

Philos 117AC, Fall 2017

Main Text:

John Simmons, *Boundaries of Authority*, Ch. 5, “A Lockean Voluntarist Account”

The Lockean/Individualist Voluntarism:

1. People subject to a state’s authority only if they consent.
 - So trapped minorities, if they have not consented, have a valid claim not to be subjected to the state’s authority.
2. State’s territorial rights derived from property rights of those consenters. They consent to turn the land that they own into the territory over which the state will have territorial rights.
 - They presumably consent to this in order that the state will fulfill certain functions. But it is the fact of consent, not the fulfillment of those functions, that accounts for territorial rights.
 - The functions require that the “society’s territories not be dismembered or perforated by the individual decisions of subjects, thus creating indefensible borders, allowing alien presences within established defenses.” So they presumably consent that they “will not bequeath, sell, or otherwise alienate land incorporated into the state’s territories except on the condition that subsequent holders of that land will also be bound by the obligations of membership, including subjection of the land to state jurisdiction.”
3. When territorial rights are violated, they do not simply “fade away.”

Matches intuition:

[W]here persons have (relatively) innocently acquired or (relatively) exclusively used land that has been (relatively) freely subjected to state jurisdiction—we tend... to be least skeptical about states’ claims to territorial sovereignty... Where territories have been forcibly subjected... we tend to be most skeptical... This suggests to me that the Lockean account of legitimate territorial rights is at the heart of our commonsense notion of rightful territorial sovereignty, with much of the remainder being mere accommodation to the (grim) realities of international political life.

Objections:

1. Confuses individual property rights with state territorial rights.

Reply: State territorial rights are simply some of the incidents of individual rights over themselves and their property, which those individuals transfer by consent.
2. Since property rights are created by the state, they cannot justify the state.

Reply: All that is required is that there can be some property rights in land without a state.

 - These property rights might be conventional, rather than natural, so long as conventions don’t require a state.
 - These property rights need not be fully precise and determinate.
3. The conditions for territorial rights are too demanding. No real-world state satisfies them.

Reply:

 - It’s also true that no real-world state comes close to satisfying the conditions of justice, i.e., fulfilling state functions well, on, e.g., a Rawlsian account. Does that count against Rawls’ theory of justice?
 - Isn’t it an advantage that the Lockean account can support objections to trapped minorities or wrongful conquest? Why is it an advantage that other theories, by overlooking these objections, can say that real-world states come closer to satisfying the conditions for territorial rights?