

Water, territories, and the duty to compromise

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1. Introduction

Non-geostationary resources such as watercourses constitute a challenge for theories of territorial rights, which traditionally consider natural resources being attached to a particular geographical location, and belonging to the people that legitimately control it. For example, consider the agreement between Ethiopia, Egypt, and Sudan regarding the construction of the Nile dam in Ethiopia. This case shows how the control of a river may significantly affect all the countries that are touched by its waters, and that its exploitation may not permissibly be allowed without the participation of all parties affected. If rights on non-geostationary natural resources such as watercourses were to be allocated on the basis of their location, Ethiopia could have permissibly asserted that the presence of the Nile's source in its soil would have meant that Ethiopia had full control over that portion of the Nile, and thus on whether Egypt and Sudan would have had to deal with the externalities caused by Ethiopia's decisions.

Notwithstanding the rivalry between the three countries, Ethiopia and the international community recognized that Egypt and Sudan had some rights to the enjoyment of a vital resource. In this case, importantly, Egypt had been recognized even more extensive veto rights against the unilateral development of the dam, on the basis of interests that were not only related to the protection of basic rights of subsistence, but also to economic prosperity and the prospective growth of the country.¹

Another issue that affects in particular the theorization of resources like watercourses that are needed to satisfy fundamental needs is that to access them complex man made infrastructure are needed. These infrastructures may need continuous support and maintenance, as in the case of irrigation systems, dams, or sanitation systems, to ensure that the water is distributed and safe to be used. Particularly for the case of sanitation and irrigation systems, the man made resources are as essential to the

¹ <http://www.theguardian.com/world/2013/jun/18/egypt-ethiopia-dam-blue-nile>

provision of basic goods as the raw resource itself.² Most theories of resource rights, however, focus on the question of which agent owns the raw resource, for the most part assuming that who has developed the infrastructure enjoys property rights over it, deserving compensation for the loss of benefits if the raw resource results in another's ownership.

However, in some situations it makes little sense to speak about water as a resource, without also including the ways in which a population can access it. Take for example the case of the Indus Basin, following the separation between India and Pakistan. The Indus Basin provides water for Pakistan and a large area in North West India. Before the separation of the two countries, the Basin was developed by India as a cohesive system of canals. The source of the Indus and the irrigation system is located in India. Following the partition of India, Pakistan could have lost its most important source of water, given that the water system and the river's source were now suddenly within the territory of its rival. Even if the raw resources were allocated to Pakistan, India would have retained the full control over the irrigation system, effectively maintaining a significant advantage over its rival in the event of a military conflict. In this case, the separation led the two countries to sign the Indus Water Treaty, the result of a long process of peaceful negotiations supervised by a third party arbitrator (the World Bank). The treaty considered the water source and the irrigation system to be of interest to both parties equally, and it allocated to the two countries control over three tributaries of the Indus each and shared responsibility for the existing infrastructure. The compromise was brought about with the premise that the rivers and the irrigation system were not owned by India, but were instead objects of shared ownership, given their importance for Pakistan.

Finally, most accounts sharply distinguish between property like resource rights and territorial jurisdiction, suggesting that the power to decide what rules are valid within a territory must be distinguished from the freedom to exploit and use its resources. This view is in line with the widely held perspective that if a state has territorial jurisdiction, it will also hold rights on the resources within it. However, it is often the case that the management and exploitation of resources requires also jurisdictional

² See Risse, M., 'The Human Right to Water and Common Ownership of the Earth' in *Journal of Political Philosophy*, 22:2 (2014), p. 193.

powers that do not need to coincide with jurisdictional powers over the territory in which the resource is located.

For example, the Great Lakes Basin is located between Canada and the United States of America and it constitutes for both an essential industrial and agricultural resource.³ Because of its historical importance for both countries, the Basin has been the object of many agreements, including the Boundary Waters Treaty signed in 1909. Interestingly for this paper, the treaty created the International Joint Commission that since then rules upon applications for approval of projects affecting the Great Lakes' waters and regulates the operation of such projects. The Commission also adjudicates disputes regarding the management of the Lakes' resources, and guarantees that the countries jointly ensure the protection of water and air quality.⁴ Effectively, the Great Lakes Basin is not object only of joint property rights, but the countries have recognized a mutual joint set of jurisdiction over the Lakes' geographical area, suggesting that resource rights may include jurisdictional powers that may sometime be disjointed from the territorial jurisdiction within established borders.

In this paper I propose the outline of a theory of resource rights that I call legitimacy-based conventionalism (LBC). LBC is sensitive to the fact that non-geostationary resources are often shared across borders among different states and communities, and that resources like water are important not only for the satisfaction of what we consider universally recognizable basic needs, but also of special interests that affect the prosperity of a community. LBC also recognizes that their enjoyment requires complex man made infrastructures that often cannot be disentangled from the raw resource, and that rights over resources include rights of ownership and jurisdictional powers that, given the cross-boundary nature of non-geostationary resources, must be understood as disjoint from a state's territorial jurisdiction within the borders of its territory.

I suggest that rights on resources should reflect the extent to which different communities rely on them for the protection of their members' interests. I suggest that LBC yields a duty to compromise on matters regarding the exploitation of natural resources for purposes that go beyond the protection of fundamental interests. For LBC groups hold claims to the resources of which they make use only to the extent

³ <http://epa.gov/grtlakes/iatf/index.html>

⁴ http://www.ijc.org/en_/About_the_IJC#sthash.jdNxIlye.dpuf

that those resources are necessary for the group to be able to meet certain minimal requirements of legitimacy. Above that threshold, the group enjoys freedoms to use and powers to control those resources that are, however, not protected by corresponding claims that others do not interfere with such titles. Exclusive claims and powers on resources on the basis of communities' overlapping interests are established only when a compromise between the parties is reached, that achieves a mutually satisfactory balance regarding the protection of their special interests.⁵

Before proceeding to the next section, I should say that this paper does not attempt to answer to the question of whether individuals around the globe have a human right to a share of natural resources. In this paper I am focussing instead on what rights people have on the resources accessible to them, and what is the scope of these entitlements. LBC has something to say about the issue of human rights and global redistribution of natural resources, but is not committed to any particular theory of global distributive justice. I will explore one implication of LBC for the issue of the global distribution of resource at the end of the paper. I will suggest that, although LBC is consistent with a theory that demands the redistribution of the revenues of resources,⁶ it is sceptical of the possibility that there might be a global equal right on natural resources.

In the following section I explore some alternative proposals and show that all fail to properly theorize non-geostationary resources. I argue that a new account is needed to address the particular nature of these resources, and of the complex set of interests that they protect. In section 3 I offer the outline of my proposal. Section 4 concludes.

2. Theories of Resource Rights

The theories of territorial rights that offer a justification of resource rights may be divided in institutional and natural right theories. The former suggest that a group holds rights on resources when it demonstrates the ability to establish institutions that realize justice within a territory. The latter, propose that natural resources are owned by the agent that has a special material or symbolic relation with the territory in which they are found.⁷

⁵ Armstrong, C., 'Resources, rights and global justice: a response to Kolers' in *Political Studies*, 62 (2014a).

⁶ Some type of Global Tax, for example.

⁷ Armstrong notes the lack of theories that specifically deal with rights on natural resources. In this paper, when possible, I try to show how the existing theories of territorial rights may be extended to address the

For institutional theories, a group acquires rights on resources together with it also acquires territorial jurisdiction. For these theories, a group may legitimately exert power if it meets some minimal requirements of justice⁸ or when it effectively protects its members' fundamental freedoms.⁹ One complication of this view is that it does not offer a reason as to why a group may permissibly take control of a particular territory and its resources, excluding other groups from its enjoyment. Groups may be able to meet minimal requirements of justice using other resources than those found in their territory, or other territories all together.¹⁰ In the case of Pakistan and India, assuming that both countries at separation were deemed sufficiently just, the institutional account cannot explain why only India may legitimately take control of the particular contested geographical area in which the Indus Basin source is present. For the supporters of this view, the presence of a community in a particular territory is an arbitrary fact. This, however, does not establish any normative tie between the group and the land. If territorial control of a particular land is arbitrary and contingent, it is unclear why a group has a right to exclusive control of the resources found in the territory it occupies. These theories are in need of a principle that associates a group's presence in a territory with its right to use its resources.

Anna Stilz and Cara Nine propose a version of the institutional theory that recognizes that attachment to particular territories ground pre-institutional rights of use and occupancy of particular territory. Pre-institutional attachment is grounded on the group members' presence in a particular territory, and explains why the group has a freedom to occupy and use that territory, and a correlative claim that others do not disrupt the practices that rely on these territories by, for example, displacing them. For Stilz, individuals have pre-institutional occupancy rights on a territory given that their residence there is necessary to pursue their life plans.¹¹ For Nine, a group has

issue of resources (Armstrong, C., 'Against 'permanent sovereignty' over natural resources' in *Politics, Philosophy, and Economics*, 23:1 (2014b)).

⁸ See for example Buchanan, A., 'Theories of Secession' in *Philosophy and Public Affairs*, 26:1 (1997)

⁹ One example is Wellman, C. H., *A Theory of Secession: The Case for Political Self-Determination* (Cambridge: Cambridge University Press, 2005).

¹⁰ This is a version of what Stilz calls the particularity requirement of a theory of territorial rights (Stilz, A., 'Why do States have territorial rights?' in *International Theory*, 1:2 (2009).

¹¹ Stilz, A., 'Occupancy Rights and the Wrong of Removal' in *Philosophy and Public Affairs*, 41:4 (2013), at p. 327 and 332.

ownership-like rights on a land on the basis of a special relation with that territory, which is essential for its collective self-determination.¹²

For both accounts, however, attachment does not provide the ground for jurisdictional powers, but it merely establishes that some individuals or groups have claims to use and occupy certain territories. A group acquires jurisdictional powers on resources if it also has a legitimate powers of territorial jurisdiction, acquired on the basis of the group's demonstrated ability to establish just institutions.¹³ But as the Great Lakes case suggests, territorial jurisdiction within particular borders do not necessarily coincide with jurisdiction over resources. In that case, in fact, it seems that both Canada and the USA should have joint jurisdictional powers to manage the Lakes, even if their territorial jurisdiction ends at each country's border.¹⁴

Natural rights theories propose, on the other hand, that agents may establish rights on resources if they have developed a special relation with the land in which these resources are found. For some theories individuals acquire property rights on land and resources on the basis of the Lockean labour mixing principle.¹⁵ These theories focus on the fact that the agent has improved a resource and made it materially valuable with its activity. For other theories groups acquire rights on resources and territory on

¹² Nine, C., *Global Justice and Territory* (Oxford: Oxford University Press, 2012), p. 153.

¹³ Stilz 2013, p. 326; Nine 2012, p. 45.

¹⁴ There is another version of the institutional theory that I have no space to discuss here because its faults are not directly related to the issue of non-geostationary resources. This version takes inspiration from the Kantian theory of right and suggests that any right on external objects may permissibly be established only if a state-like institution is previously established. The state must be able to fairly adjudicate disputes over resources, to ensure universal interpretation of the agents' titles, and to ensure compliance to the system of rights. Before the establishment of such political institution, agents' control of external objects is the consequence of unilateral imposition of their will on others, and thus illegitimate (Ypi, L., 'A Permissive Theory of Territorial Rights' in *European Journal of Philosophy*, 22:2 (2012), and Stilz 2009). One way these theories may go about justifying resource rights is to rely on cosmopolitan institutions, ensuring that the acquisition of resources from states respects the principle of right. This is rather demanding and raises problems relating to the feasibility and desirability of cosmopolitan institutions. Another way is to suggest that the permissive Kantian principle applies, according to which current state's rights on territory are final only when they comply with cosmopolitan principles, but that since then they are the best we can hope for (Ypi 2012). This account considers the current system of resource holdings provisionally justified and leaves very little space for principles of global distributive justice.

¹⁵ For an example see Simmonds, A. J., 'On the Territorial Rights of States' in *Philosophical Issues*, 11:1 (2001). Miller uses a similar argument, including among the relevant values that establish territorial rights also symbolic value (that is cultural, religious, or historical) (Miller, D., 'Territorial Rights: Concept and Justification' in *Political Studies*, 60 (2012)). I do not include Miller's account in this analysis as its faults have been explored. In short, the theory relies on an unconvincing description of the group as a homogeneous national community, which seldom reflects the nature of existing political groups. Moreover, it suffers from what Simmonds calls the problem of 'trapped minorities:' those that are not included in the majority national group are ultimately left with no rights on the territory with which they also have established a meaningful relation. This gives some groups an unjustified advantage over others (Simmonds, a. J., 'Territorial Rights: Justificatory Strategies' forthcoming in *Oxford Studies in Political Philosophy* (2015); Nine, C., Resource Rights in *Political Studies*, 61 (2013), p. 243).

the basis of the fact that their occupation and exploitation of a territory is meaningful for the group, and necessary for its collective self-determination.¹⁶

Theories that ground resource rights on the agent's improvement of a resource tend to sharply distinguish between raw resources and man made improvements, excluding the latter from principles of redistribution. In the example of the Indus Basin, the fact that the accessibility to the Indus waters is dependent on the use and exploitation of the man made irrigation infrastructure led the two rival nations to include the irrigation system within the pot of resources to redistribute, regardless of the previous property rights of the author of such improvement. It is important to note that the Indus Basin water case was not one where the author of the improvement retained property rights, but had a duty to share the infrastructure – possibly also against compensation. Differently, the irrigation infrastructure had been considered one with the raw resource, on the grounds that the raw resource was indivisible with the method of secure access to it. A theory of rights on resources should be able to address also cases of this kind, where improvement is not an important factor of acquisition.

This point is also related to another flaw of theories based on improvement argument noted by Armstrong. He argues that theories of this kind may have a very hard time explaining how improvement may justify a group's right on resources. In fact, most improvements are carried out by international corporations that seldom have any significant relation with the territory in which the resources are found. It would be bold to argue that corporations do not have rights on the improvements that they make on natural resources, or that, because of the added value, such infrastructure accord them robust rights on resources.¹⁷ In rescue of our intuition regarding a link between a group occupying a territory and the same group holding some robust resource rights, the natural law theories make use of attachment arguments. Some suggest that groups acquire robust rights on resources on the basis of their right to self-determination,¹⁸ others that their resource rights are justifiable on the basis of the protection of their culturally specific traits.¹⁹

¹⁶ Kolers, A., *Land, Conflict, and Justice* (Cambridge: Cambridge University Press, 2009); Moore M., *A Political Theory of Territory* (Oxford: Oxford University Press, 2014).

¹⁷ Armstrong 2014b, p. 7.

¹⁸ Moore 2014.

¹⁹ Kolers 2009.

I find these theories most convincing, given their focus on the fact that occupancy of territory and exploitation of resources are closely associated with a group's ability to pursue collective goals, and with its members' ability to rely on a stable system of social and political arrangements. However, as Armstrong and Simmons note,²⁰ arguments that rely on a community specific conception of natural resource, or that rely on the robust control of a resource on the basis of the community's interest in self-determination, unduly reduce the application of global redistributive principles. By grounding robust resource rights on groups' special interests, effectively they permit that resource-rich groups "make themselves part of the global burden of others to bear",²¹ by allowing appropriation of more than their fair share, on the basis of culturally or religiously specific attachment. Although territorial rights must be connected to the way of life of the people that rely on particular resources, there must also be a way to identify and fairly address needs and interests that may be considered universal and fundamental.²²

3. Legitimacy Based Conventionalist

In this section I offer an outline of my proposal that aims at theorizing resources in a way that does not frustrate important concerns regarding global distributive justice, and the particular ways in which communities and individuals may rely on natural resources. Following Armstrong's intuition that territorial jurisdiction and resource rights are separate concepts, I suggest that a group's rights on a resource correspond to the importance of its members' interests in that particular resource. This constitutes one of the strength of the proposed theory, allowing not only for the dissociation of resource rights from rights on the territory in which they are located, but also for the dissociation between different normative incidents. In my view, the complex relation that different groups have with resources, and the diverse interests that their exploitation (or conservation) protect, demands a nuanced account of resource rights that should not readily clamp together different normative incidents.

My suggestion is that groups have rights on resources such as watercourses when these rights are defined by the conventions in which their members participate.

²⁰ Armstrong 2014a, and Simmons a. J., 'States' Resource Rights: Locating the Limits' in *Territory and Justice Symposia 1*, Cara Nine (ed.), (2012) URL <http://eis.bris.ac.uk/~plcdib/territory/papers/SimmonsMooreReply.pdf>

²¹ Simmons 2012.

²² Armstrong 2014a, and Nine 2013, p. 243.

Conventions are systems of social arrangements that come to existence and become effective in virtue of them being followed and implicitly recognized. They are models that people employ when facing the need to take actions in particular types of situations.²³ They offer a sequence of actions that people came to believe appropriate in a specific situation in virtue of their beneficial consequences, or in virtue of them being commonly followed. These norms do not necessarily have to be fully articulated or expressly stated to exist. In fact, a social norm is in existence when it is followed by a sufficient number of people, generating the social benefit of cooperation as a matter of fact.²⁴ So for example, a typical convention insisting on a watercourse would be that of a community relying on fishing patterns for its sustenance. Conventions that see the participation of larger communities may be institutionalized in larger political conglomerates, as for example the reliance of Egyptians or the Ethiopians on the waters of the Nile. Conventions of this sort may define a community's freedoms to use and exploit a particular resource for irrigation or fishing, or a jurisdictional power to decide how to deal with overfishing, or pollution.

Communities, however, have a claim that others do not use their resources without their permission only if their social norms fulfil some minimal requirements of legitimacy. Legitimate conventions must sufficiently ensure the protection of all the members' fundamental interest in developing and pursuing their directive ends. Directive ends represent an individual's central goals, and contribute in defining the individual's identity.²⁵ Having a genuine opportunity to form and pursue directive ends is a fundamental individual interest, and thus differs from for the community's right to self-determination, which instead identifies a collective right to pursue a common goal. In a system of legitimate entitlements the benefits of cooperation should be used to provide relief against extreme poverty and poor health for the community's members, ensuring that all members enjoy a sufficient level of wellbeing. Such level may change depending on the average level of wellbeing enjoyed by the whole community, and on the resources available to it. The system of

²³ Bicchieri, C., *The Grammar of Society* (Cambridge: Cambridge University Press, 2006), p. 4, Gaus, *The Order of Public Reason* (Cambridge: Cambridge University Press, 2011), pp. 164 and 169.

²⁴ Lewis, D., *Convention*, (Cambridge: Harvard University Press, 1969).

²⁵ Lomasky, L., *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987), p. 57. Not any plan justifies the acquisition of external objects, but only those that are significant to the identity of a person. Stilz's develops a very similar concept and calls it 'located life-plans' (Stilz 2013, p. 336).

social norms must tolerate individuals' dissent and their desire to exit the association when they see fit. Finally, individuals should also be able to enjoy basic economic rights that will ensure their relative independence from each other.

One important difference from classic accounts of legitimacy is that for LBC the standard of legitimacy should be considered a negative standard of evaluation. The reason to prefer a negative standard is that different communities may be able to achieve the protection of their members' self-governance in different ways. For example, some Amish communities are very good at providing their members with high levels of social security. The violation of some social norms are met with very bland punishments that often have to do with public atonement and community service. Famously, most Amish communities reject the penal system of the United States, regarding reclusion in prison an improper way to address violation of internally recognized systems of rules. However, membership in such community comes at the cost of homogeneity of thought, religious beliefs, and strict traditional customary norms that many find overly demanding, including a strict division of roles between the female and the male members of society.

It would be wrong, I believe, not to accord some exclusive rights of control and use of resources to communities that in some way or another are able to secure for their members a certain set of protected freedoms to pursue their life-plans. These communities' rights to resources should protect the extent to which their members' interests in forming and pursuing life plans is ensured. A negative threshold gives us the tools to evaluate to what extent such protection is provided and to what extent individuals rely on their community's customs to promote their personal interests.

Importantly, moreover, the threshold of legitimacy is a modular concept and may be met in different ways. Take for example the informal settlements in Haiti post-disaster. After the earthquake in 2010, some communities of thousands of people started rebuilding their lives in areas where previous settlements had been destroyed. In these informal settlements different systems of norms have emerged that have addressed social cooperation problems in the context of a powerless state and inefficient international programs. Some of these communities have established networks of cooperation regarding urban planning, social security, infrastructure projects, and housing and land development. These emerging social arrangements

display some concern for the weaker parts of society by providing help and assistance to those deprived of homes and jobs. However, these communities are vexed by extreme poverty and are not always able to secure the sufficient resources to satisfy their individuals' basic needs. Regardless, for LBC they may establish exclusive rights on particular resources on the basis of the fact that such rights are defined by a system of social support aimed at securing basic goods and freedom to the group's members (albeit sometime unsuccessfully).

The legitimacy threshold establishes minimal requirements that conventions protect all members' interests in developing and pursuing their directive ends. For this account, thus, communities are able to unilaterally establish jurisdictional and ownership rights on resources without the reliance on political institutions. However, groups upholding legitimate conventions have a claim against others using or controlling their territory only to the extent that such claim is needed to establish and sustain legitimate social norms. If others' use or control of the same resources is not a threat to the legitimacy of their social norms, communities have only a freedom to use and a power to control the resources to which they have access, and not also a claim that others do interfere with these titles. This is the case especially for resources like watercourses that are often strategically important for different communities at once. For this view, the plurality of interests in the same watercourse may ground well-founded competing entitlements, and competing and overlapping jurisdictions, like in the case of the Nile and the Great Lakes.²⁶ My suggestion is that the conflicts arising from overlapping freedoms and powers ground a duty to compromise between all parties having relevant special interests. The duty to compromise is grounded on the parties' equal moral standing in so far as they uphold legitimate conventions.²⁷ Given that their interests are incompatible but also similarly relevant, the parties must reach a mutually satisfactory agreement on their rights to the contested territory.

4. Conclusion

²⁶ If the community upholds social norms that are not legitimate, it holds only freedoms and powers to use and manage the territory, but not also a claim that others do not control and use the territory without its permission. Take for example some aboriginal communities in Canada that promotes violence against women, and retaliation when they attempt to exit their community (<http://www.chrc-ccdp.gc.ca/eng/report/issues/aboriginal>). If one of these communities were to rely on the Great Lakes waters, according to LBC it would not have exclusive rights to manage and use the Lakes' resources. However, it would still enjoy some freedoms to use the resources on which its practices impinge, on the basis of its special interests in those resources.

²⁷ If the freedoms and powers are not incompatible and do not endanger individuals fundamental interest in forming and pursuing their directive ends, the duty to compromise simply does not arise.

LBC offers an account of natural resources that is sensitive to special interests, as it defines rights on resources as derivative of a community's particular social norms. For a fishing community, a lake will be a fishing resource, but for a community based on agriculture it will constitute a source of irrigation. However, the threshold of legitimacy allows LBC to identify an evaluative standard that ensures the sufficient protection of universal basic individuals' needs and their fundamental interest in being respected as project pursuers.

The focus on interests as the ground of resource rights allows LBC to include when necessary man made resources in the identification of the scope and extent of groups' rights to resources. Thus if the reliance of Pakistan on the waters of the Indus requires that it has access to the irrigation infrastructure, then Pakistan's right to that resource will include a right to the infrastructure, to the extent that access to such improvement is needed for the protection of the legitimacy of Pakistan's social norms. Above that threshold, India can claim relevant interests in the infrastructure that it developed, which will have to be considered as the parties carry out the compromise in the determination of more extensive claims to the control of the Indus Basin.

Finally, LBC offers a theory of resource rights that are not dependant on the establishment of territorial jurisdiction, nor that necessarily coincide with the borders of a state. In fact, different communities that may not be states, [or enjoy territorial jurisdiction to the point of establishing a state] may still be able to hold exclusive rights on resources. LBC recognizes that the USA and Canada are two distinct communities that share jurisdictional powers over the same resources, but also accords freedoms, claims, and powers to smaller local groups. In fact, groups such as aboriginal Canadian communities or the Amish may hold some titles to the same resources, and a place as parties of the compromise on the more extensive resource rights above the threshold of legitimacy.

As promised at the beginning of the paper, I want to briefly suggest how LBC can be consistent with a theory of global distributive justice of natural resources. Communities upholding conventions that impinge on particular natural resources can exclude others from the enjoyment of those resources only to the extent that such exclusion is necessary for the preservation of a threshold of legitimacy. Above that threshold, they have only unprotected freedom and powers that are grounded on their

special interests on those resources. Because of these unprotected freedom they can participate to the compromise for the establishment of exclusive titles on contested resources. Imagine, then, that Norway needs only 70% of its oil to protect the legitimacy of its social norms. It seems that for LBC a country like Puerto Rico could go to the North Sea and start extracting the remaining 30% of the oil currently controlled by Norway, even against accepting a duty to compromise with the Scandinavian country.

However, for LBC international practices and conventions must be considered grounding titles, just as much as local and national practices. The international community follows an established practice according to which the resources of a country belong to the people of that country.²⁸ This practice serves an important role in maintaining international peace, protecting the fundamental interest of the individuals that are members of the transnational community in being able to form and pursue life-plans. However, like other conventions, also the norm of popular sovereignty is limited to the role it serves. It may be enough to ensure that Puerto Rico does not ship to the North Sea and take Norway's oil, but it is not invulnerable to the demands of global distributive justice. So for example, depending on what theory of global justice we support, Norway may have to devote the revenues of the surplus 30% of its oil to alleviate the problems of the global poor by, for example, complying with a global tax. Even if the international community upholds a system of conventions that is unjust, LBC urges the members of that community to look at the possible piecemeal improvements that can be carried out, without disrupting the present achievements that secure some level of legitimacy.

²⁸ Wenar, L., 'Property Rights and the Resource Curse' in *Philosophy and Public Affairs*, 36:1 (2008).