

Scientific and Didactic Relation

Name CAMILLA BARBIERI

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Name of Tutor ENRICO BIALE

Cycle XXXVII

Suggested name of the Supervisor (IF different from the tutor)(for 1st year students)

(A) Didactics

1) List of institutional or curricular courses (2021-2022)

- Common Core Courses (Argumentation, Methods in Philosophy, Academic Skills) - (Autumn 2022, Vercelli)
- Frontiers of Democracy - (17-18/03, Vercelli)
- Moral and Political Responsibility - (3-4-5/05, Pavia)
- Aristotle's Virtue Ethics - (30-31/05, Genoa)
- WIP 2022 - (Spring 2022, online)
- June Seminar - (23-24/06, Genoa)

2) List of working papers written in those occasions

- "July paper" with Prof. Ian Carter → "Can We Apply A Responsibility-Sensitive Theory Of Distributive Justice To Interactions Between States?"
- June Seminar's paper → "Whose is the right to govern the world's land? A defence of territorial justice"

3) List of other courses you have followed

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(B) Research and diffusion

1) List of seminars and conferences you have participated to

- Conference: Christine Straehle, "Refuge, Claim and Place" (22/10/22, Genoa)
- "Pro e Contro" debates (9-10-16-30/11/22, Pavia)
- Oxford Conference on Internal Displacement (18-19/01/22, online)
- Brown Bag Seminars (8/02, 14/03, 03/05, 26/04, 24/05, 14/06; Milan)

PhD Program in Philosophy
North Western Italian Philosophy Consortium

- I Mercoledì Filosofici del Maino, (23/03, 13/04, 18/05, 8/06; Pavia)
- Casip Seminar: Matteo Gianni, “From a metaphysical to a political view of multicultural integration and citizenship (5/04/22, Pavia)
- Conference: Glyn Morgan, “Europe’s Power: security, justice & imperialism” (22/06/22, Vercelli)
- York Political Theory Workshop, “The Politics of Territory and Climate Change”, (5-6/09/22, online)
- (upcoming) 20th Pavia GC in Political Philosophy (12-13/09/22, Pavia)

2) List of Talks (in some of the above-mentioned conferences)

- 20th Pavia GC in Political Philosophy (12-13/09/22): “Whose is the right to govern the world’s land? A defence of territorial justice”
- “Pro e Contro” debates, “Is it obligatory to get vaccinated in emergency public health situations?” (30/11/22, Pavia)

3) List of published or submitted papers

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(C) Project of the dissertation

1) Update of the planning of your research program:

Research Project

P.h.D. Candidate: BARBIERI CAMILLA

Curriculum: ETICA E TEORIA POLITICA (7732)

Title: “A Functionalist Justification of Territorial Sovereignty Sensitive to the ‘Boundary Problem’”.

Most of the problems which normative theorists, politicians and diplomats are currently concerned with depend – more or less implicitly – on which justification we want to provide for states’ territorial rights.

If, for example, we want to deal with the problem of immigration – that has historically been caused by wars, poverty and famine, and is now increasingly caused by climate and environmental changes – we need to have a clear idea of what justifies states in excluding or welcoming aliens. Different justifications of states’ territorial rights lead to different conclusions and therefore to different positions on the problem of massive migration.

If, as another example, we want to take a stance in some of the most debated territorial disputes - like the Israeli-Palestinian question – we need to know whether reasons of historical occupancy prevail or not on other contingent priorities. Different theories of territorial rights give different weight to historical entitlements to land and endorsing a particular theory will lead to different solutions to ongoing territorial disputes.

With the present project I would like to create solid bases to address part of these urgent challenges and I will start by showing why I think we shall not assume that these solid bases have already been established.

My project defends a territorial idea of sovereignty where the states have the power and the responsibility to ensure a set of fundamental rights to their citizens: why should sovereignty be understood and organized on a state basis, what justifies a sovereign state to govern on a particular piece of land and what progress can my proposal make concerning the current territorial challenges

are the three macro-areas in which my project is articulated.

The course of the world's events should probably bring us to the conclusion that thinking about sovereignty in a territorial and state-based way is a completely outdated means to address this issue.

The world is literally globalized and a single state's scope for action is slight. No single state can fight climate change with its own policies (not even the superpowers) and the same goes for most of the current global challenges; some international tribunals have more power than the local ones and all the states of the world ceded or delegated part of their prerogatives to some international organizations (in theory, at least).

The first challenge that a defender of territorial sovereignty has to face is to explain why defending territorial and state-based sovereignty does still make sense.

Firstly, the challenge consists in examining and contesting two rival proposals – very popular in the recent literature – that argue against the very idea of territorial sovereignty as we normally intend it; secondly, the challenge continues with an attempt to show why and how it is worth defending territorial sovereignty.

The rivals of a classic understanding of territorial sovereignty can be divided into two main groups: on the one hand there are positions like the one advanced by John Agnew (2005), or by Robert David Sack (1986), or by Aviezer Tucker (2015) that defend a non-territorial idea of sovereignty; on the other hand, we have very attractive cosmopolitan positions (Pogge 1992, Held 2009) according to which territories and especially states should not have any special role in the administration of power and justice.

The first option is literally anti-territorial and its defenders suggest not only that it is possible to think about non-territorial forms of sovereignty, but also that it is worth doing so because (in short) territory generates borders and borders often generate inequalities, unfreedom and violence.

Their alternative is an idea of sovereignty that takes inspiration from the dynamics of globalization: different companies will provide different services and each company will be competent in a specific field and will offer that service to everybody. In this model, you can move around the world and respond to an institution or a company that is physically based in a different place.

My intuition, however, is that territory and sovereignty are not only *historically* connected but also and above all *necessarily* connected: the next step of my project becomes, therefore, an attempt to demonstrate that there is this bond between human beings, territory and sovereignty and that despite the inequalities generated by this system, sovereignty understood territorially is still likely to generate less inequalities than any non-territorial system and to maximise the actual possibility to secure a wide set of rights to the citizens.

A convincing rival option to the current state-based system is the cosmopolitan proposal, that can be tempting because it seems a good compromise between the pro and anti-state positions just mentioned.

My first aim here is to take cosmopolitanism seriously by showing that it is made of a diversified set of positions that are not reducible to the idea of the “global state” - and that I try to present in detail. The key idea is that the concepts of state and territoriality should be drained of their traditional significance, namely that states should no longer be regarded as the only centres of legitimate power within their borders and citizenship should no longer be based on an exclusive membership of a territorial community.

In my attempt to assess the cosmopolitan position, I try to concentrate not on its feasibility but on its desirability at the ideal level, and I think that it is possible to argue that the cosmopolitan option is not desirable for three kinds of problems: lack of internal coherence, lack of democracy, irrational response to the problem of disagreement. This would bring me to the first partial conclusion of the project: that justifying territorial rights of states continues to be the best option if compared to the rival theories.

The second part of my project begins with a question that follows from the conclusion of the first part and concerns the appropriate justification for states’ territorial rights.

Actually, there are two different questions and they are the following: one is “what is it that gives to the states a legitimate authority over a certain territory?”; the other interconnected question is “why does a state exercise its legitimate authority over one *particular* piece of land and not others?”.

Unlike the content of the first part, these are extremely debated questions in the literature on territorial rights. Therefore, my first purpose here becomes providing some tools – or rather some orientative keys – to choose one of the existing positions and (in a second phase) verifying if that position can be further improved.

When I say that I intend to give some orientative keys, I mean that potentially all the existing theories of territorial rights can be regarded as valid because each has its strengths and weaknesses and none of them is definitively right. Therefore, the only way that we have to take a position in this debate is to be clearer on (1) the function, (2) the scope and (3) the framework for the application of a certain theory. These are the orientative keys that I have in mind and I can try to explain with some example why I think that they have an orientative power.

Concerning the function, theories of territorial rights can be more reconstructive (therefore aimed at describing how we could legitimately come to a certain outcome) or more constructive (therefore aimed at providing the tools for making some progress). Regarding the scope, theories of territorial

rights can be more or less ideal and some of them have an ideal level of theorizing as their main target while others are more careful about some non-ideal elements. Lastly, the framework of a theory can change because we might be interested in providing a theory that is able to justify territorial rights at the global level, at a local level or maybe at a “regional” level meaning that for example we might be willing to consider only the liberal-democratic states or other groups.

I think that these classifications are a useful tool to bring order in a reconstructive debate on theories of territorial rights and my project will include at this point an active reconstruction of the main families of theories of territorial rights where these classifications will be made explicit and commented.

The most classic way to approach this reconstructive debate is by asking the following question: in a potential world prior to the emergence of the states, how could a particular group of people come to be subjected to the power of a state with particular borders? The main possible answers are typically three: (a) the world’s land belongs to the individuals living on it; if they voluntarily decide to join their properties and their forces, they will create a legitimate state; (b) the world’s land belongs to peoples: individuals are likely to belong to a people and peoples need to administer the territory on which they live in order to carry out their self-determination; (c) the world’s land doesn’t belong to anyone, but given some facts about it and its inhabitants there needs to be a network of sovereign institutions able to maintain peace, order and other values: legitimate states, therefore, are the first-hand owners of territorial rights.

These three alternatives correspond respectively to the Lockean, the voluntarist and the functionalist families of theories of territorial rights and the next step consists in describing each of them with an eye on the orientative tools presented so far.

The three principles that guide each of the three families of theories are, *per se*, all legitimate: if we try to imagine the world in a pre-statal phase it seems that all three roads could be undertaken and that in some sense land belongs to individuals, in some other sense to groups of individuals and in another sense to states. The point is trying to evaluate which one is best at justifying states’ territorial rights also depending on the function, the scope and the framework of our enquiry.

As I have said clearly at the beginning, I am looking for a theory able to give us solid bases to address part of the most urgent challenges that have to do with territory. I am looking for a theory able to orient our actions in the present both at an ideal level of theorizing and at a non-ideal level (meaning that these two scopes must be properly distinguished). Finally, I am looking for a theory that can be used to justify territorial rights at a global level, meaning that the theory might prove unable to settle local and particular territorial disputes but will represent a universal guide that takes seriously into account the legitimate coexistence of different cultures, legislations and historical

paths.

The outcome of this reconstructive analysis of the three families of theories brings me to the conclusion that functionalism is not only the theory with less problems of internal consistency but also the most responsive to *my* criteria for a good theory of territorial rights.

To condense some of the main reasons why I endorse functionalism, I would say the following things: it is more coherent than Lockean theories for example because advocates of this family of theories (Simmons 2016, Steiner 2008, Nine 2008) talk about rights to land before the existence of a state that is a condition for give significance and effectiveness to the expression “having a right to something”. Functionalists believe that states are first-hand the legitimate owners of territorial rights.

Functionalism is also more coherent than voluntarism: here, (for example according to Moore 2015) a group with a history of political cooperation together is the owner of the territorial rights and of the right to the group’s self-determination. However, once again, it seems that these political identities usually grow within a state and not before its existence. Current political identities that do not match with state-based identities are probably the result of past national identities and not a prove of the existence of these pre-state allegiances. In other words, if we want to rely on the principle of self-determination out of a state-based institution, it is likely that we will not find adequate means to decide who are the members of the self-determining group.

There would be much more to say, but here I just wanted to give an idea of the kind of arguments whereby I concluded that functionalism is the most convincing theory of territorial rights.

Functionalism is also the theory that best suits my conditions for a theory able to guide our actions in the present: it is independent from historical considerations, it is essentially *dependent* on the respect of some fundamental values (so that a state is legitimate only if it respects a certain set of values), it is compatible with the current state of affairs not in a submissive way but in a way that encourages improvements at the ideal and non-ideal level.

However, these constructive features of functionalism suffer from one serious problem that has to do with the second question that I wanted to address in this part of my project: functionalism does not seem to have any criterion to explain why a state can legitimately exercise its authority over one *particular* piece of land and not over others.

Anna Stilz, Lea Ypi, Paulina Ochoa Espejo and Allen Buchanan are all prominent defenders of different “functionalist” (or “statist”) theories of states’ territorial rights, that have excellently articulated their functionalist positions but without ever finding a permanent and convincing solution to the problem of explaining why states have legitimate claims over one particular place –

the so-called “particularity” or “boundary” problem.

My attempt to tackle and resolve the “particularity problem” within a functionalist framework is what I plan to do in the third part of my project and it is not only what I consider the most important and original part of it, but also a potential improvement in the functionalist literature on territorial rights.

A similar effort has been carried out by Anna Stilz as part of her book “Territorial Sovereignty. A Philosophical Exploration” (2019). This book represents the latest and probably the most complete version of a functionalist theory of territorial rights able to address almost all the possible shortcomings of functionalism. Here, however, the criterion introduced by Stilz to explain how her theory would be able to explain on which particular territory a state has legitimate jurisdiction is the principle of self-determination. My opinion is that the principle of self-determination is not the appropriate one and it is not decisive to handle the weaknesses of functionalism – which I had previously judged stronger than voluntarism precisely because it did not depend on the vague notion of “self-determination”.

My research proposal, in my opinion, would be important to fill this existing gap: elaborating a completely new criterion that will be able to reconcile functionalism with the “boundary problem” and that – unlike the principle of self-determination – (1) should not leave us in the impossibility of determining who are the legitimate members of a self-determining group and (2) should also be fully consistent with the functionalist assumptions.

My hypotheses about a possible promising way to improve functionalism in a way that it becomes able to address the “boundary problem” have their origin in the reading of some of Lea Ypi’s works on territorial rights, where she – despite her idea (that I do not share) that the “particularity problem” is not solvable – argues that we should not consider the global configuration of states as permanent, static or accomplished.

I am going to present my proposal in its most embryonic version, considering that I am planning to work for several more months.

The reasoning starts with the (debatable) assumption that individuals should be treated as the ultimate source of moral value before any nationalist, religious, ethnic or other group’s allegiance. I think that this assumption is debatable but defensible and it is based on the idea that when individual and group rights are in conflict, we tend to give more priority to the individual rights.

Unfortunately, this assumption would not be universally endorsed, but the conclusions of my proposal do still take into account (and respect) cultures where group rights can have priority over individual rights.

When individuals converge into a state, if that state is able to protect essential private rights like

freedom, personal autonomy and security, then – for a functionalist theory – the state’s political authority can be considered rightful.

My intuition is that if we shift the focus from a national to a global level but retaining a functional perspective, one possible reply to the “boundary problem” could be that the particular boundaries enclosing the territory over which the state should legitimately have political authority are those boundaries that (at a given moment) maximise the capacity of the global configuration of the states to ensure a set of given fundamental rights.

Thinking about the global configuration that, at a given contingent moment, is able to put the states in the best position to ensure rights to their citizens is a way to make the world the most *functional* place at a given moment – of course at the ideal level. I think that the word “functional” is appropriate because functionalism (as a theory of territorial rights) is about legitimising states for their unique capacity of protecting human rights and enforcing law (provided that their law respects some basic criteria of justice). Obviously, we do not know what does the best configuration possible look like, but we can still have an idea about a possible world where all the individuals are in a position to enjoy their fundamental human rights and the states have reasonable costs for granting them these rights.

Thinking about the most functional (ideal) configuration at a given moment is a good starting point to orient our actions in the non-ideal world and the most difficult part of my theory consists in explaining what are the concrete factors that we should consider and the concrete actions that can derive from the theory.

Concerning the factors, what I have in mind is to focus on the capacity of things such as geography, available technologies, level of development, compatibility among different cultures, or expertise of the political establishment to influence the actual capacity of a state to ensure security, autonomy, freedom and equality to the individuals occupying the territory over which that state has political authority. For example, geographical proximity, development and cultural compatibility brought to the constitution of the European Union – that of course is not properly a state but that has some of the prerogatives of the states and seems to have implemented the European citizens’ freedom, equality and security. States, in my opinion, do not need to coincide with nations: states need to be primarily institutions committed to the wellbeing of their citizens within the limits of justice – institutions that of course are like to generate national feelings overtime, but not as a necessary condition.

The factors that have the power to shape different optimal configurations do vary over time, and this is why I also think that the global configuration of the states should vary over time – especially when some modifications are likely to change radically the possibility of a state to be able to govern

in the best way. Rethinking the current configuration of the states is the most important action encouraged (when feasible) by my theory.

This is why in the fourth and last part of my project I have planned to show the potential benefits of the application of the theory to one of the most compelling territorial issues. The idea that states should not be regarded as permanent institutions but as “tools at the service of fundamental human rights” seems a promising way to provide an answer to the imminent problem of climate refugees and to all the problems that will originate from the changes that the planet Earth is very likely to suffer in the forthcoming decades.

Let us suppose that the state of the Maldives is getting drowned and that we need to decide how to deal with this problem. On the one hand there is the possibility of spreading the inhabitants of the Maldives on a certain number of states willing to welcome part of these climate refugees. However, this solution seems suboptimal for them if compared to the possibility of allocating them in a piece of land that can become the new state of the Maldives.

The theory of territorial rights that I defend says (1) that the shape of the states is not permanent, (2) that when we modify the configuration of one or more states we have to care about the rights and the wellbeing of the citizens involved, and (3) that the change is legitimate if some conditions of basic justice are respected.

The implications for our case about the Maldives are the following: the most obvious is that the theory defends the right of the state of the Maldives of being transferred elsewhere as an autonomous state. The second implication is that the place where the state of the Maldives should be transferred is the one that maximises the capacity of all the states involved to ensure equality, freedom, security and autonomy to their citizens. The third implication is that some considerations of global justice will require that the states that are not hosting the Maldives will have to compensate the state that is losing part of its territory.

Factors like compatible culture and environment and the availability of space are fundamental, because otherwise the solution of creating a new state becomes suboptimal if compared to the possibility of the Maldivians to migrate where they wish (a possibility that they would continue to have).

At the moment, the states that are really at risk are mainly islands populated by relatively small numbers of citizens, and at these conditions I really think that there is the chance to implement my theory. Unfortunately, climate changes are not only causing the drowning of small islands but are also rendering uninhabitable vast areas of the Earth. When entire big states will require us to reallocate them in a different part of the world, it will become practically impossible to find a spot where these states can re-established themselves. At the ideal level, the most just solution would be the reconfiguration of all the states on Earth but this solution, at the non-ideal level, would have unsustainable costs.

A functionalist theory of territorial rights is once again the best option for (1) preventing the worst

scenarios by including and implementing the safeguard of the environment among the conditions for the legitimacy of a state; (2) denying coherently with the theory that the states' justifications for closing their borders to climate migrants are valid; (3) educating the present and future generations to a new but accurate idea that neither individuals nor groups of individuals literally own the Earth but that we can only create institutions with the specific purpose of regulating our behaviour on Earth in a way that all the human beings can continue to flourish on it for the longest period of time.