scope (Not Site) of Distributive Justice,” *Philosophy and Public Affairs* 35, no. 4 (2007): 320-323; Caney, *Justice Beyond Borders*, 103; Armstrong, Beitz, *Political Theory and International Relations*, 152-3; Armstrong, “National Self-Determination;” Barry and Valentini, “Egalitarian Challenges to Global Egalitarianism,” 487-9; William Nelson, “Special Rights, General Rights and Social Justice,” *Philosophy and Public Affairs* 3, no. 4 (1974): 410-2; Simon Caney, “Global Distributive Justice and the State,” *Political Studies* 56, no. 3 (2008): 487-8.

¹³ Abizadeh, “Cooperation, Pervasive Impact and Coercion,” 323.

¹⁴ Sangiovanni, “Global Justice Reciprocity and the State.”

standard of a just distribution (i.e. equality, sufficiency, historical entitlement);¹⁵ the *distribuendum* – which good are to be distributed (i.e. opportunity, resources, capabilities);¹⁶ or the basis of distribution (i.e. merit, need, right, entitlement). For example, the argument from autonomy developed by Michael Blake against global egalitarian distributive justice may well be construed as a claim that state borders are normatively significant by pertaining to the content of just principles of distribution. According to this argument, it follows from a universal principle of no harm to individuals' autonomy that egalitarian standards of distribution are just within state borders, whereas sufficientarian standards are just beyond them.¹⁷

For boundaries to pertain to justification means that even if the content of the principles of distribution is universal, the reasons for these duties to arise are different within boundaries and across them. The implications of this theoretical possibility are yet to be systematically explored, but on the face of it, it is plausible to maintain that a person has duties of egalitarian distribution to fellow-citizens due to specific relationship of cooperation or reciprocity, while

¹⁵ Barry and Valentini, "Egalitarian Challenges," 488.

¹⁶ Sangiovanni, "Global Justice, Reciprocity and the State," 3-4; equivalent to "evaluative space", "goods" and "currency" of distribution – see Barry and Valentini, "Egalitarian Challenges," 488. and Armstrong, "National Self-Determination."

¹⁷ Blake, "Distributive Justice, State Coercion and Autonomy." Sangiovanni's argument from fair reciprocity can also be understood as a claim that state borders pertain to the content of distributive justice principles: there exists a principle with universal scope, which stipulates redistributing according to relations of reciprocity. Within state borders the content of this principle of redistribution is egalitarian – relative share matters. Beyond state borders the content of the same principle of redistribution is sufficientarian. Evidently, the different dimensions are not entirely independent from one another, but the distinctions help pinpointing the disagreements.

having duties of egalitarian distribution to outsiders for some other reason, say, common ownership of the earth.¹⁸

The role of boundaries in the allocation of democratic rights has also been extensively examined and challenged by proponents of global democracy. Global democrats do not deny the practical advantages of geographical borders. They generally agree that it makes sense to keep borders for administrative reasons and in order to help making the global-democratic programme feasible.¹⁹ Nevertheless, geographical boundaries on this account do not have a role in the allocation of democratic rights.²⁰ Rather, principles independent from territory serve as normative guidelines for determining who should have a right to participate in taking decisions. The principle of ‘including all-affected interests’ has been put forward by global democrats as the central guideline on this issue. To sustain my argument that territorial boundaries, *pace* the arguments for global democracy, are normatively significant it will need to be shown that boundaries constitute a factor in determining the allocation of democratic rights irrespective of the affectedness of interests. In other words, if despite the fact of ‘being

¹⁸ Thomas Pogge’s case for global resources tax can be construed as an example of an argument for applying egalitarian principles of justice within polities and globally, but for different reasons. Pogge, “An Egalitarian Law of Peoples,” *Philosophy and Public Affairs* 23, no. 3, (1994):199-203. See also, Joshua Cohen and Charles Sabel, “Extra Republicam Nulla Justitia?” *Philosophy and Public Affairs* 34, no. 2 (2006): 147-175.

¹⁹ E.g., Robert Goodin, “What is So Special About Our Fellow Countrymen?” *Ethics* 98, no. 4 (1988): 678-83; Goodin, “Enfranchising All Affected Interests, and Its Alternatives,” *Philosophy and Public Affairs* 35, no. 1 (2007): 63-6; Raffaele Marchetti, *Global Democracy: For and Against* (London: Routledge, 2008), chap. 3; Held, *Democracy and the Global Order*, 231-8.

²⁰ Democratic rights mean in this context participation rights: namely, voting rights and institutions of representation.

affected' individuals gain no right to participate in decision making, as a result of their territorial location, then boundaries are normatively significant.

Having explained in which ways boundaries may pertain to the allocation of rights, I now turn to clarify which kinds of boundaries are at issue here. The boundaries considered in the discussion here are territorial, marking the geographical shape of political units.²¹ For over two centuries, the contentious and contested idea of self-determination has constituted a normative and legal claim in regard to where geographical borders should be drawn, and what they should delineate.²² For example, according to its prominent national interpretation, the principle of self-determination yields the claim that geographical boundaries should be drawn to overlap with national communities. Alternatively, in some varieties of its democratic conception, the principle of self-determination backs up the claim that borders should mark out the realms of sovereignty of different peoples – where the sovereignty of one people ends and that of another begins.²³

In this article – following the political interpretation of the principle of self-determination – geographical boundaries receive their specific territorial meaning: they delineate units of

²¹ On other kinds of boundaries, see Frederick Whelan, “Prologue: Democratic Theory and the Boundary Problem,” *Nomos XXV: Liberal Democracy*, (1983): 13-47; Moore and Buchanan, *States, Nations and Borders* (eds.); Miller and Hashmi, *Boundaries and Justice* (eds.)

²² For a history of the principle of self-determination in international law and its intellectual origins, see Antonio Cassese, *Self-Determination of the Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1996).

²³ “Peoples” in this context are not necessarily “nations”, see e.g. Bernard Yack, “Popular Sovereignty and Nationalism,” *Political Theory* 29, No. 4 (2001): 517-538, Ingeborg Maus, “From Nation State to Global State, or the Decline of Democracy,” *Constellations* 13, No. 4(1996): 465-484.

territorial jurisdiction. Namely, where the territorial jurisdiction of one public authority ends and of another begins, as defined by Allen Buchanan,

...”territory” [means] the area that is circumscribed by boundaries of political units.

Land is a geographical concept; territory is political and, more specifically, a judicial concept. A territory, in simplest terms, is a geographical jurisdiction.

A jurisdiction... is a domain of legal rules and, derivatively, a sphere of authority for the agency or agencies that make, adjudicate, and enforce those rules.²⁴

With this definition of territorial boundaries in view, claims for political self-determination (as explained in detail in section IV below) are understood as claims about who should have this authority and hold the jurisdiction over a specific territory. In other words, and following an important distinction offered by Buchanan, these are claims about the making and altering of jurisdictions and not about the content of the rules within a given jurisdictional domain or the mechanisms of making these rules.²⁵ For example: the Netherlands and UK have freedom of press (content of rules) and are constitutional monarchies with parliaments (mechanisms of rule making). But the question where (geographically) and why the jurisdiction of the Dutch polity (be it the state or people or monarchy or otherwise) should end and that of the United Kingdom (state or people or monarchy or otherwise) begin is a separate issue – namely it is an

²⁴ Allen Buchanan, “The Making and Unmaking of Boundaries: What Liberalism Has to Say,” in *States, Nations and Borders*, Buchanan and Moore (eds.), 232-3. For Buchanan’s argument for a restricted right to self-determination as a remedial right only, see Allen Buchanan, *Justice, Legitimacy and Self Determination* (Oxford: Oxford University Press, 2004), chap. 8 and 9; and Buchanan, “What’s So Special About Nations?” *Canadian Journal of Philosophy* Supplement 22, (1996): 283-309.

²⁵ Buchanan, “The Making and Unmaking of Boundaries,” 233.

issue of making and altering jurisdictions. Theories of global egalitarian justice have tended to overlook, and have sometimes denied that rights' related questions lie in making and altering jurisdictions – which (I argue below in section IV) make boundaries normatively significant for the allocation of rights. Before providing a detailed account of the principle of political self-determination and of the normative significance that it assigns to territorial boundaries, I review in the following section the central lines of critique of the normative significance of boundaries. The purpose of this review is twofold: first, it set out to explain how in view of the extensive critique of the normative significance of boundaries an argument defending their normative significance can take off; second, to identify the central pitfalls, emerging from valid critiques that need to be avoided if the argument defending the normative significance of boundaries is to succeed.

III Critiques of the Normative Significance of Boundaries

This section examines the central arguments denying the normative significance of boundaries, falling under three categories: (a) borders derived from national self-determination; (b) borders derived from democratic self-determination, and; (c) borders not derived from self-determination. None of these critiques, I argue in this section applies to political self-determination which derives its normative claim from the value of personal autonomy, and depends neither on the good of democracy nor of nationality.

(a) Boundaries and National Self-Determination

In its most common application, the principle of self-determination is understood in a national sense: nations or peoples have a right to govern themselves, to “avoid subjecting a people to

alien control against its will.”²⁶ Broadly in this sense the principle of self-determination has been employed as a fundament of international law. According to article 1(2) of the Charter of the United Nations (1945), it is a purpose of the organization to “develop friendly relations among nations based on respect for the principle of equal rights and self determination of peoples...”²⁷ According to article 1(1) of the International Covenant on Civil and Political Rights (1976), “[a]ll peoples have the right of self-determination. By virtue of this right, they freely determine their political status, and freely pursue their economic, social and cultural development.”²⁸ In this understanding, groups are entitled to a right to self-determination in virtue of being a people or a nation – namely of having certain characteristics that makes them a nation: common histories, cultures, languages, national identities, subjective relationship to a homeland. For nations to have the right to self-determination then means that they are entitled to their own independent political institutions and government, either as the form of statehood or regional autonomy, within a territory considered their homeland.

Seen from this perspective, the normative significance of boundaries depends on the normative meaning of nations or peoples. In regard to the requirements of egalitarian justice, the debate among proponents of national self-determination and their critiques has evolved around a three-step argument: (a) nations (or peoples) are normatively significant; (b) they are significant in such way that pertains to duties of justice, and; (c) borders are drawn to correspond to and overlap with nations (or peoples), or could be roughly adjusted to this end. Theories of liberal nationalism developed several well-known arguments aiming to support (a) and (b), including the arguments that: cultural membership is a precondition for individual

²⁶ Theodor Woolsey, “Editorial Comment: Self-Determination,” *American Journal of International Law* 13, no.2 (1919): 304.

²⁷<http://www.un.org/en/documents/charter/chapter1.shtml>

²⁸<http://www2.ohchr.org/english/law/ccpr.htm#part1>.

autonomy;²⁹ national well-being is a constituent of individual well-being;³⁰ national identities constitute the backbone against which democracy and egalitarian distributive justice are fostered.³¹

The theories vary in their positions on why nations are normatively significant, on the content of the nation-confined rights and duties and their weight in comparison to other duties.³² Yet they share a view on how the normative significance of boundaries is generated: boundaries are normatively significant *because* nations are; national identity provides a principle according to which boundaries should be drawn (where possible), which are then normatively significant because they broadly correspond to national identities. David Miller explains that:

Political communities should as far as possible be organized in such a way that their members share a common national identity, which binds them together in the face of their many diverse private and group identities. The drawing of political boundaries should therefore not be seen as a matter of sheer contingency. If a state's existing borders house two communities whose national identities are clearly distinct, then there will normally be good reason to allow the two communities to separate politically, as Norway and Sweden did in 1905 and the Czech Republic and Slovakia have done more recently. Equally, where current borders serve to divide a national

²⁹ Will Kymlicka, *Liberalism Community and Culture* (Oxford: Clarendon Press, 1989), p. 195; Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), p. 84.

³⁰ Avishai Margalit and Joseph Raz, "National Self Determination," *Journal of Philosophy* 87, no. 9 (1990): 349-461.

³¹ Miller, *On Nationality*, 188. For the variety of liberal-national arguments on this issue, see Kymlicka, "Territorial Boundaries"; Margaret Moore, *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001), chap. 2 & 3.

³² See, Kok-Chor Tan, "Liberal Nationalism and Global Justice," *Ethical Theory and Moral Practice*, 5 no. 4 (2002): 431-461.

community, as the two halves of Germany were divided before 1990, there will usually be a good case for dismantling the borders and creating a large state.³³

Accordingly, proponents of global egalitarianism counter the liberal nationalist positions above through one of the following arguments or a combination thereof: (a) doubting that a nation and/or a people are of important normative significance;³⁴ (b) denying that nations are normatively significant in such a way that makes them relevant for principles of egalitarian justice and democratic participation (even while accepting their normative relevance otherwise);³⁵ (c) detaching the territorial claim from the principle of national self-determination. Whereas (a) and (b) are self-explanatory, let me briefly clarify (c). Darrel Moellendorf, for example, defines national self-determination in line with (c): “a nation has a measure of self-determination when it exercises control over some aspects of its political and social environment...”³⁶ This may include exercising jurisdiction over a territory in some cases – where a constrained right to secede applies –³⁷ but may very well exclude territorial

³³ Miller, *On Nationality*, 188. See also: Miller, “Liberalism and Boundaries: A Response to Allen Buchanan,” in *States, Nations and Borders*, ed. Buchanan and Moore, 262-272; Miller, “Secession and the Principle of Nationality,” in *National Self-Determination and Secession*, Moore (ed.), 62-78.

³⁴ E.g., Pogge, “An Egalitarian Law of Peoples,” 197; Pogge, “Cosmopolitanism and Sovereignty,” 73-4; Harry Brighouse, “Against Nationalism,” *Canadian Journal of Philosophy* Supplementary 22, (1996): 365-405.

³⁵ E.g., Moellendorf, *Cosmopolitan Justice*, 47-54; Caney, *Justice beyond Borders*, 179-181; Pogge, “The Bounds of Nationalism,” *Canadian Journal of Philosophy*, Supplementary 22 (1996): 465; Simon Caney, “Global Distributive Justice and the State,” *Political Studies* 56, no. 3 (2008): 487-518.

³⁶ Moellendorf, *Cosmopolitan Justice*, 129.

³⁷ *Ibid*, 131-141

jurisdiction, as ‘a nation may be self-determining in respect to certain matters of policy...’.³⁸

Thus understood, national self-determination is not inherently a claim about the making and altering of territorial jurisdictions.³⁹

Granted, for the purpose of the discussion here, that these objections to liberal nationalism are valid, they do not amount to supporting two points. First, the critiques address the arguments made by liberal nationalists about the content and weight of the normative significance of nations. They, thus, only rebut the normative significance of boundaries, which derive their claim from the normative significance of nations (or peoples). They do not apply to other arguments defending the normative significance of boundaries without relying on that of nations. Second, these global egalitarian critiques of liberal nationalism do not rule out the possibility that there exists another principle of normative relevance for the problem of making and altering territorial jurisdictions. Rather, the critiques make a more restricted point – namely, that nationality does not constitute such a principle. I return below to examine some of the approaches to the issue of geographical boundaries advocated by proponents of global

³⁸ *Ibid*, 129. Simon Caney’s arguments in *Justice beyond Borders* yield a similar position, as he acknowledges that “nationalities matter” (179), and concludes that ‘grating nations some political autonomy’ is compatible with global democratic institutions (181). While there is no specification of the realm of autonomy envisaged, it seems highly unlikely that it shall include territorial jurisdiction, in view of the five qualifications listed (179-181) on the applicability of national autonomy.

³⁹ It may well be the case that the application of the term “self-determination” to non-territorial forms of cultural autonomy is misguided. But the argument here remains indifferent to this question. On some of the important difference between territorial and cultural forms of autonomy see Rainer Bauböck, “Territorial or Cultural Autonomy for National Minorities?” in Alain Dieckhoff (ed.), *The Politics of Belonging: Nationalism, Liberalism and Pluralism*, ed. Alain Dieckhoff, (Lanham MD: Lexington Books, 2004), pp. 221-58.

egalitarian justice. At this point, however, it suffices to conclude that the extensive critiques of national self-determination, in which the bulk of the objections to the normative significance of boundaries have been formulated, do not apply to conceptions of self-determination which are not founded upon to value of nationality.

(b) Boundaries and Democratic Self-Determination

While global egalitarians are critical of *national* self-determination, the *democratic* interpretation of the principle has gained both tacit and explicit approval in some of their arguments. Democratic self-determination, it has been argued, speaks against the normative significance of territorial boundaries in the following way: (a) democracy requires that people should hold the rights of democratic participation in the political structures and institutions that govern them; *and* (b) the institutions and structures that govern our lives reach across borders and continents; *therefore*, (c) territorial boundaries are not the morally relevant ones for the allocation of democratic rights.⁴⁰ Proponents of this argument do not oppose the existence of geographically-defined polities altogether. Rather they accept territory-based political units either as a given, too entrenched to argue against, or as a useful form of organization, upheld by practical considerations.⁴¹ This, however, yields no reason, from a global egalitarian point of view, for democratic rights to overlap with or to otherwise correspond to territorial boundaries.⁴²

⁴⁰ E.g., Held, *Democracy and the Global Order*, chap. 5 & 6, Robert Goodin, “Enfranchising the All Affected Interests,” 63-66.; Caney, *Justice beyond Border*, 158-164.

⁴¹ E.g. Goodin, “Enfranchising the All Affected Interests,” 64; Goodin, “What is So Special About Our Fellow Countrymen?” 682, 682 no° 51; Held, *Democracy and the Global Order*, 233-7.

⁴² Global egalitarians have sometimes referred to the “risk of tyranny”, associated with a single world-state, as a reason to favour multiple territorial political units over a world government. Although the

It seems, then, that for supporters of democracy, defending the normative significance of territorial boundaries is a lost cause. However, as briefly mentioned above and explained further below, the argument proposed here in defense of the normative significance of territorial boundaries is one derived from the value of personal autonomy. It is far from being a novel discovery that, sometimes, there exists a tension between the legal rights instituted to safeguard the personal autonomy of individuals and democratic decision-making processes (representative, deliberative or otherwise). For example, the protection of a person's freedom of speech is not conditioned upon democratic decisions approving it. There may be solid majorities against the public expression of specific opinions, which would nevertheless continue to be publicly expressed, thanks to legal protection. If, then, a valid argument can be made for a right to political self-determination corresponding to an aspect of personal autonomy, it is rather implausible that democratic theory would dismiss such a right altogether and insist that democratic considerations annul it.⁴³

There is a second sense in which the democratic conception of the self-determination has been evoked in global egalitarian arguments, namely the idea that geographical borders should be determined through democratic-majoritarian procedures (henceforth: the plebiscitary principle). Thomas Pogge, for example, argues in favour of a global order in which (among other things) "the geographical shape of political units is determined by autonomous preferences of situated individuals," in line with two procedural principles, guided by "the risk of tyranny can be understood as a substantive moral reason for the institution of territorial boundaries, it has been employed by global egalitarians as a practical consideration. See, Onora O'Neill, "Agents of Justice," *Metaphilosophy* 32, no. 1-2 (2001): 181; Pogge, "Nationalism and Sovereignty", 62-4.

⁴³ By taking this line of critique I do not imply that the democratic argument against political self-determination and the normative significance of territorial boundaries is otherwise valid.

cosmopolitan ideal of democracy.”⁴⁴ Borders, then, should be drawn so that they are supported by stable majorities among the pertinent groups of people, subject to specified constraints of viability, shape and size of the political units.⁴⁵ The idea of determining the geographical borders of political units by majority votes, indeed finds roots in the legal and political history of the principle of self-determination. It peaked in the 1920s and even enjoyed some successful applications, in determining sovereignty over disputed territories in Europe that had belonged to the empires defeated in the First World War.⁴⁶ In post-1945 international law, during the period of decolonization, this plebiscitary element was broadly neglected, in favour of the territorial integrity of the political units in their previous (non-democratically drawn) borders.⁴⁷

⁴⁴ Pogge, “Cosmopolitanism and Sovereignty,” 75, 69.

⁴⁵ For a detailed defense of the plebiscitary principle, applied through majority votes, see Harry Beran, “A Democratic Theory of Political Self-Determination for a New World Order,” in *Theories of Secession*, Lehning (ed.), 32-59.

⁴⁶ See, Sarah Wambaugh, *Plebiscites Since the World War: With a Collection of Official Documents* (Washington DC: Carnegie Endowment for International Peace, 1933); Yves Briegbeder, *International Monitoring of Plebiscites, Referenda and National Elections* (Dordrecht: Martinus Nijhoff Publishers, 1994).

⁴⁷ Leaving out the plebiscitary element in boundaries’ drawing was not necessarily a bad thing. See, Donald Horowitz, “The Cracked Foundations of the Right to Secede,” *Journal of Democracy* 14, no. 2 (2003): 7-15; Horowitz, “Self-Determination: Philosophy, Politics and Law,” in *National Self Determination and Secession*, Moore (ed.), 181-214.

Regardless of how we rank the success of plebiscites concerning borders in practice, there is at least one theoretical problem that renders it inadequate for global egalitarians to endorse.⁴⁸ According to the plebiscitary principle, place of residence is the pertinent criterion for entitlement to a voting right on borders. Individuals get to vote on the political status of the territory in which they reside, and a majority needs to be achieved among the inhabitants of a contiguous territory.⁴⁹ This voting procedure *assumes* that individuals have a valid claim to the territory in which they reside, and are thus entitled to the right to decide into which polity ‘their’ territory should be incorporated. But places of residence heavily depend upon and are closely connected to political membership in states and their territorial borders. The global egalitarian critique of the arbitrariness of the location of national boundaries is readily applicable to places of residence. Places of residence – just like the state-borders by which they are shaped – are the result of the same wars, conquests and past injustice that had created state-borders, supplemented by migration and residence policies of these states.⁵⁰ In view of

⁴⁸ It may well be the case that it is mistaken to use the term “self-determination” for participation in democratic decision-making: “...democracy... is *not* individual self-determination, but rather determination of political decisions by the majority. It is simply a fallacy...to say that when one exercises one’s right of democratic participation, one is ruled by oneself; on the contrary, one is ruled by the majority.” Buchanan, “Boundaries: What Liberalism Has to Say?” 256. The argument here does not rely on this position.

⁴⁹ Pogge, “Cosmopolitanism and Sovereignty,” 69-70; Beran, “A Democratic Theory of Political Self-Determination,” 38-9.

⁵⁰ As described by Pogge: “...the present distribution of national territories is indelibly tainted with past unjust conquest, genocide, colonialism, and enslavement”, Pogge, “An Egalitarian Law of Peoples,” 199.

this arbitrariness of residence, why assign it the normative role of granting a right to vote on borders? The plebiscitary principle is, hence, incompatible with the global egalitarian arguments regarding the arbitrariness of geographical locations and political memberships. My suggestion is that there are good reasons – internal to the global egalitarian and democratic positions – to revise their arguments about arbitrariness and develop a more defensible account of the role of territorial boundaries and political membership.

Before proceeding it should be clarified that the two applications of democratic self-determination in global egalitarian arguments address two separate questions about rights and territorial boundaries. The first question is the pertinence of boundaries for the allocation of rights (as it is explained above in section II), regardless of whether it matters where boundaries should fall.⁵¹ The second question is whether there are normative considerations regarding where boundaries should fall, regardless of their meaning for the allocation of rights. The arguments for global democracy address the first question, whereas the plebiscitary approach to boundaries addresses the second. In their objections to the normative significance of boundaries, global egalitarians have sometimes suggested that the arbitrariness and wrongdoing behind the geographical shapes of boundaries as we know them in the world today (question 2) supports the case for denying boundaries a role in the allocation of rights (question 1). The theory of national self-determination replies to both questions together as well: the moral status of nations is a normative consideration both in the shape of boundaries (which should correspond to homelands), and the meaning of boundaries (social

⁵¹ For example, one may hold the view that although it does not matter where borders fall, they must fall *somewhere* and they must separate clearly between political communities having a role in the allocation of rights (to membership, residence, participation etc.), in order to make sure that the risk of tyranny in a world-state is lessened by the existence of political units truly independent enough from one another.

egalitarianism is required among compatriots only). The questions, nevertheless, remain separable. *As such*, the shortcomings of the plebiscitary approach in determining where boundaries should fall do not fail the global egalitarian claim that those boundaries – in whichever shape or form – should not matter for the allocation of rights.

In conclusion, on neither of the two rights-related questions regarding territorial boundaries do the arguments against their normative significance, which draw upon the democratic interpretation of self-determination, proscribe the possibility of assigning normative significance to boundaries as an autonomy-based right. Before proceeding to section IV in which such argument is spelled out, let me briefly examine the third major approach to the problem of boundaries in the debate about global egalitarianism.

C. Boundaries without Self Determination

The implications of a third group of arguments, *defending* the normative significance of boundaries, merit consideration. Arguments in this group have been labelled ‘statist’, due to their claim that the scope of the principles of egalitarian distributive justice is restricted to the state, without drawing upon the good of nationality.⁵² The central claim here is that boundaries between political units (often but not always taken to be states) give rise to rights and duties confined to them, because the boundaries demarcate a geographical area in which certain *institutional arrangements* exist, and are distinctive in normatively significant ways.⁵³

⁵² ‘Statist’ arguments include: Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs* 33, no. 2 (2005): 113-147; Samuel Freeman, *Justice and The Social Contract*, (Oxford: Oxford University Press, 2007), chap. 8; Sangiovanni, “Justice Reciprocity and the State”; Blake, “Distributive Justice, State Coercion and Autonomy.”

⁵³ The arguments differ in their definition of what is normatively pertinent and distinctive about the institutional arrangements within states, e.g. coercion, reciprocity and cooperation.

Nonetheless, they share the view that it is the *institutional scheme* through which members of the polity interact that generates special rights and duties. This is different from the liberal nationalist arguments, according to which certain extra-institutional characteristics of the individuals – i.e. common national identity or cultural attributes – constitute the source of special duties that are valid among the individuals sharing these traits.

In principle, then, there is no particular reason, according to the ‘statist’ arguments, for why any specific institutional scheme should exist among any given group of individuals. Institutional arrangements of various descriptions could and may develop and flourish among any group of individuals, residing in any geographical area. This, once again, is different from the liberal nationalist position. The liberal nationalist position relies upon individual attributes – such as national identity, descent, language or religion – to determine membership in the nation, rather than on membership in the state’s institutional scheme alone. Therefore, faced with global egalitarians’ demands to establish global institutions of representation and distribution, ‘statist’ positions propose only a limited response. They can defend the view that the citizens of Switzerland are in no redistributive obligations to the citizens of Italy, but they cannot explain why – practicality and prudential considerations aside – the two countries should not unite into one institutional scheme with the morally relevant qualities for egalitarian distributive justice (e.g. reciprocity, coercion or cooperation).⁵⁴ Thus, the ‘statist’ defense of the normative significance of boundaries is undermined, as the position obstructs answers to the second question regarding boundaries and rights – namely why create or maintain any specific boundaries.

⁵⁴ On how justice may require the establishment of institution where they do not already exist, see Miriam Ronzoni, “The Global Order: A Case of Background I justice?” *Philosophy and Public Affairs* 37, no. 3 (2009): 229-56.

IV Political Self-Determination: An Argument from Personal Autonomy

Political self-determination consists in the right of a group of people with a shared political identity to maintain or establish separate political institutions with jurisdiction over identifiable territory. In this section I expound on the three parts of this definition: (1) shared political identity; (2) separate political institutions; (3) territorial jurisdiction. I then go on to argue that the principle of autonomy justifies the claim to political self-determination thus defined.

The right to political self-determination is a right of individuals in virtue of their membership in a group.⁵⁵ A person can make this claim only if she speaks for a group. This is not because the group has moral value independent of that of its individual members. Rather, the requirement that there shall be a group claiming self-determination is inherent to the *content* of the claim. The content of the claim to self-determination in the political interpretation is not one that allows for an individual to claim it for herself alone: it makes no sense for a person to be recognized as a separate *public authority* with *jurisdiction* over a territory – ‘ruling’ only herself within the confines of her private property. As mentioned above, claims for political self-determination are not directly about the content of legal rules within a jurisdiction, but about creating territorial jurisdictions and altering them.⁵⁶ To the extent that global egalitarianism neglects territorial jurisdictions in their accounts of the elements of self-determination that they are willing to accommodate, it is not, in fact, self-determination.

⁵⁵ For an explanation how group autonomy can be derived from the individual autonomy of its members, see Christopher Wellman, *A Theory of Secession: The Case for Political Self-Determination* (Cambridge: Cambridge University Press, 2005), pp. 38-58.

⁵⁶ Buchanan, “Boundaries: What Liberalism Has to Say,” p. 232-6, explained in Section II above.

Rather, what global egalitarians accept as permissible self-determination is better described as making legal rules in specific policy-areas.⁵⁷

The group requirement also constitutes an important difference between this definition and the democratic-plebiscitary interpretation. In the plebiscitary interpretation self-determination is a claim made by individuals representing no one but themselves, and its content is making the choice to associate oneself with one state or another. Self-affiliation of an individual to a group is relevant for political self-determination too, but is not considered, *as such*, an act of self-determination. Rather, forming a political identity, by which a person affiliates herself to the pertinent group, is part of what theories of autonomy have often described as developing ‘life plans’; as an element of becoming an autonomous person— namely, figuring out who she is, what is important to her, and what makes a good, worth living, life for her.⁵⁸

The right to political self-determination is understood, then, as a right that corresponds to a specific aspect of personal autonomy, not protected by other rights – e.g., freedom of speech or freedom of religion. Freedom of religion, for example, supports individuals’ claims against the authority under which jurisdiction they reside not to prohibit them from worshipping, or to allocate space for religious facilities in urban planning. Freedom of religion, however, does

⁵⁷ E.g., Moellendorf, *Cosmopolitan Justice*, 132-4; Tan, “Liberal Nationalism and Global Justice;” Held, *Democracy and the Global Order*, chap. 6; the policy-areas that global egalitarians have tended to accommodate are related to ‘cultural stability’ (i.e. education and languages).

⁵⁸ On autonomy and the sense of who one is see, e.g. Jeremy Waldron, “Autonomy and Perfectionism in Raz’s *Morality of Freedom*,” *Southern California Law Review* 62, no. 3-4 (1989): 1097-1152; Waldron, “Moral Autonomy and Personal Autonomy;” John Christman, “Constructing the Inner Citadel: Recent Work on Autonomy,” *Ethics* 99, no. 1 (1988): 109-24; Christman “Autonomy and Personal History”, *Canadian Journal of Philosophy* 21, no. 1 (1991): 1-24.

not grant a right to run for office or to receive equal pay for equal work. These claims are supported by other rights. The right to political self-determination, as defined here, supports a specific claim by individuals to create, maintain or alter territorial jurisdictions in light of their political identities. In other words, where a right to political self-determination is recognized, political identities constitute a valid reason for individuals to shape territorial jurisdiction accordingly.

Under this definition of the content of the right and the group requirement it becomes clear that (a) self-determination is not a case of freedom of association and; (b) political identities are different from other common interests and ideas about the good life that groups may share.⁵⁹ Unlike groups sharing political identities, groups that share other interests and ideas about the good life do not, *as such*, have direct claims to make about the making and altering of territorial jurisdictions. For example, members of a group of stamp collectors or fiction readers have a claim to a host of rights for the purpose of conducting their activities. But irrespectively of how important this pursuit is for them, it does not directly matter, for that purpose, which public authority holds jurisdiction over the territory in which the group's members conduct these activities. Having clarified the distinctions between political self-determination and other individual-autonomy-based justifications for self-determination, I now turn to explain in more detail what political identities are and why political self-determination is justified by autonomy.

⁵⁹ The question why some identities merit a right to self-determination while other do not has been a challenge put to arguments defending national self-determination - for example in, Buchanan, "What's So Special About Nations?" 294; Pogge, "Cosmopolitanism and Sovereignty",74. Although the identities taken as pertinent here are not national, the challenge remains.

A right to political self-determination is a right of individuals in virtue of their membership in a group – a group of shared political identity. What does it mean? A political identity, as it has been described by Andrew Mason, consists in a sense of “belonging to a polity.”⁶⁰ The notion of political identity has been developed and employed in theories of post-national citizenship, constitutional patriotism and some schools of republicanism. It is generally understood as an affinity to specific constitutional traditions or to the political structures and institutions of the polity.⁶¹ This sense of affiliation to a polity is derived from and related to the political institutions and practices themselves. It is, thus, distinct from national identity, to the extent that a sense of belonging to a national community is derived from and related to other features associated with a nation: belief in common history and descent, language, possibly religion and common ‘culture’ in the sense of everyday life habits.

More specifically, it is evident that liberal constitutions and legal systems are rich with particular symbols, meanings and references: they speak for specific peoples; they enshrine particular political events and traditions: wars and peace treaties, revolutions and declarations of independence from colonial rule, the achievements of domestic struggles for liberalization and democratization, the importance and legitimacy of specific institutions.⁶² This is the

⁶⁰ Andrew Mason, *Community, Solidarity and Belonging* (Cambridge: Cambridge University Press, 2000), p. 7, 129.

⁶¹ E.g., Abizadeh, “Does Liberal Democracy Presuppose a Cultural Nation?” *American Political Science Review* 96, no. 3 (2002): 496-8; Maurizio Viroli, *For Love of Country: An Essay on Patriotism and Nationalism* (Oxford: Oxford University Press, 1995); Jan-Werner Müller, *Constitutional Patriotism* (Princeton N.J.: Princeton University Press, 2007); Mason, *Community, Solidarity and Belonging*, 127-32.

⁶²For example, “The successful democratic revolution in the former German Democratic Republic“ is cited in the preface to the German Basic Law; “...the victory achieved by the free peoples over the

material of which political identities are made. These particularities are undoubtedly a prevailing phenomenon in liberal, rights-protecting polities.⁶³ The position taken here is that to the extent that such identities are not forced upon people, they should be understood as part of individuals' realm of personal autonomy. Namely, an element of what constitutes a person's sense of who they are, and of what makes life worth living for them. But what standing should this aspect of political life have in a theory of rights or justice?

Before approaching this question, two further clarifications are due. First, at the moment I only consider political identities and elements thereof that broadly fall within the limits of 'reasonable pluralism'. In a host of cases, political identities include elements and particularities that are objectionable on grounds of rights or justice. For example, an attempt to reinstitute slavery or racial segregation in schools in the United States, by appeal to originalist interpretation of the Constitution; or campaign for limiting civil and political right in the UK "free men" only, as indicated in the text of the Magna Charta. In a liberal polity such particularities would need to be excluded or reformed. But this does not exclude political

regimes that had sought to enslave and degrade humanity..." opens the 1946 constitution of France, which the 1958 constitution reaffirms.

⁶³ Note, that such particularities are not reserved to nation-states alone. For example, the United Nations' universal declaration of human rights explains itself through particular previous occasions of "disregard and contempt for human rights" that "have resulted in barbarous acts which have outraged the conscience of mankind", *The Universal Declaration of Human Rights*, Preamble <http://www.un.org/en/documents/udhr/index.shtml#ap>. The declaration also draws on the UN Charter, which defines the first purpose of the organization through particular events "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind", *The Charter of the United Nations*, Preamble <http://www.un.org/en/documents/charter/preamble.shtml>.

identities from public institutions altogether: there is no ground to claim that a parliament elected in free and fair elections is more or less ‘just’ because it considers itself – or was considered by its founders – heir of the French Revolution (like the French National Assembly) rather than a modern revival of the Roman Republic (like the U.S. Congress). We are still left with a host of particularities, giving rise to claims about the shape, institutions and rules of public authority. Second, proponents of liberal nationalism have argued that the attempted distinction between national and political identities as drawn above is futile, if not mistaken.⁶⁴ While I maintain that the distinction is viable, the notion of political identity remains in line with the liberal-nationalist view about what makes an identity political. Margaret Moore explains that

...nationalist identities are primarily political identities: they are concerned with the political community with which one identifies, and are normally characterized by the aspiration for some kind of political or institutional recognition of this community.⁶⁵

With this definition of a political identity in view, the position defended here disagrees with the liberal-nationalist argument regarding the relationship between nationalities and political identities. According to liberal nationalism, national identities are by definition political identities. Furthermore, national identities are different, in one sense or another, from other group identities drawn from other sources – religion, for example– and this unique nature of national identities sustains certain nationalist claims, making them normatively justified

⁶⁴ David Miller includes “active identity” as one of the elements of the definition of nationality, in the sense of being “communities that do things together, take decisions, achieve results” Miller, *On Nationality*, 24.

⁶⁵ Moore, *The Ethics of Nationalism*, 34.

within liberal-democratic theory.⁶⁶ *Pace* liberal nationalism, political identities are not inevitably national, nor are national identities automatically political in the sense relevant for claiming self-determination. My argument for political self-determination does not discriminate between different sources of a group's political identity – national, religious, cultural, philosophical. If, for example, a critical mass of Catholics would have wished to live in a Church-reigned polity, they would be in a position to make a claim to self-determination.

A right to political self-determination, then, is set to protect the pursuit of this particular element of the personal autonomy, of those people who have political identities in this sense. Evidence suggests that in the world as we know it the bulk of humankind consists of individuals who do have such political identities. Yet, my defence of a right to political self-determination – different from liberal-national arguments for national self-determination – does not imply that it is good to have such identities; nor do I assume that in modern democracies everyone can expect or be expected to have them; nor do I invoke the desirable potential consequences that such identities might yield (solidarity, stability etc.). People may very well have fully good lives without ever developing a political identity in this sense; they may revise their political identity if they have one over the course of their lives; and finally, they may well refrain from exercising their right to political self-determination, without, by that, committing an error or being degraded. Thus, the argument here is not liable to most of the objections from individual autonomy and pluralism, which have been addressed at the liberal nationalist defence of national self-determination.

At the same time, omission of the case for the good of political identity makes it necessary to find an alternative explanation for why political identities justify a right to self-determination.

⁶⁶ “Self-Government Revisited,” 174-5; Moore, *ibid*, 65-8; Margalit and Raz, “National Self-Determination,” 443-8

The question looms large in light of two major challenges: the ‘objective value’ challenge and the ‘liberal neutrality’ challenge. Let me explain the challenges and how I propose to meet them. The objective value challenge consists in the claim that the fact that identities (political national or other) are valuable for people constitutes no reason to assign moral importance to them. There need be some further non-subjective claim about the importance of these identities. As Moore explains:

It is not at all clear that the fact that people have a particular identity, in itself, constitutes an argument for recognizing it, politically or institutionally, at least not without additional arguments.⁶⁷

To evaluate the strength of this challenge, we need to revert to the foundational question of how rights are being justified in the first place. One prominent answer to this question in liberal theory proposes autonomy, in one sense of the term or another, as the ground upon which rights are being justified.⁶⁸

⁶⁷ Moore, *The Ethics of Nationalism*, 28.

⁶⁸ Autonomy has come to bear various and distinct meanings. I do not *defend* a specific notion of autonomy, nor can I discuss in detail the rich theory of this concept. Nonetheless, two clarifications are in place. First, I use here a common notion in contemporary liberal theory of what *personal autonomy* is generally about: forming, revising and pursuing conceptions of the good by individuals. Amid diversity of theories of autonomy, this general understanding of the term is commonly accepted in contemporary liberalism. Second, on one of the theoretical controversies regarding autonomy – namely, the value of choice – the notion employed here does take a position. I do not take personal autonomy to be conditioned upon *valuing* choices and the possibility of having choices to make; (for emphasis on the value of choice, see e.g. Kymlicka, *Multicultural Citizenship*, 80-4). “Forming and revising” receive the less ambitious meaning here, of not being coerced to follow an ethical position,

According to one principal formulation of this idea, rights in a liberal polity are justified by a fundamental interest of individuals in forming, revising and pursuing their conceptions of the good life.⁶⁹ According to Rawls, the notion of moral persons – namely such who have their own ends, having decided upon reflection what constitute their good – underlies the justification for choosing the two principles of justice;⁷⁰ the first of which stipulates the right of each person to the “most extensive scheme of equal liberties compatible with a similar scheme of liberties for others”.⁷¹ Autonomy-based justifications of rights – whether they conceive autonomy as an interest or as a quality inherent to the status of being human – grant that individuals “are entitled to form and pursue their own conceptions of what makes life worth living.”⁷²

Could the principle of autonomy, then, permit the pursuit of conceptions of the good life by means of establishing political institutions that correspond to one element of these conceptions or another? Contemporary liberalism appears to give a clear negative answer to this question. It is very widely accepted that the very multiplicity of ethical views – or ‘reasonable disagreements’ and the ‘fact of pluralism’ – provides a compelling reason to

see e.g., Andrew Mason, “Autonomy, Liberalism and States Neutrality,” *The Philosophical Quarterly* 40, No. 161 (1990): 433-452.

⁶⁹ Rawls, “Kantian Constructivism in Moral Theory,” *The Journal of Philosophy* 77, no. 9 (1980): 525-8, 544-5.

⁷⁰ Rawls, *A Theory of Justice: Revised Edition* (Cambridge MA. Harvard University Press, 1999), pp. 10-1, §20-26.

⁷¹ Rawls, *A Theory of Justice*, 53.

⁷² Waldron, “Moral Autonomy and Personal Autonomy,” p. 314.

legislate liberal rights, while rendering it illegitimate to make such laws that enforce any specific form ethical life.⁷³

But what precisely does the requirement not to coerce subjective ethical beliefs on one another imply for the mode and degree of separation between ethical views and legal rights? On the issue of national identities, some theorists have argued that the very subjectivity of these identities renders them non-valid sources of moral claims. This argument constitutes the first challenge, namely the “objective value” objection. Nations and national identities, the argument goes, do not pass the test of critical reflection: nations are communities that do not really exist, independently of the beliefs of their members. The appropriate response to moral claims made in the name of national identities is, then, exposing the fictitiousness of these identities.⁷⁴ Political identities, as defined here, are liable to the same critique: they are

⁷³ Rawls, “The Priority of Rights and Ideas of the Good,” *Philosophy and Public Affairs* 17, no. 4 (1988): 252-8; Rawls, “The Idea of Public Reason Revisited”, *The University of Chicago Law Review* 64, no. 3 (1997): 765-6. For an overview and discussion of central arguments for liberal neutrality see Waldron, “Legislation and Moral Neutrality,” in *Liberal Neutrality*, ed. Robert Goodin and Andrew Reeve (London: Routledge, 1989), pp. 61-83. In what follows, “ethics” means conceptions of the good, whereas “morality” refers enforceable duties to others – namely, requirements of justice in the context of a Rawlsian theory.

⁷⁴ For an engaging example of the argument see Omar Danhour, *Illusion of the Peoples: A Critique of National Self-Determination* (Lanham MD: Lexington Books, 2003). Some of the arguments defending the moral claims of nationality have addressed this critique by finding objective value for these identities, e.g. individual well-being in Margalit and Raz, “National Self-Determination”; or the “real” interests of individuals in, Barry “Self-Government Revisited,” 169-70. Robert Goodin, from a different perspective, suggests that nationality matters because it is a factor that “leads to people’s interests being intertwined”, Goodin, “Enfranchising All Affected Interests,” 49.

subjective forms of identification with imagined communities that can hardly rely upon objective reasons to justify their existence and perpetuation in their particular forms.

This argument – although it has gained ground within liberal critiques of national self-determination – is misguided. Liberal rights clearly protect specific elements of the subjective identities and ethical lives of individuals, also when these are not objectively defensible. Religious freedom, for example, remains a vital element of a liberal polity – formalized and enforced through manifold legislation – regardless of the fact that neither faith nor the content of known religions are objectively defensible when facing critical reflection. Family, marriage and parenthood – or at least some specific models thereof – are, too, protected and enforced by legal rights in liberal polities. The objective value of these institutions in general, and in the specific forms in which they are protected in particular – is, at the very least, controversial. It would be very difficult to sustain the claim that the people who do not marry do wrong, rather than make a legitimate choice in view of what is subjectively important to them.⁷⁵ The worlds of ethics inform and shape the rights protected by liberal polities. Like in the cases of religion and family, the claim to exercise the pursuit of political identities through

⁷⁵ By arguing that some liberal rights protect subjective values, I do not imply that most (or all) liberal rights do. William Galston, for example, suggests that even a policy as seemingly objectively valuable as health provisions may in fact require another justification. Some people, say “Christian Scientists and individuals bent on suicide” may not find it valuable. Public funding for health provisions is then justified by a distinction between “coercion for public purpose” and “coercion directed at individual ways of life”. See, Galston, *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State* (Cambridge: Cambridge university Press, 1991), p. 10. I accept for the purpose of the argument that there are “objectively valuable” goods – for example in Rawls’ sense of goods that serve all ethical purposes, Rawls, *A Theory of Justice*, 54. Nevertheless, liberal theories also take seriously the protection of some purposes that cannot be objectively justified.

legal rights is not undermined alone by the fact that those identities are subjective and are only valid in light of specific ethical views. Thus, the objective value objection is unsuccessful.

In which sense, then, is the separation between ethics and right kept and what does it mean for the case of political identities and self-determination? In answers to this question, the “liberal neutrality” challenge to the right to self-determination arises. The prominent answers available in contemporary liberal theory, on how to keep legal rights separate from ethics, can be divided into two kinds. The first position – often labeled “privatization” – is founded upon a distinction between public and private and submits that public authorities legislate and enforce such laws that enable individuals to privately pursue their ethical aspirations.⁷⁶ The second position - known as “neutrality of justification” – is founded upon a distinction between ethical and moral reasons and suggests that it is permissible to pursue ethical purposes through public institutions as long as (a) there are valid moral reasons – e.g. reasons independent from the ethical purpose pursued and that meet a condition of acceptability to others – to do so; or (b) no valid moral reasons are available to object to pursuit of this purpose.⁷⁷ As Rainer Forst explains:

⁷⁶ According to Harry Brighouse’s critique of liberal nationalism and multiculturalism, a the liberal state should tolerate many particularistic loyalties, “...but they should be tolerated in exactly the same way that our loyalties to our favoured cricket teams are tolerated – as the private loyalties of private citizens *which have no business informing the design of social institutions* (italics added), Brighouse “Against Nationalism,” 366.

⁷⁷ There are different accounts of what counts as valid in this context, but the shared ground is sufficient to apply them as a common approach for the purpose of the discussion here. The shared idea is that valid or justifiable consists in what individuals considering one another as free and equal could be reasonably expected to endorse. For diverse versions of this idea, see Rawls, *A Theory of Justice*,

If a particular ethical community...tries to generalize its specific values and present them as a legitimate basis for general legislation, it must be able to explain why this is *morally* justified, given its legitimate interests and the interests of all others.⁷⁸

In view of the first position, the imposition of religious freedom or family law by a public authority is justified because the publicly enforced law is there to enable individuals to pursue their ethical purposes privately.⁷⁹ Although the system of legal rights is informed by ethics – had religious faith never existed, it is unlikely that freedom of religion would have been legislated – public authority does not enforce the content of any specific religious belief and in this sense that the separation of ethics and rights is kept, insofar as public authority is indeed not employed in the service of any specific ethical view.

The difficulty with this position when applied to political identities, which constitute elements of conceptions of the good, is that the only way to pursue them is through public authority. As explained above, the claim to political self-determination is essentially a claim to establish or maintain a particular public authority that corresponds to specific political identities. Thus, the option of pursuing one's political self-determination privately and through private

15-6; Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14, No. 3 (1985): 228-30; Jürgen Habermas, *Between Facts and Norms* (Cambridge: Polity Press, 1996), p. 107; Habermas, "Reconciliation through the Public Use of Reason: Remarks on Rawls' Political Liberalism," *Journal of Philosophy* 92, No. 3, (1995): 109-31; Rainer Forst, "Political Liberty," in *Autonomy and the Challenges to Liberalism*, Christman and Anderson (eds.), 230-2; Forst, "Towards a Critical Theory of Transnational Justice," *Metaphilosophy* 32, No.1-2 (2001): 169-70.

⁷⁸ Rainer Forst, "Political Liberty," 235, emphasis in the original

⁷⁹ It is worth noting that private in this context does *not* indicate within the confines of one's private sphere.

associations alone is, by definition, not available. It seems, then, that according to the first position, the claim to political self-determination needs to be rejected altogether: it cannot be pursued privately, and its pursuit through public authority would violate the requirement not to enforce particular conceptions of the good.

This conclusion, however, begs the questions. Is the infringement on the personal autonomy of those individuals who have political identities, resulting from banning political self-determination justified? Can such position be said to show equal concern and consideration of the personal autonomy of those who have political identities in comparison to those who do not? Would individuals who consider themselves free and equal find it appropriate to ban the pursuit of a whole class of reasonable conceptions of the good? In view of these difficulties, we may wish to find a way to make some room for claims to political self-determination, while keeping the separation between ethical beliefs and legally enforced public morality.

The second position on the separation between ethics and morality proposes such a way. According to this position, for legitimate interference with someone's actions by a public authority, there must be morally valid reasons, namely (among other things) *independent from any specific ethical view*. Morally justified action on this account is that which individuals would endorse when considering one another free and equal; or in another formulation, that which meets the conditions of reciprocity and generality.⁸⁰ Suppose, for example, that I hold a religious belief according to which every person ought to seek spiritual enlightenment in her own way. This belief leads me to support legislation of religious freedom. But this belief is not a morally valid reason for enforcing religious freedom by public authority. Some of my fellow-citizens believe in no religious teachings, or see no point in seeking spiritual enlightenment; others believe in Gods that tell them to enforce the true religion by law, for everybody to follow the right path to spiritual enlightenment. Thus, in order to enforce

⁸⁰ See above footnote No. 77.

religious freedom by law, my own religious belief does not provide an adequate ground to make the interference with action justified. A justified and morally valid reason is rather that enforcing religious beliefs contradicts considering others free and equal, entitled to form, revise and pursue their own conceptions of the good.

How does the case for a right to political self-determination look in light of the distinction between ethical and moral reasons? There are two interrelated interferences with actions for which morally valid reasons need to be provided: (1) interference with action of the groups claiming self-determination; (2) interference with action of others. From the points of view of reciprocity and generality, the claim to political self-determination meets the criteria in the following way: it is reciprocal because claimants commit themselves to the equal validity of all other claims to political self-determination. They do not claim for themselves something that they are not willing to grant to others. The claim is general because it does not infringe upon other conceptions of the good life. This means that having taken everyone else as equally important autonomous persons with one conception of the good life or another, people claiming political self-determination for themselves can be satisfied that whatever conception of the good life other persons may have, their own claim does not deprive others from the possibility to pursue all these other conceptions.

This conclusion is a result of the following test. There are four possible alternative ethical perspectives regarding any particular claim to political self-determination: (i) individuals sharing the specific political identity and the claim; (ii) individuals holding another political identity and another claim to political self-determination; (iii) individuals that have no political identity and hence their conception of a good life is indifferent to political self-determination; (iv) individuals that find political identities objectionable and hence their conception of a good life entails *not* having a political identity and wishing for others not to

have them either. When all four perspectives are taken equally under consideration, could the claim to political self-determination be acceptable to them?

Individuals in group (i) are those making the claim, which they evidently consider acceptable. For group (ii), the claim's compliance with the condition of reciprocity makes it acceptable. The group claiming self-determination does not request for itself a liberty that it denies to others. The claim recognizes the equal status of all other claim to political self-determination, and is hence compatible if not desirable from the point of view of groups sharing other political identities. From the perspective of members of group (iii), it basically does not matter: whatever their conception of the good life is, it does not include a political identity. Because ethical view (iii) is one of indifference, its holders own conceptions of the good life are neither undermined nor encouraged by group's (i) self-determination. From perspective (iii), there is a further possible objection to consider. Even if group (iii)'s conceptions of the good life are not immediately in opposition with or contradiction to group (i)'s self-determination, the right to self-determination of (i) may indirectly infringe on the personal autonomy of (iii), by limiting some other rights that (iii) would have been otherwise enjoying. For example, the institution of group (i)'s self-determination may restrict others' access to certain resources, now under the jurisdiction of (i). Limitation on free movement into (i)'s territory may occur. Would such burdens constitute a valid moral reason for (iii) to veto (i)'s self-determination? Two considerations suggest that this is not the case.

First, in the use of public authority for safeguarding individuals' *private* pursuit of conceptions of the good, constraints on the liberties of others occur. For example, in religious sites and places of worship, even where they are publicly owned, some religious codes of conduct apply (i.e. dress codes). Yet such limitations do not constitute a reason for scrapping the rights protecting the exercise of personal autonomy. Rather, it is a reason for searching for a balance among liberties in such a way that would enable a fair realm of personal autonomy

to everyone. Similarly, in the case of the right to self-determination, the limitations to the liberties of others call for seeking the same balance, but not for proscribing self-determination altogether. Second, there is a need to distinguish here between the limitations on liberties that emerge from the function of government as such and those limitations that are specifically the result of accommodating political identities. Recall, that global egalitarians and democrats tend to accept, and even approve of, a world with multiple territorial units with some autonomy for their local government.⁸¹ Thus, some of the limitations on liberties resulting from territorial jurisdictions arise in the global egalitarian and democratic visions. When assessing the burdens that the right to self-determination of (i) would generate for (iii) we need to account only for those burdens that would have not been there anyhow, as a result of government *per se*.

Whereas it is beyond the scope of discussion here to pursue this assessment, the following framework can be offered. Recall that the content of the right to political self-determination as defined here is to create or maintain political institutions recognized as the agency that holds jurisdiction over identifiable territory. To remain justifiable by the principle of autonomy, decisions taken by the agency and policies pursued by the institutions would need to comply with the autonomy of others. Thus, the externally harmful policies and practices carried out by states, directly or through international and transnational organizations – and which have been at the focus of critique by theorists of global justice – remain wrongful in view of the principle of autonomy.⁸² However, the manifold limitations and restrictions on an agency's

⁸¹ See above Section II (b).

⁸² Indeed, theorists of international justice not supporting global egalitarianism have proposed various rules of fair interaction, which would constitute a radical alternative to existing practices, e.g. John Rawls, *The Law of Peoples*, 37; Miller, *National Responsibility and Global Justice*, chap. 7-9. Non-

permissible decisions and courses of action, required by autonomy (of others), remain distinct from global egalitarian and global democratic proposals to dissolve this agency and transfer its realms of authority to other agencies, or which deny that the agency has a valid claim to autonomy of its own (limited as it may be).

Finally, from perspective (iv), political self-determination is in opposition to (iv)'s conception of the good. The opposition is between two ethical perspectives directly pertaining to nature of public authority; neither privatization nor neutrality of justification provides a ready solution. The principle of autonomy does suggest that what would matter here are the facts of which identities people actually have, for the purpose of keeping to a minimum the number of individuals who do not live under the political institutions of their aspiration.

V. Political Self-Determination and Global Egalitarian Justice

Suppose, for the sake of argument, we lived in a world in which boundaries did roughly correspond to people's political self-determination as defined in the previous sections, or that changes could be made to reach this aim. In such a hypothetical situation, where would a right to political self-determination, thus defined and justified, leave us in regard to the central claims of global egalitarianism – namely that the duties of egalitarian justice within borders extend across them, worldwide? Clearly, I cannot provide a systematic discussion of the implications the argument here to the complex and diverse arguments for global egalitarianism and democracy. Instead, I would like to suggest two points for consideration, which *prima facie* corroborate a group of positions in the global justice debate that has been

egalitarian interpretation of a globally applied principle of autonomy in: Blake, "Distributive Justice, State Coercion and Autonomy".

labelled cosmopolitan internationalism.⁸³ The basic idea here is that while there are principles of justice that apply across borders – drawn from cosmopolitan moral assumptions, domestic egalitarianism (i.e. the difference principle; equality of opportunity) is not one of them.⁸⁴

(1) We have seen that political memberships are not altogether arbitrary, and that some and possibly many of the advantages and disadvantages that come with them may well be entirely legitimate. For example, the fact that a person’s political membership and identity is, say, Norwegian and not French is a result of exercising their personal autonomy. Thus, it is far from being evidently unfair that a Norwegian is less likely to possess the language skills necessary for admission to a French speaking elite university. The relative disadvantage in that case of access to good education is equivalent to a comparative disadvantage in access to public office due to an occupational choice in the domestic “playing field”; for instance, a scientist with no expertise in law is disadvantaged in comparison to a trained lawyer compatriot in chances of holding public office as a legal advisor of a ministry.⁸⁵

As a consequence, the arguments for global egalitarianism, which rely upon the arbitrariness of political membership or geographical location *as such* – comparing them to race, gender or ethnicity – are undermined. Their proponents need at the very least to spell out with more

⁸³ For this terminology, see Sangiovanni, “Distributive Justice, Reciprocity and the State,” 6-8.

⁸⁴ On the moral assumptions of cosmopolitanism, see: Pogge, “Cosmopolitanism and Sovereignty,” 48-9.

⁸⁵ It does not follow from this argument that so-called minority cultures within a political community “choose” their relative disadvantages, because members of minorities share their political membership with the majorities.

precision *in regard to what* is political membership irrelevant.⁸⁶ Like in the example above, it may well be the case that some and possibly many, of the differences in the specific opportunities, resources and choices available to members of different self-determining polities are fully justified. We encounter, then, the metric problem, famously captured in Amartya Sen's question "equality of what?"⁸⁷ This problem is not new to global egalitarians.⁸⁸ Facing it, they have acknowledged that the ordinary scale of domestic equal opportunity – understood as equality in regard to *specific* opportunities in education, income, or public office – cannot be transposed as is into the global level. As more suitable evaluative spaces, global egalitarians have proposed: the standards stipulated in the 1948 Universal Declaration of Human Rights, natural resources and capabilities.⁸⁹

This differentiation between domestic and global standards of egalitarian justice has been portrayed by global egalitarian as a matter of *application* of universal egalitarian principles of

⁸⁶ For another argument to the conclusion that global egalitarians should develop a more nuanced position on *when* nationality-related inequalities are unjust, see: Armstrong, "National Self-Determination".

⁸⁷ Amartya Sen, "Equality of What?" *The Tanner Lectures on Human Value*, Volume I, Sterling M. McMurrin (ed.) (Salt Lake City and Cambridge: University of Utah Press and Cambridge University Press, 1980), pp. 197-220.

⁸⁸ E.g. David Miller, "Against Global Egalitarianism," *The Journal of Ethics* 9, no 1-2 (2005): 55-79.

⁸⁹ Pogge, *World Poverty and Human Rights* (Cambridge: Political Press, 2008), pp. 50-6; Caney, "Cosmopolitan Justice and Equalizing Opportunities," 120-2. Moellendorf, "Equality of Opportunity Globalized?" *Canadian Journal of Law and Jurisprudence* 19, no. 2 (2006): 307-13.

equal opportunity.⁹⁰ But in view of the right to political self-determination, this differentiation becomes a matter of justice. Self-determining polities have a claim based in autonomy to carry on taking the decisions and pursuing the activities that may result in highly diversified structures of advantages and disadvantages for their members. As a liberty, the right to self-determination is restricted, according to a Rawlsian theory of justice, by the equal liberties of others.⁹¹ For Rawlsians, the protection and fair distribution of liberties is clearly a problem of justice. Once the right to self-determination is acknowledged as a liberty – a possibility for which I have argued in section IV – it becomes a matter of justice that principles of protection and fair distribution of liberties would be applied to it. The interactions among self-determining polities are then to be governed by these principles.

Territorial boundaries, signifying the limits of jurisdictions of polities, thus become normatively significant because it is a requirement of justice that a specific egalitarian principle with specific content – the one designated for the distribution of liberties – shall apply across them. Recall that having a role in determining the content, standard and *distribuendum* of principles of justice clearly renders territorial boundaries normatively significant according to the criteria for normative significance postulated in Section II. *Pace* global egalitarian argument, the move from one evaluative scale to another is not merely a matter of application or practicality, but a requirement of justice, inherent to in the stipulation of the principles. Different from arguments for national self-determination, it is not a trade-off between the value of nationality and the values of justice, but an internal justice argument.

⁹⁰Caney, “Cosmopolitan Justice and Equalizing Opportunities,” 121; Moellendorf, “Equality of Opportunity Globalized?” 307-10; Beitz, *Political Theory and International Relation*, 154-161, 169-176; Beitz, “Social and Cosmopolitan Liberalism,” *International Affairs* 75, no. 3 (1999): 520.

⁹¹ It almost goes without saying that this requirement alone may very well have implications to distribution of and access to material goods – e.g. resources.

(2) An immediate global egalitarian objection would be that even if there is a right to self-determination which invokes the first principle of Rawls's theory, fairness is not achieved without taking into consideration the implications of the theory's second principle. To assess these implications, global egalitarians have proposed the "cosmopolitan original position". The representatives in the cosmopolitan original positions are allowed to know that they are members of states or peoples, but they do not know of which.⁹² Under this condition, according to the global egalitarian argument, it would be unreasonable for the representatives not to endorse egalitarianism as a standard for all societies, on the whole for the same reason that not knowing one's position within society motivates egalitarianism in Rawls' domestic original position. For representatives aware of their interest in pursuing their conceptions of the good, it would be unreasonable to risk being members of a society that deprives them from a fair opportunity to do so.

It would follow from this deliberation that (different to Rawls' own conclusion) egalitarian principles are to be endorsed by all societies for the distribution of benefits and burdens among their members. Such a resolution would give rise to an obligation on all societies not to undermine one another's attempts to meet this egalitarian standard. This obligation together with the duties generated by the liberties of others would generate a set of rules for just international interaction, falling within the above-mentioned category of cosmopolitan internationalism.

However, from this resolution in the original position, the global egalitarian position that the same egalitarian standards should apply among *all members of all societies* does *not* follow. For this proposition to stand, a different deliberation among the representatives in the

⁹² E.g.: Moellendorf, *Cosmopolitan Justice*, 17-18; Pogge, "An Egalitarian Law of Peoples," 196-7, 208-10.

cosmopolitan original position would need to take place. Namely, the representatives in the cosmopolitan original position would need to find it unreasonable to risk being members of a worse-off but fair society rather than a richer and fair one. They would need to choose global egalitarianism – which proscribes this risk, over cosmopolitan internationalism, which permits differentiated structures of advantages and disadvantages, resulting from the exercise of the right to political self-determination. However, opting for global egalitarianism in face of this choice would be a case in which the representatives “exchange a lesser liberty for a greater economic advantage.”⁹³ According to Rawls, representatives in the original position are expected *not* to opt for such an alternative.⁹⁴ Thus, facing a choice between cosmopolitan internationalism and global egalitarianism, the representatives in the original position can be expected *not* to forgo their self-determination liberty and, thus, prefer as their principles of justice, the cosmopolitan internationalist over the global egalitarian option.

VI. Conclusion

The right to political self-determination, I have argued, can be construed as a liberty that, like other liberties, protects a specific aspect of the personal autonomy of individuals. In the same manner that freedom of religion protects individuals’ exercise of their religious beliefs, a right to political self-determination allows for people to establish or maintain political institutions that correspond to their political identities. Being a claim about the shape of political

⁹³ Rawls, *A Theory of Justice*, 475.

⁹⁴ Rawls, *A Theory of Justice*, §26, 220, 475; I do not suggest that a right to political self-determination as such would be included in the list of basic liberties, to which Rawls assigns absolute priority, see Rawls, “The Basic Liberties and Their Priority,” *The Tanner Lectures on Human Values*, <http://www.tannerlectures.utah.edu/lectures/documents/rawls82.pdf>, pp. 5-7. Rather, I have suggested that the right to self-determination corresponds to one of the elements that guide the creation of this list, namely the capacity rationally to pursue a conception of the good, p. 16.

institutions – i.e. of public authority, the substance of the right to political self-determination consists in forming, maintaining and altering agencies which hold jurisdictions over identifiable territories.

Thus construed, the right to political self-determination is distinct from the national interpretation of self-determination and from the democratic interpretations of the right. Different to the national interpretation, political self-determination does not draw upon the value of nationality, nor does it suppose that national identities as such generate or justify claims to self-determination. Unlike the democratic variants of self-determination, the political interpretation does not consider it a participation right, but a liberty protecting a specified realm of individuals' personal autonomy.

In view of the right to political self-determination, I have further argued, territorial boundaries – signifying the limits of jurisdiction of self-determining polities – assume their normative significance. Namely, territorial boundaries become justifiably pertinent to the allocation of rights. This argument challenges a variety of cosmopolitan, global egalitarian and global democratic positions, which have denied the normative significance of territorial boundaries, arguing that it is arbitrary and unjustified that those boundaries pertain to the allocation of rights.