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Territorial rights and demographic change

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Introduction

The tremendous growth of the world population is one of the most alarming developments of our time. The enormous increase in numbers will most probably aggravate other problems, such as environmental degradation, hunger, and armed conflicts. Given the extent of these phenomena it seems surprising that demographic issues have not attracted much interest in political philosophy. To my knowledge, population growth has played, at best, a marginal role in recent discussions on global justice. Moreover, the philosophical debate on the moral foundation of territorial rights has largely neglected demographic questions. My paper is motivated by the assumption that this is a serious shortcoming; I start out from the intuition that the size of a population is a matter of relevance for the justification of territorial claims.

In the next section I will begin by stating some basic facts about the demographic change we are currently experiencing. Thereafter, I will make some preliminary remarks on the concept of a territorial right that serve as a basis for my further analysis. In the subsequent section I will distinguish two normative claims – independence claims and cession claims – to which an increase in a population's size may give rise. On the basis of this differentiation I will briefly refer to the most prominent theories of territorial rights and explain how they respond to both claims. In the following I will

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argue that considerations of distributive justice require attaching importance to the size of a group. Subsequently, I will discuss some objections that may be raised to the recognition of population-based claims to territory. In response to this criticism, I will propose a way of how to include demographic elements into a theory of territorial rights. Finally, I will briefly dwell on possible implications of my argument for the assessment of territorial claims that may result from climate change.

Demographic change

At present, the analysis and forecasts of demographic development reveal three global trends. First, the world's population has expanded rapidly during the past centuries and will continue to grow for several decades. The number of people living in 0 AD has been estimated at 250 million; most probably, the first billion had been reached at around 1800 AD; until 2011 AD the world's population leaped to seven billion. According to a report by the United Nations Population Fund (2011, 4), the number of human beings – on a conservative estimate – will stabilize at the end of this century at around ten billion. Most obviously, the amount of habitable land has changed only minimally in the course of time. To be sure, some land has been reclaimed from the sea by means of embankments and drainage systems. But mankind has not been able to develop new areas of settlement, for instance, on the seabed or on fellow planets, and it seems highly unlikely that the habitable land can be notably expanded in the near future. Therefore, a rapidly rising number of people need to share a relatively fixed amount of territory.

Second, the demographic developments of various world regions – and of various sections of the population – differ considerably from each other. For instance, the fertility rates of some highly industrialized countries, such as Germany or Italy, are extremely low. If these countries do not allow a high influx of migrants, the size of their populations will shrink substantially. Thus, while the world population on the whole is rapidly growing, the trend in some regions is quite the reverse. Moreover, even within a single state the birth rates of different population groups vary significantly. In Israel, for instance, secular Jews are facing much higher fertility rates among Palestinians, Israeli Arabs, and Ultra-Orthodox Jews (Duffy Toft 2012, 216–19). Hence, the population groups that are possible holders of a territorial right often increase or decrease in size, sometimes quite dramatically.

Third, a rising number of people worldwide are living in big cities. Levels of rural exodus are extremely high in many developing countries, but the industrialized countries in Europe and North America show basically the same trend. As a consequence, the world's urban population is expected to

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double within the next 50 years (Goldstein 2012, 28). Moreover, many megacities with more than ten million inhabitants will emerge and cause serious problems, such as slumification and traffic congestion. In sum, the world population will not only increase in size, it will also be very unevenly distributed. Whereas many rural areas will to a greater or lesser extent depopulate, some urban areas will become extremely densely populated.

The concept of a territorial right

In the following I will understand a territorial right as a moral claim to wield political power over a certain piece of land. Moral rights need to be carefully distinguished from legal rights that are enshrined, for instance, in international law. It may be worth emphasizing that I do not presuppose that only states can possess territorial rights. Possibly also collectives, such as national communities, or individuals, for example, land owners, may qualify as right-holders. Of course, nations or individual associations typically strive for state institutions that enable them to exert their rights. But the territorial competences of the state may be merely derivative, that is, its representatives act on behalf of the primary right-holder.

The moral claim to wield political authority over a territory implies a right against other states or non-state actors to non-intervention. Most importantly, foreign states or foreign insurgent groups are not permitted to annex or temporarily occupy some part of a territory. With regard to the exercise of political power over the space in question, a variety of different competences can be distinguished. Similar to a property right (Penner 1996), a territorial right consists of 'bundle of rights'; in particular, three rights, or rather groups of rights, can be identified. A territorial right includes, first, the authority to control the borders and to regulate the movement of people and goods. This entails, for instance, an entitlement to restrict the access of immigrants and to ban or tax import articles. Second, a right-holder may claim jurisdiction over all persons permanently or temporarily residing on the territory. Thus, a territorial right demarcates the spatial extension of the entitlement to enact and enforce laws. Finally, a territorial right is typically thought to extend to the natural resources that are located within its borders. It encompasses, for instance, the competence to make decisions on the exploitation of raw materials or the preservation of nature (Simmons 2001, 306; Miller 2012, 253).

It is important to note that a territorial right need not include all sticks of the aforementioned bundle. Within the framework of a normative theory, the territorial authority of a state or some other entity may be restricted due to moral considerations. Thomas Pogge, for instance, has argued that the exclusion of the global poor from any substantial use of natural resources is

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deeply unjust. As a compensatory mechanism, he has proposed to introduce a global resource dividend (GRD). The GRD allows states to make sovereign decisions on the exploitation of all natural resources that are located on their territories. However, if they decide to extract oil or other raw materials, they are required to transfer a small percentage of its value to the global poor (Pogge 1997, 510–19). Thus, according to Pogge, states enjoy almost all facets of a territorial right I have listed above. However, in response to the plight of the global poor their competences are restricted with regard to the profits they may realize by exploiting their natural resources. It may be noted that I do not aim at recommending the GRD or any other restriction of territorial rights. Rather, I wish to make a conceptual point that will prove to be important for the argument that I advance in the penultimate section. Territorial rights do not necessarily raise 'all or nothing' questions but can be subdivided into a variety of particular competences.

Population-based claims

The demographic changes that I sketched in the second section pose a serious challenge to theories of territorial rights. The increasing size of a population may ground two kinds of territorial claims that raise different normative questions. On the one hand, the birth rates of groups constituting multinational states can vary significantly. As a consequence, a national community that has traditionally been in the minority, such as the Albanians in Kosovo, can become predominant in a certain region. Due to the increase in size the group's representatives may feel entitled to decide on the political future of the region, that is they may aspire to secede and to establish a state of their own. In the following I will refer to this type of claim as independence claim, or for short 'I-Claim'.

On the other hand, the population of a state as a whole may substantially increase in size, whereas the population of other states may remain unchanged or shrink. The demographic trends to which I have referred above give reason to expect such a scenario for many world regions. Due to population growth, the scarcity of natural resources may aggravate and the living conditions of many individuals may deteriorate substantially. In response to the plight of their peoples the states concerned may demand authority over relatively sparsely populated areas of other countries. In the sections below I will refer to this type of claim as cession claim, or for short 'C-Claim'.[59] Since I consider the

[59] At present, I am not aware of any states that base C-Claims on demographic factors. However, future population increases may lead, for instance, to C-Claims of Bangladesh against the Indian provinces of Meghalaya and Assam or of Ruanda against the Democratic Republic of Congo.

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cession of territory to be more problematic, the main focus of my discussion will be on this topic. After a brief overview over the most influential theories of territorial rights I will explore possible justifications of C-Claims below.

Theories of territorial rights

The theoretical positions that are currently debated in political philosophy can be broadly classified into four groups. In the following I will briefly discuss justice theories, nationalist accounts, property-based arguments, and choice theories, respectively.[60] Proponents of the first-mentioned position are typically inspired by the political thoughts of Immanuel Kant. In their view, states are entitled to a piece of territory if their exercise of power conforms to basic criteria of justice. Most importantly, states are required to establish a system of law, to respect individual freedoms, and to allow for some political participation (Stilz 2009, 2011).[61] According to Neo-Kantian theorists, the territorial authority of states does not derive from prior rights of national communities or individuals. The territorial claims of states are rather 'primitive', that is they are directly gained by the provision of just institutions (Stilz 2009, 198). If states fail to meet the relevant standards of legitimacy, for example by violating the freedoms of a minority, they forfeit their territorial rights. Provided that the group concerned is sufficiently concentrated in some region, it may resort to secession and create an independent political unit (Buchanan 2004, 350–71).

States that satisfy the most important requirements of justice are protected against I-Claims and C-Claims alike. From the perspective of Neo-Kantian theories, the increase in size – either of another state's population or of a national minority within the state – is irrelevant. A growth of population in other countries has no bearing on a state's capacity to provide just institutions and to grant individual liberties. Likewise, the relative strength of national communities within a state does not affect the legitimacy of its rule. A state can only lose its right to exert control over some part of its territory if it commits serious wrongs against the local inhabitants.[62]

Proponents of nationalist theories, in contrast to Neo-Kantians, regard national communities as primary right-holders. In their view, even stateless nations, such as the Basques or the Kurds, may possess valid territorial claims.

[60] Part of this section draws on material from Dietrich (2011).

[61] In addition, the advocates of justice theories typically stipulate a non-usurpation requirement, according to which the provision of just institutions fails to establish a claim to annexed territories.

[62] Possibly, the inclusion of a global justice criterion, as proposed by Lea Ypi (2012), may allow for taking demographic developments in other parts of the world into account.

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Their argument is predicated on the formative influences the cultural activities of a nation typically exert on a territory (Miller 1995, 21–27; Moore 2001, 176–201; Gans 2003, 97–123). The members of a national community employ particular forms of agriculture and erect significant buildings and monuments. Thereby they create a visible relationship between the nation and the territory, which other cultural groups do not possess. Persons identifying with a nation usually have strong emotional bonds to the geographical region they regard as their historic homeland. The importance the individual members attach to the territory explains why the respective nation is entitled to it.

On the basis of the above stated argument, a national community cannot justify a C-Claim by demonstrating its need for more space. It would also have to establish a historical and cultural link to the territory of some other state. Obviously, the expanding size of a national community does not help to explain its member's identification with a certain stretch of land. However, I-Claims of population groups that qualify as nations may be strengthened if they significantly increase in size. As long as a national community is in the minority within a certain region, its desire to establish a state of its own may be impracticable. However, this objection cannot be maintained if it succeeds with outnumbering the members of other groups. Hence, high fertility rates may support I-Claims with regard to territories a nation plausibly regards as its historical homeland.

Advocates of property theories typically refer to John Locke's seminal work 'Two Treatises of Government'. According to Locke (1988 [1689], 285–302), the individuals in the state of nature can rightfully appropriate land provided that they leave 'enough and as good' for others.[63] In his view, property rights are not created by the state; on the contrary, the state is created with the aim of protecting pre-existent property rights. By founding a state, the individuals submit themselves and their estates to the authority of the government. Consequently, the state's territorial jurisdiction is coextensive with the land that its founders rightfully possessed. In Locke's view, individuals are not entitled to change the borders of legitimately constituted states by secession because the founding generation submitted their estates irrevocably to the authority of the government. Some contemporary proponents of property theory (e.g. Steiner 1998, 66), however, regard this restriction as unpersuasive and accept a right to full independence.

From the perspective of a property theory, the territorial authority of a state results from a voluntary transfer of rights by each individual land

[63] In addition to the 'sufficiency proviso', Locke (1988 [1689], 290) stipulated a 'spoilage proviso' that forbids the appropriation of more natural goods than one is able to consume.

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owner. The rising size of any other state's population or of culturally defined groups within the same state has no bearing on the validity of this entitlement. Provided that the initial submission of land under the control of a state is considered revocable, estate owners can raise I-Claims. However, the fertility rate of a group has no influence on its members' property rights over land. Thus, the number of people belonging to a group is irrelevant for the justification of separatist aspirations. Likewise, a population increase in some other country does not affect a state's rightful acquisition of a territorial right. However, as I will explain in the next section, the sufficiency proviso provides an opportunity to take C-Claims into consideration. If the obligation to leave 'enough and as good' for others is extended to current holdings, some re-allocation of territorial rights may be warranted.

The adherents of choice theories share the view that the territorial authority of states must be derived from individual entitlements. However, unlike the above discussed property theorists they do not focus exclusively on the rights of land owners. Their argument is rather predicated on the freedom of association that each individual enjoys who legitimately resides on a territory.[64] According to choice theorists, a state's territorial claim is justified if the majority of the local residents approves of its rule. Typically, the recognition of a territorial right is subjected to further normative conditions, such as the granting of minority rights (Beran 1984, 30–31).[65] However, in contrast to justice theories, the withdrawal of consent suffices to delegitimize a state's territorial authority. If the majority of the inhabitants of some region opt for secession, they are entitled to establish an independent political association (Beran 1984, 23–29; Altman and Wellman 2009, 44–48).

Within the framework of choice theory, C-Claims by overpopulated countries must be firmly rejected. The territorial authority of a state is seen as legitimate if the majority of the local residents agree with it. Only the will of the actual inhabitants directly affected by the exertion of a territorial right is able to justify it. The interests of the local residents always outweigh the interests persons living elsewhere may have in the territory. However, variations of group size have a bearing on I-Claims that aim at justifying the break up of existing states. In the view of choice theorists, a group may ground an I-Claim in a region if it succeeds with outnumbering other groups who oppose secession.

[64] The legitimacy requirement is meant to exclude persons who have forcefully expelled the original inhabitants.

[65] Since a majority decision evidently violates the freedoms of dissenting individuals, its application requires a careful justification. Choice theorists, for instance, have argued that a recursive use of the majority principle allows as many individuals as possible to live in their preferred political association (Gauthier 1994, 359–62).

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Distributive justice

Up to now, the four theories discussed above have not been much concerned with the overall distribution of territory. However, the broad neglect of questions of distributive justice appears to be a major theoretical shortcoming. Since, at present days, virtually all habitable land is under the authority of some state, territory has become a scarce resource. The allocation of scarce goods has been commonly thought to be a matter of concern for theories of distributive justice. Of course, within the scope of this paper, I cannot deal in much detail with the long-standing philosophical discussion on distributive justice. In the following I will draw on a broad distinction between end state accounts and historical accounts of justice that has been introduced by Robert Nozick (1974, 151–60). I will argue that from both perspectives a substantial increase in a population may provide a *prima facie* justification for a C-Claim.

According to end state accounts, the result of a distribution has to correspond to some principle of justice. In contrast to historical views, they do not take into consideration the genesis of a distribution, that is the question of how it came about. An end state theory may be based, for instance, on the assumption that resources should be allocated equally or on more-demanding principles, such as 'to each according to his/her need'. If the actual pattern of a distribution does not correspond to the respective principle of justice, it has to be adjusted. A person who is, for example, treated unequally or not in accordance with his/her needs may claim a redistribution of goods.

Authority over a certain piece of territory is an important precondition for self-determination. Groups enjoying a right of self-determination must control some stretch of land where they are able to pursue their specific goals. To be sure, the need for territory may differ substantially according to the various cultures and life styles of the right-holders. For instance, people who subsist on traditional farming or hunting have a relatively great demand for land. On the other hand, groups who pursue a modern life style, such as the inhabitants of the City State of Singapore, rely on a relatively small portion of land.[66] But in any case the size of a population is a highly relevant factor. Although a modern urbanized society needs relatively little land, its space demand increases if the number of its members continues to rise. In addition, the necessary amount of territory

[66] Of course, the life style of modern urbanized societies, in particular, their high meat consumption, presupposes that wide areas are devoted to food production somewhere else. However, in a globalized and highly interconnected world, the concept of self-determination cannot plausibly rest on any ideal of economic self-sufficiency. Even a state that is largely reliant on agricultural imports can be fully capable of exercising its self-determination rights.

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depends to some extent on the quality of a territory, that is its capacity to support the population's specific cultural activities. For instance, the demand for land of an agricultural society must be determined *inter alia* with regard to the soil's fertility. Thus, broadly speaking, three factors account for a group's territorial needs: the population size, its predominant habits, and the quality of a given piece of land.

Up to a certain point, population growth may be counterbalanced by changes in the two other variables. For instance, a group may adapt its life style to the scarcity of space and dispense with extensive land-use patterns. Furthermore, it may be possible to increase the productivity of the land, for example, by installing irrigation systems. However, typically the potential of both strategies to offset the adverse effects of demographic growth is limited. The transformation of a rural society to a modern, urbanized life style is an intricate process that may not be achievable in a short time. Moreover, if the economic and technological development is lagging behind, it may be impossible to improve the fertility of the soil. Hence, as the size of a population increases, the available territory may at some point become insufficient for meaningful self-determination. Since the principle 'to each according to his/her need' is violated in this case the group has a *prima facie* claim to the redistribution of territory.

By contrast, the historical accounts of justice deem the actual pattern of a distribution irrelevant. They focus exclusively on the question whether people came to possess their goods in a legitimate or illegitimate manner. Historical accounts of justice, such as Nozick's (1974, 151–53) entitlement theory, typically consist of three elements: principles of justice in acquisition that explain the origination of titles to formerly unowned goods; principles of justice in transfer of legitimately acquired goods; and principles of rectification that indicate how to respond to violations of the first two sets of principles. Within the Lockean tradition, to which Nozick adheres, the first acquisition of natural goods is subject to moral constraints. As mentioned in the last section, Locke famously laid down that the original appropriator is obliged to leave 'enough and as good' for others. Since the availability of territory is a necessary condition for a group's political self-determination, this stipulation may be interpreted as requiring first occupants or proprietaries not to take so much land that others will be prevented from establishing sovereign states.

As Nozick readily admits, the relevance of Locke's sufficiency proviso is not restricted to the original acquisition but casts a 'historical shadow' on all subsequent distributions. For instance, one may appropriate a waterhole in an arid region, provided that some waterholes will be left for the use of others. If, however, in the course of time the other waterholes dry out, one is not allowed to refuse third parties access to one's property (Nozick 1974, 180).

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It is worth emphasizing that the owner of the only remaining waterhole did not violate any moral right and, hence, is not obliged to redress any wrongdoing. He/she has lost her right to exclude others from his/her possession only because the external conditions under which he/she initially appropriated the waterhole have changed.[67]

Following this view, even justly acquired and justly transferred territorial rights are not immune to third-party demands. In the context of climate change, Cara Nine (2010, 366) has argued that an island population whose territory becomes uninhabitable due to rising sea levels 'is a candidate for sovereign over some other land'. Although other states initially left them enough space for the exercise of their self-determination, this holds no longer true if their territory is flooded.[68] A similar argument can be advanced in respect of substantial population increases. Presumably, the populations concerned had initially enough territory for the foundation of a sovereign state at their disposal. However, if the sufficiency proviso is applied to the present allocation of territory, they can rightfully complain that other (less densely populated) states control an over-proportionate share of the world's habitable surface. Thus, demographic changes occurring elsewhere are – like ecological changes – an important external factor that can affect the justification of territorial rights. A dramatic increase in the size of other populations is capable of grounding a *prima facie* obligation to cede parts of a rightfully acquired territory.

Some objections

As the last section has shown, considerations of distributive justice appear to support C-Claims of expanding populations. There are, however, a number of objections to the taking into account of demographic changes in any theory of territorial rights. First, population growth may be used as a pretext for military aggression against neighbouring countries. For instance, the Nazi regime in Germany used the slogan 'Volk ohne Raum' to legitimize its war against Poland and the Soviet Union. Of course, the demand for an extension of the German territory was not backed by any theory of distributive justice. It was patently absurd to maintain that the German people did not control enough territory to exercise their right of self-determination. Yet, no moral principle is absolutely secure from being

[67] On the mandatory downsizing of land holdings in response to altered circumstances see also Waldron (1992, 20–26) and Simmons (1995, 163–72).

[68] For an attempt to base C-Claims by ecological disaster states on Locke's spoilage proviso, see Kolers (2012); in the context of Nine's (2010, 371–72) argument, the spoilage proviso has only a supplementary function for the location of C-Claims.

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intentionally misinterpreted by some corrupt regime. Therefore, a possible misuse of C-Claims as pretext for military aggression cannot be a decisive objection to their validity.

Closely connected with this concern is, second, the worry that the recognition of C-Claims creates perverse incentives.[69] In view of the world's overpopulation, a reduction of birth rates appears to be highly desirable for many regions. If, however, an increase in size is rewarded with territorial rights, politicians may not be willing to adopt a responsible population policy. They may deliberately encourage citizens to procreate, for example, by subsidizing large families or publicly venerating mothers with many children. Once more the Nazi regime in Germany, that offered generous financial aids to families with many children and introduced the Cross of Honor of the German Mother, may be given as an example. Even if politicians do not actively promote high birth rates, they may refrain from enforcing countermeasures. Since they stand to benefit from population growth in terms of territorial gains, they may not be willing to support sexual education and birth control.

Of course, states do not necessarily strive for an expansion of their territories. If their representatives are first and foremost concerned about the welfare of their people, they lack any incentive to promote overpopulation. Moreover, states may find it difficult to motivate their citizens to contribute to the population increase necessary to justify a C-Claim. The individuals may not be willing to subordinate their family planning to the territorial aspirations of their political leaders (Risse 2012, 162–63). Thus, the above stated objection cannot be generalized for all countries and has to be limited in scope. Still, it must be conceded that the recognition of C-Claims creates perverse incentives for expansionist states and populations whose cultural values encourage large families.

Moreover, one may, third, doubt that overpopulated states can plausibly base a territorial claim on any principle of distributive justice. Some authors, for example, John Rawls (1999, 117–18) and David Miller (2007, 128), argue that states are fully responsible for demographic developments within their domain. In their view, governments are under a moral duty to pursue a population policy that effectively counteracts high fertility rates. If the number of inhabitants increases dramatically, they may not externalize the effects of their political failure to other states. However, the case for holding states accountable is not as straightforward as it may initially appear; there are at least two counterarguments that need to be considered. On the one hand, the governments of overpopulated countries are morally

[69] In addition, the recognition of I-Claims may create perverse incentives for political leaders of population groups who aspire to a state of their own.

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obliged to respect fundamental individual freedoms. Thus, they may publicly advocate small families but may not use coercive force to encroach on the procreative liberties of their citizens. This moral restriction may bar them from taking effective measures against the rapid growth of their populations. Furthermore, it is not clear that persons who are responsible for their plight, therefore, cannot have moral claims against third parties. Even if the drying out of the waterholes in Nozick's example had been caused by their owner's negligence, the owner of the only remaining waterhole might not be justified to refuse them access.

To be sure, in response to the first objection, one may contend that individuals are accountable for the exercise of their freedoms. Even if the government cannot be blamed for ignoring the problem of overpopulation, a C-Claim may not be justified. One may still hold that a population has to bear the consequences of its members' reproductive choices. However, it seems hard to deny that one can have moral obligations towards individuals or groups who are themselves the main cause of their misery. At least in cases of extreme need the blameworthy behaviour of those concerned does not release us from any duty of assistance. Hence, the responsibility argument seems to be incapable of entirely ruling out territorial demands on other states.

Fourth, the realization of C-Claims interferes drastically with the self-determination rights of local inhabitants. The residents of a territory that is conferred on an overpopulated country will typically not endorse the cession. Consequently, they are subjugated under the political authority of a state they do not regard as their legitimate representative. To be sure, the recognition of a C-Claim can be made conditional on granting political participation rights and a certain degree of regional autonomy. But even then the original inhabitants will mostly be unable to achieve their particular societal, economic, and cultural goals. After the cession one can expect a massive influx of people who have suffered from overpopulation and wish to settle in the newly gained territory. As a consequence, the local inhabitants will predictably be outnumbered in any democratic decision on the regional and the federal level.[70]

By securing the international recognition of a C-Claim, an overpopulated state becomes entitled to annex a piece of territory that is under the authority of another state. There is, however, widespread agreement that an annexation on any account deserves strong moral condemnation. Even if a state has committed the most serious crimes against humanity, its

[70] Of course, the local inhabitants can avoid becoming members of the expanding state by leaving their place of residence. However, if people are forced to give up their homes and to move to a different part of the downsized state, their rights are severely violated.

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population does not completely lose its territorial rights. To be sure, a third party might be justified to engage in a military intervention and to overthrow a vicious regime. But the intervening power would attract fierce criticism if it permanently occupied the territory against the will of its residents (Stilz 2011, 590–601). Since in the context of demographic change the state which is required to cede part of its territory cannot be accused of any wrongdoing, infringing on its people's self-determination rights seems even harder to legitimize.

Finally, considerations of distributive justice may justify C-Claims in a general way but fail to specify the territorial units to which they are directed. A population that has dramatically increased in size may demand a greater portion of the world's territory. Correspondingly, a population that significantly decreased in size may be obliged to accept a downscaling of its territory. However, it remains unclear to which particular piece of territory an overpopulated state is entitled; from the existence of a C-Claim one cannot infer who has the corresponding moral obligation (Meisels 2009, 140–45).

Obviously, a C-Claim cannot simply be addressed to the state that exhibits the lowest population density. An additional portion of territory must allow for a practicable political organization and meet the cultural requirements of the population. Therefore, C-Claims typically have to be directed against countries that offer similar living conditions. As a consequence, the assignment of additional pieces of territory will only be feasible for a restricted number of overpopulated countries. Likewise, some sparsely inhabited states will have to relinquish parts of their territory, while others are protected from C-Claims. However, the unavoidable unfairness on both sides does not lead to the conclusion that all C-Claims must be rejected. Even if a perfectly just redistribution of territory cannot be achieved, this is no reason to forgo arrangements that would allow for overall improvements.

Alternative responses

The arguments advanced in the last two sections lead to an apparent dilemma. On the one hand, significant population increases in some countries are capable of grounding C-Claims against states with stagnate or declining populations. From the perspectives of end state and historical theories of distributive justice alike, the allocation of territory has to take demographic changes into account. On the other hand, as my discussion of the most relevant objections has shown, mainly two reasons speak against the acceptance of C-Claims. First, the approval of C-Claims would provide perverse incentives for governments to encourage high fertility rates and to

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promote overpopulation. Second, the cession of a territory would subjugate the local population to alien domination or force them to leave their place of residence.

However, demographic changes allow for two alternative responses that do not require the cession of territory. To restore an overpopulated state's self-determination – and thereby to meet, for example, the Lockean sufficiency proviso – one need not take such drastic measures. Since both responses are build on general characteristics of territorial rights, they can be integrated in each of the four theories discussed above. First, it may be possible to improve the quality of the land that is already under the authority of an overpopulated state. Thus, instead of reallocating territorial rights, distributive justice can also be achieved by raising the value of existing titles. Relatively sparsely populated states can discharge their duties towards overpopulated countries by financial or technological investments in the quality of their land. Obviously, this option can meet with various obstacles. For instance, the dominant culture of a population may defy any modernization, or the condition of the soil may not allow for significant improvements. Moreover, some states that control an overproportionate share of the world's territory lack the financial resources to make substantial transfers to overpopulated countries.

A second alternative response to the challenge of demographic change draws on the bundle of rights view outlined in the third section. The cession of an area is tantamount to transferring the territorial right as a whole, that is, with all the entitlements that the right entails. However, the dire consequences of population growth in some countries can be alleviated by restricting only one stick of the bundle, viz. the competence to control borders. If it proves impossible to raise the quality of an overpopulated territory, relatively sparsely populated states are obliged to permit immigration at a sufficiently high rate to restore the capacity for self-determination of the group concerned.[71] Moreover, they are not allowed to select immigrants as it suits their needs best, for example by favouring qualified workers. Instead they must give priority to immigrants whose living conditions have deteriorated sharply because of the population growth in their countries of origin.

The above stated concerns about the provision of perverse incentives are less relevant in the context of immigration. Governments have no reason to actively promote high birth rates if overpopulation fails to justify C-Claims.

[71] It should be within the discretion of relatively sparsely populated states to decide how they fulfil their duties towards overpopulated states. Even if it were possible to improve the quality of a piece of land, their governments could opt for an open border policy instead of making significant financial transfers.

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A right to immigration may only influence their willingness to take countermeasures, such as propagating the use of contraceptives. Insofar as the negative effects of population growth are offset by an exodus to other countries, governments may see no need to tackle this problem. However, a right to immigration is not acquired unless a population's increase in size has reached such a dramatic level that self-determination must be considered virtually impossible. Hence, the inactivity of a government will significantly deteriorate the living conditions of its citizens until the admittance of immigrants by other states will alleviate the situation.[72]

Conclusion

For evaluating the above stated proposal one should, however, realize that a moral duty to allow immigration may have a bearing on I-Claims. If its population significantly decreases in size, a country may be required to admit large numbers of immigrants. Provided that the host state respects basic human rights, the immigrants will be allowed to freely move and reside within its territory. Consequently, they may choose to settle in regions where already many other members of their national or ethnic community live. Due to the influx of immigrants, a minority group may in the course of time constitute more than half of a region's inhabitants. According to some theories of territorial rights, most notably choice theories, regional majorities may legitimately opt for secession if they meet certain requirements, such as guaranteeing minority rights in the newly created state. A secessionist state may then decide to unite with an adjacent state that its population regards as homeland of the nation. As a result, a right to immigration may – though in a more indirect way – bring about the cession of some piece of territory.

Finally, it seems worth pointing out to some differences between the here discussed issue and territorial claims that may result from ecological disasters. Due to rising sea levels caused by global warming some islands, for example, Tuvalu, will most likely sink or become uninhabitable in the foreseeable future. At first sight, the above stated arguments seem to suggest that the populations concerned have a right to immigrate but no C-Claims against other states.[73] Evidently, the self-determination argument and the specification problem are also pertinent to the case of drowning islands.

[72] In response to the specification problem that arises in the context of immigration again, quota for host countries need to be determined, which reflect their spatial and economic capacities to admit new members.

[73] For an argument that populations who lost their territory as a consequence of climate change must be admitted as immigrants, see Risse (2009).

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However, neither the incentive objection nor the responsibility objection has any relevance in the context of global warming. The inhabitants of drowning islands have no reason to destroy their land in order to acquire substitutive territorial claims elsewhere. And since states like Tuvalu have emitted very low amounts of carbon dioxide in the past, they cannot be held accountable for the warming of the Earth's atmosphere. Moreover, the C-Claims of ecological disaster states that are about to lose their entire territory can be based on considerations of corrective justice.[74] Arguably, the rectification of a wrong provides a stronger moral reason to recognize a C-Claim than any ideal of distributive justice to which overpopulated states appeal. Hence, the victims of climate change are in a better position to demand territorial remedies than the inhabitants of overpopulated states.

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[74] Contrary to Nine (2010) and Kolers (2012), who appeal to principles of distributive justice, I argue in (Dietrich and Wündisch 2014) that the residents of sinking islands have a claim to territorial compensation against those states that are primary responsible for rising sea levels.

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