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TERRITORY, SELF-DETERMINATION,
AND INDIVIDUAL AUTONOMY

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Territory, Self-determination, and Individual Autonomy

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Margaret Moore's book *A Political Theory of Territory* makes an important contribution to the recently renewed effort of contemporary political philosophers to make sense of states' territorial rights from a broadly liberal ethical perspective.¹ Moore's own theory is that territorial rights are possessed by collective actors called 'peoples' in virtue of their collective right to self-determination. An important and apparently liberal premise in her justification of this collective right is the idea that it protects both collective and individual autonomy. In what follows I shall focus critically on this autonomy-based aspect of her theory.

I

Rival Theories of Territory

Moore's theory of territory contrasts with three broad families of alternative theories, all of which have received some support in the recent literature. A first group of theories descends from Locke, and derives territorial rights from individual property rights: individual property owners of (more or less) contiguous

¹ Margaret Moore, *A Political Theory of Territory* (Oxford: Oxford University Press, 2015). Unless otherwise specified, all page or section numbers refer to this work.

pieces of land actually consent to the state's jurisdictional rights over that land.² The requirement of consent makes this justification of territorial rights particularly demanding. A second family of theories is functionalist, and does not depend on actual consent. In its best-known 'statist' version descending from Kant, this kind of theory sees territorial rights as necessary for a state to carry out its proper function of guaranteeing the freedom, equality and independence of the individuals living within the relevant geographical area.³ A third family of theories is more collectivist and bases territorial rights on the interests of a particular culture or nation that has developed in a particular geographical area.⁴

Lockean theories have been criticized for making secession too easy, given that any group, or indeed any individual, may withdraw their consent at any time, taking their land with them.⁵ Too easy for what? The answer is: too easy to allow for territorial rights as they are commonly understood—that is, as irreducibly collective rights of collective actors that include an immunity against secession by any dissenting individuals and a power of groups to secede only on certain (more or less strict) conditions. The Lockean view 'does not justify territorial right *as we know it*, where territorial rights and especially jurisdictional authority are

² See, for example, Hillel Steiner, "Territorial Justice", in P. Lehning (ed.), *Theories of Secession* (London: Routledge, 1998); A. John Simmons, "On the Territorial Rights of States", *Philosophical Issues*, 11 (2001), pp. 300-326.

³ See, for example, Anna Stilz, "Why Do States Have Territorial Rights?", *International Theory*, 1 (2009), pp. 185-213; Anna Stilz, "Nations, States, and Territory", *Ethics*, 121 (2001), pp. 572-601.

⁴ See, for example, David Miller, *On Nationality* (Oxford: Oxford University Press, 1995); David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007).

⁵ This was not Locke's own view, but it is doubtful that Locke's own view of secession was compatible with his theory of territory.

consistently or evenly applied across the territory’ (p. 20, emphasis in original). Although Moore does not consider this last fact to represent a problem in itself—normative theory need not, after all, endorse the status quo—she does think that it highlights a problem: Lockeans cannot ‘explain territorial right in a way that is related to the performance of functions relating to the exercise of jurisdictional authority’. I take this to mean that Lockeans fail to recognize the importance of a state exercising its jurisdictional authority efficiently, and that territories that are shaped like Swiss cheeses are difficult to govern efficiently whereas territories ‘as we know them’ are not. More generally, the requirement of actual consent on the part of all individuals makes all existing states illegitimate to some degree, and ‘this does not seem persuasive to the non-anarchists among us’ (p. 21). Indeed, Moore appears not to see the Lockean position as a ‘theory’ of territory at all, as she sets it aside in an early chapter about the *concept* of territory.

The Kantian statist theory, by contrast, has been criticized as according too much territorial scope to well-functioning states: while the Lockean theory makes secession too easy, the Kantian theory seems to make it too difficult, if not normatively impossible. Indeed, the Kantian theory would seem to permit a well functioning state to annex the territory of a neighboring state, ignoring the right of a distinct people to govern itself independently. According to Moore, Kantians are unable to solve the ‘attachment problem’ (sec. 5.2.2): a good theory of territory must explain why a particular state should have jurisdiction over a particular geographical area, and not over some other area.

The shortcomings in the Kantian approach point naturally in the direction of a theory of territory based on a people’s right of self-determination, a right that is anchored in that particular people’s attachment to a particular geographical area. The holders of territorial rights are indeed collectives, but they are not states;

rather, they are peoples, which states might or might not represent, which can exist (and possess territorial rights) in failing states, and which can survive the destruction of their state. This thought brings us closer to the position occupied by the third family of theories: cultural or nationalist theories, which ground territorial rights in the strong sense of belonging provided by membership of a culture or nation that shapes, and is in turn shaped by, the land on which it has developed.

Moore bases her own account of territorial rights on the collective right of self-determination, but she also distances that account from cultural or nationalist theories by grounding that collective right in a thinner account of community according to which a people exists in virtue of its members' sharing, and jointly pursuing, a common political project. On Moore's account, individuals establish a plurality of relations both with each other and with the land on which they live. These relations might (or might not) give rise to a plurality of cultures and even nations that can co-exist within one 'people'. It is the complex of valuable relations involving people and land that explains the 'attachment' of a particular community to a particular geographical site. Such attachments ground (interest-based) 'residency rights' for individuals, and (interest-based) 'occupancy rights' for groups, and the need to manage these and other rights collectively, in the light of the above-mentioned attachments, implies a collective interest in controlling the relevant territory. The scope of the relevant interest in territorial control is determined by the existence of a shared political project arising out of the complex of relations just mentioned and allowing us to identify 'a people' that lives on the relevant territory. The interest in controlling the relevant territory is a collective one because it is based on an interest of 'the people' in self-government. Territorial rights are therefore irreducibly collective rights belonging to peoples.

Faced with this account of the emergence of a collective right of self-determination anchored in the attachment of ‘a people’ to a particular geographical site, the liberal theorist will want to hear more about the crucial step in Moore’s argument from individual attachments to collective attachments, and from individual agency to collective agency. Liberal political theory has taught us to be wary of such moves, for individual freedom and collective freedom are distinct and are not always compatible. Let us therefore take a closer look at Moore’s justification of the collective right of self-determination.

In order for a group to possess a collective right of self-determination, it must be something more than just an uncoordinated class of individuals. Rather, it must be a collective agent. An example of an uncoordinated class of individuals is that of an ethnic group (pp. 46–47). Unless it is politically organized in some sense, an ethnic group is not a collective agent, even though it possesses a common identity. A collective agent, Moore says, is constituted by a group that is capable of *joint actions* involving its members. When two or more individuals go for a walk together, they perform a joint action: they collectively realize a ‘we-intention’, and in this sense constitute a collective agent (sec. 3.3). Such we-intentions must similarly be present in any group aspiring to be called ‘a people’. More specifically, Moore specifies three conditions for the existence of the kind of collective agent that can reasonably be called ‘a people’: first, the group in question must have a ‘common political project’ (which is to say, its members must ‘share a conception of themselves as a group’, be ‘engaged, or desiring to be engaged’ in that project, and be ‘mobilized in actions oriented towards that goal’); second, they must have the collective capacity to establish and maintain political institutions; third, they must have a ‘history of cooperation together’ (p. 50), so that their sense of identity is ‘rooted in a valuable history of shared practices’ (p. 52).

Moore considers herself a ‘value-individualist’ (p. 46): although she holds the right of self-determination to be an irreducibly collective right, in her view the *value* of collective self-determination derives ultimately from the *value it has for individuals*. What is the nature of that value for individuals? According to Moore, institutions of self-determination ‘give expression to the communities in which people live; they express people’s identities; and they are an important forum in which collective autonomy can be expressed, and people can shape the context in which they live’ (p. 64).⁶ ‘People who exercise collective self-government have the institutional mechanisms to shape the conditions of their existence, and their future together, and are thereby more autonomous – or experience a different (collective) dimension of autonomy than is involved in most liberal accounts of autonomy, which are mainly focused on protecting autonomy through protecting the individual private sphere’ (p. 65).⁷

In attempting to clarify this value-individualist account of the value of collective self-determination, Moore also points to an *analogy* between the value of individual autonomy and that of collective self-determination. The value of individual autonomy derives from being able to shape and control one’s own life, to control one’s own destiny. The same surely applies to collective self-determination. If individual self-control is valuable, then so too is collective self-control. After all, both are forms of self-control. ‘If it is valuable for the individual to be in control of his or her own life, then it is also valuable to have control as a member of a collective, in which the collective itself has a range of powers from which to choose’. If individual autonomy is

⁶ ‘People’, in this quote, presumably means individuals.

⁷ Does ‘people’, in this quote, refer to individuals or to ‘the people’? The answer is not clear to me, and the resulting ambiguity seems to be theoretically relevant (see secs. 3 and 4, below).

valuable, then so is ‘our capacity to affect decisions, and to participate in a collective group that itself exercises control ...’ (p. 65).

II

Collective Agency and Democratic Inclusion

Before considering Moore’s autonomy-based argument in favour of the value of collective self-determination of peoples, it is worth scrutinizing more closely her account of the collective agency of a people. It is not clear how this account is supposed to include all the members of a people as ‘participating’ in the collective actions of that people. The problem I have in mind here is logically prior to any liberal worries about the special interests of minorities within a self-determining people (pp. 61-62). Moore thinks that a group can hold territorial rights only if it counts as a collective agent, and that a collective agent is a group that performs collective actions. It follows that membership of the collective agent called ‘the people’ must depend on participation in the collective actions of the people.

Do all the members of a people participate in its collective actions? The example of a group of people ‘going for a walk together’ is deceptively inclusive. There is in fact an important difference between the following two kinds of collective agency:

- (a) the kind of collective agency involved in a ‘joint action’ of the members of a group, where each member’s performance of a contributory action is a necessary condition for the group’s performance of that joint action, as exemplified by a group of people ‘going for a walk together’ (rather than some people dragging others along) or, say, by two people successfully pushing a car up a hill;

(b) the kind of collective agency involved in arriving at, and implementing, a collective decision on the part of some kind of organization, such as a college or a corporation or a people.

In (a), each and every one of the individuals who ‘go for a walk together’, or who push the car together, *necessarily* contributes to that joint action through her voluntary individual bodily movements. In (b), by contrast, it is not clear that each and every one of the members of the relevant group can be said to participate in the same unproblematic way in a collective action carried out physically by *some* of the members of that group in the light of a given *decision procedure* for that group.⁸

Consider, moreover, those forms of collective action that Moore believes can constitute a people even when it is not actually represented by political organizations with institutional decision procedures. How are the contours of a people related to those of the subset of its members who are ‘mobilized’ in some sort of political action on behalf of ‘the people’? If we are to avoid the utopian requirement of universal participation in the ‘mobilization’, and yet are equally keen to avoid Lockean Swiss cheeses, dissenting or apathetic individuals or minorities will presumably be absorbed into the collective agent called ‘the people’ thanks to the mobilization of other individuals who are related to them in certain morally significant ways. How many such others need to be politically mobilized in order for the

⁸ Moore seems to shift attention rather quickly from the first of these kinds of collective agent to the second, as if the shift were unproblematic: ‘two people dancing the tango can be a collective agent, as well as more conventional examples such as: a soccer team [yes, this could be like the couple dancing the tango, IC], a university [this isn’t, IC], the board of directors of a company, or a country (state) [neither are these, IC]’ (p. 48).

dissenters to count as having been non-voluntary absorbed into the people?

Perhaps worries about the non-voluntary inclusion of dissenters can be assuaged by insisting that a self-determining group—the only kind of group that can exercise jurisdictional rights over a particular territory—is necessarily a *democratic* group, one that at least aims to give equal weight each individual voice within it. However, Moore does not make this claim explicitly, and she says surprisingly little about the precise relation between self-determination and democracy.

It seems to me that the role of democracy in Moore's theory might be interpreted in one of two ways. On the one hand, she might hold that a people's collective control over a territory can be morally valid even if the political culture of that people is not democratic. In her account of the foundations of territorial rights she generally avoids referring to democratic government, preferring more neutral terms like 'political institutions of self-determination'. If democracy were a requirement for the possession of territorial rights, there would be no obvious reason for this preference for the neutral language of 'institutions of self-determination'. Certainly the concept of 'territorial right as we know it' does not include democracy as a necessary condition: territorial right 'as we know' it is much closer to the Rawlsian conception, which allows overtly non-democratic peoples to hold such rights.

On a second interpretation, Moore does hold that the kind of self-determination that grounds territorial rights—the kind of self-determination that is valuable on her theory—is *democratic* self-determination, but holds, in addition, that it is the collective *capacity to achieve* this kind of political organization that makes a people a territorial right-holder. In this way, she can preserve the necessary relation between territorial rights and democratic

political institutions while also maintaining the non-statist view according to which territorial rights can be held by a group that has not yet *achieved* democratic self-government because it is actually governed by an oppressive state (p. 60). This more democratic interpretation is supported by Moore's isolated references to the value of democracy. She states, for example, that democracy is 'an important source of legitimacy' (p. 116), and that her account of territory, along with other 'jurisdictional domain views' of territory, shares some of the fundamental values of 'popular sovereignty', such as the idea of 'equal moral and political status of citizens' and the view that 'government ought to be in the interests of, and authorized by, the people [presumably meaning the set of all individual members, IC] who are governed by it' (p. 27). She also warns against endorsing the 'realist view of international relations', which 'does not ... sit easily with the liberal democratic norms which animate other aspects of our thinking about the state and its relationship to people' (p. 5). On this second interpretation, we might say that a people has a general moral power to exercise jurisdictional control over a territory, and in this sense, though only this sense, 'has' territorial rights even if it is not organized democratically, but that the moral legitimacy of any actual exercises of that jurisdictional control depends on those exercises of jurisdictional control being the outcomes of democratic procedures.

The first interpretation is in tension not only with liberal democratic norms in general (as Moore herself seems to be saying) but also with Moore's declared value-individualism and the appeal to individual autonomy in her account of the value of collective self-determination. The second interpretation seems more plausible in the light of those premises. Even if we assume the second interpretation, however, the move from the value of individual autonomy to that of collective self-determination is not

at all simple, as I shall now try to spell out in the next two sections.

III

What is Collective Self-determination?

It might be thought that the value of democracy follows automatically from the value of collective self-determination—that a genuinely self-determining or self-governing people is necessarily democratic. Such a move would be much too quick, as we can see from the fact that the concept of collective self-determination is itself ambiguous. Collective self-determination might be understood either as a kind of negative collective freedom or as a kind of positive collective freedom, and in the latter case ‘positive collective freedom’ might be understood either democratically or non-democratically.⁹

If we understand collective self-determination as a kind of negative collective freedom, a people is self-determining if its collective decisions (arrived at on the basis of some kind of collective decision procedure) are respected by outsiders and are thus free of any external interference. This idea of self-determination, constrained by the requirement of universal respect for basic human rights (not including a right to democracy), is assumed in the United Nations Charter, to which Moore initially appeals in her account of the value of collective self-determination of peoples.¹⁰ Since a right, in the strict sense, is

⁹ I do not try here to distinguish clearly between freedom and autonomy. The two terms overlap to some extent in ordinary language, and their precise relation depends on the theory adopted. My aim here is only to distinguish clearly between the individual and collective applications of these concepts.

¹⁰ See p. 63. See also pp. 199-200, where Moore suggests that self-determination promotes non-domination at the international level

nothing other than the presence of a duty in other agents, presumably when Moore and others speak of a ‘right of self-determination’, and ascribe it to a people understood as a collective agent, they mean self-determination in this negative sense.¹¹ The negative sense of self-determination leaves open the nature of the decision procedure on the basis of which we recognize the relevant collective agents as such. Collective agents are to this extent viewed as opaque.¹²

By contrast, if we understand collective self-determination as a kind of positive collective freedom, a people is self-determining only if its collective decisions are made in the right sort of way. What is the right sort of collective decision procedure for ‘a people’? On one account, a people is positively free, and thus self-determining, only if its decision procedures are democratic, for only then can ‘the people’ really be said to be in control of

(presumably, an irreducibly collective form of non-domination). Note that at the individual level, the presence of non-domination, like that of negative freedom, is ascertained without looking inside agents to see how rationally they act, whether their first-order desires are in line with their second-order desires, and so on. Like the negative concept of freedom, the concept of freedom as non-domination involves conceiving of freedom as a social relation, a relation *between* agents, not as a set of relations among different components of the agent.

¹¹ The correlative duties (and hence the right of self-determination itself) might be positive as well as negative. For example, outsiders might have duties of assistance where internal circumstances, such as those involving extreme poverty, constrain a people’s capacity for self-government (p. 51). However, the idea of leaving open the nature of the internal decision procedures (and hence the central assumption of what I am here calling a negative concept of self-determination) is compatible with the existence of such positive duties.

¹² This opacity might be said to ground the moral *equality* of different (more and less democratic) peoples in the Rawlsian sense, by analogy with the basis of moral equality among individual persons that I have defended elsewhere (Ian Carter, ‘Respect and the Basis of Equality’, *Ethics*, 121 (3) (2011), pp. 538-71).

their own destiny. Moore implicitly assumes this account of positive self-determination (on the more democratic interpretation of her theory), in combination with the negative sense (which she presumably sees as entailed by the positive sense). However, this is not the only available account of the positive freedom of a people. On another account, in which a positively free collective is considered analogous to a positively free individual, true self-determination occurs only when the agent's rational nature dominates over her more irrational or less reflective nature. We do not say that an individual person exhibits self-control merely in virtue of her following the strongest or weightiest of her actual desires—quite the contrary. Analogously, one might say, a people is not really in collective control of its own destiny if it merely follows the actual preferences of a majority of its members.¹³ Applied to a people, the idea of positive freedom can involve conceiving of the collective as an organic whole, the rational part of which might well consist in an aristocracy—the great and the good of society. It is not at all obvious, then, that an *irreducibly collective* notion of self-determination must entail democracy—both because the negative sense does not entail the positive sense, and because the positive sense can be interpreted in various non-democratic ways.

We have seen that Moore's account of the value of collective self-determination does indeed draw on an analogy between individual and collective autonomy. If our aim is to justify a democratic conception of collective self-determination, the above reflection suggests that such an analogy might well backfire. In this connection, consider an objection Moore raises against the Lockean analogy between individual property rights and the territorial rights of states. The Lockean analogy, she says, leads us

¹³ See Isaiah Berlin, 'Two Concepts of Liberty', in Berlin, *Liberty* (Oxford: Oxford University Press, 2002).

to treat the state as a sort of ‘owner’ of territory, as if territory were something that states have the power to dispose of as they wish, and this view is in tension with the modern liberal democratic tradition. While it is true that the Lockean requires the state to treat its own property-owning individual citizens in particular ways, ‘this further requirement sits uneasily with the conception that state territory is analogous to property, since we don’t normally require that property-owners treat the property in a particular way in order to remain an owner’ (p. 16). Similarly, in drawing an analogy between individual autonomy and the collective autonomy of a people, Moore might attempt to remain within the confines of the liberal democratic tradition by adding the further requirement that the people exercise control over the lives of its individual members only in particular ways—for example, in ways that emerge from democratic decision procedures. In response, the Lockean might paraphrase Moore as follows: such a requirement sits uneasily with the conception that collective autonomy is analogous to individual autonomy, since we don’t normally require that an individually autonomous agent must give equal weight to all of her individual desires in order to remain autonomous.

In short: if individual autonomy involves arranging one’s desires hierarchically and allowing the more rational desires to dominate, and if the value of collective autonomy is analogous to that of individual autonomy, then we should think of the autonomous collective as one that is organized hierarchically so that the preferences of the more rational and informed individuals dominate. If the Lockean analogy implies that Lockeanism are unwittingly endorsing the idea of the state as a kind of ‘owner’ of territory, the Moorean analogy implies that Moore is unwittingly endorsing the idea of the collective as a system of domination.

IV

Collective Self-determination and Individual Autonomy

Moore's argument is not, however, *merely* an argument from analogy. She is surely also saying that collective self-determination, which we are here interpreting as *democratic* collective self-determination, is good because it is *good for* individuals, including for individuals' autonomy. She is not saying merely that collective autonomy is valuable because it is 'just like' individual autonomy; rather, she is saying that collective autonomy is valuable because it *amounts to* a promotion of individual autonomy. This much surely follows from Moore's endorsement of value-individualism. It also follows straightforwardly from the claim that, to paraphrase Moore, *if* individual autonomy is valuable, *then* so too is (democratic) collective self-determination—*assuming*, as we now must, that the analogy between the two is not itself sufficient to establish this entailment.

How, then, might Moore justify the claim that democratic collective self-determination actually amounts to a promotion of individual autonomy? Three argumentative strategies seem to be available. The first involves referring, as Moore herself does, to the value of an individual's *having control* over the collective affairs of the people to which she belongs. The second involves a Rousseauian appeal to a specifically *democratic conception of individual positive freedom*. The third involves appealing to an *instrumental relation* between democracy and individual autonomy.

The first argumentative strategy appeals to the idea of individual control. We have seen that, according to Moore, '[i]f it is valuable for the individual to be in control of his or her own life, then it is also valuable to *have control as a member of a collective*' (p. 65, emphasis added). And again: 'It is morally important—

both important to individuals and morally valuable in an objective sense—that *individuals have control over the collective conditions* of their lives’ (p. 6, emphasis added). Democratic collective self-determination, then, would seem to be implied by the requirement that each and every individual be able to exercise this kind of control over the collective decisions that touch her interests.

It is not true, however, that there is *individual* control over the outcomes of democratic decisions. When the individual members vote in a democratic decision procedure, and the outcome of that decision is consequently carried out, the group *as a whole* is in control. By contrast, even where a single member votes with the majority rather than against it, that member’s degree of *control* over the outcome of the procedure is normally non-existent. It is the group itself, the group as an irreducible whole, and not the individual member, that exercises control in a democratic decision procedure. Andrew Altman and Christopher Wellman have argued this point at some length: ‘the individual does not choose laws; the group does’.¹⁴ ‘Democratic rule is a matter of collective, not individual, self-determination’.¹⁵ Indeed, when understood as a conceptual relation (not merely a causal one), individual and collective autonomy seem to be mutually exclusive: ‘[w]hen Alvin votes for a candidate in his country’s presidential election, for instance, he and his compatriots as a group make the decision, and his vote (in all but the most exceptional cases) is not decisive. When Alvin sells his house as an individual, on the other hand, then he determines the new owner, and his neighbors as a

¹⁴ Andrew Altman and Christopher Heath Wellman, *A Liberal Theory of International Justice* (Oxford: Oxford University Press, 2009), p. 19.

¹⁵ *Ibid.*, p. 26.

group, have no control over the matter.¹⁶ Similarly, according to Allen Buchanan, as quoted by Altman and Wellman, ‘an individual can be self-governing only if he or she dictates political decisions. Far from constituting self-government for individuals, majority rule, under conditions in which each individual’s vote counts equally, excludes self-government for every individual’.¹⁷ Moore does not appear to perceive this inherent conflict between control on the part of an individual and control on the part of the irreducibly collective whole of which she is a member.

A second argumentative strategy involves abandoning the claim that democratic procedures promote individual autonomy by promoting individual *control*. Instead, it says that democracy preserves or promotes individual autonomy by establishing and

¹⁶ *Ibid.*, p. 19. To make the point even clearer, Altman and Wellman should have written: ‘*he and his neighbors as a group*, have no control over the matter’.

¹⁷ Allen Buchanan, ‘Democracy and Secession’, in Margaret Moore (ed.), *National Self-Determination and Secession* (Oxford: Oxford University Press, 2001), pp. 17-18. Quoted in Altman and Wellman, *A Liberal Theory of International Justice*, p. 19. Altman and Wellman themselves claim that the irreducibly collective right of self-determination nevertheless justifies democracy at the constitutional level: ‘A free and fair referendum is required for constitutional choices because, in order to determine the group’s preferences [including preferences for or against democracy], a vote must be taken to discover what the collective as a whole wants to do’ (p. 29). I believe that this last claim falls foul of Altman and Wellman’s own arguments against confusing the collective right of self-determination with individual rights of equality or inclusion within a political community. Either that, or their position is based on the groundless assumption that democracy is the default when it comes to identifying a collective decision procedure for a given group considered ‘as a whole’. If ‘the collective as a whole’ is really an irreducible collective, then ‘what the collective as a whole wants to do’ needs to be decided through *some* kind of collective decision procedure, not necessarily one involving equal voting power for all. This point applies both to first-order decisions (legislation), second-order decisions (constitutional decisions about how to make decisions), or indeed to any yet higher-order collective decisions.

enacting a general will, so that when individuals conform to such a will they act in accordance with their *own* will. The individual does not *control* the general will, but *identifies with* the general will, which is arrived at through democratic decisions. As Rousseau famously put it, in the process of reaching such decisions each person submits to the will of everyone else and in that sense submits to the will of no one, and so remains *individually* free (*The Social Contract*, Book 1, ch. 6).

This is a highly controversial conception of individual positive freedom, for a number of reasons, of which the following two are particularly relevant in the present context. First, it is a highly idealized conception of individual freedom, depending as it does both on the existence of a general will that takes account of the interests of all the individual members of the collective and on each individual's identification with that general will. Thus, if territorial right is based on self-determination and self-determination on this kind of individual freedom, we seem to be no closer than the Lockean to justifying 'territorial right as we know it'. Second, the more feasible and less-than-ideal practices that such a vision of individual freedom has tended to inspire have involved the coercion of individuals in the name of their freedom, an implication that liberal critics have referred to as the 'paradox of positive freedom'.¹⁸ I doubt that Moore thinks of individual autonomy in this way; but if she does, more needs to be said in defence of such a conception.

A third argumentative strategy in deriving the value of democratic collective self-determination from that of individual autonomy involves pointing to a purely *instrumental relation* between the two. The idea that democratic self-government is an effective means to safeguarding individual freedoms is familiar

¹⁸ See again Berlin, *op. cit.*, and the subsequent literature on positive freedom.

and plausible, so this third strategy might look more plausible than the first two.

If we adopt this third strategy, however, our account of territorial rights will start to look more like a *functionalist* account. Not a *statist* functionalist account, to be sure, but a functionalist account nonetheless: the holder of territorial rights is that collective actor that is best able to carry out the function of safeguarding individuals' interests, including their interests in individual autonomy, a sense of identity, various relational goods, and so on. On this account, the value of democratic self-determination is justified by how well it allows for the performance of functions defined independently of it. According to my initial reconstruction of the debate between rival theories of territory, we were supposedly led to the self-determination account in the light of a dissatisfaction with functionalist accounts. The proper functions of government did not seem to be sufficient to justify territorial rights; it mattered, in itself, that those functions be carried out by the people whose interests they serve. If, however, collective self-determination is merely instrumentally valuable as a means to safeguarding various individual and relational goods, this stronger foundational role seems to fall out of the picture. The appeal to collective self-determination looks like one element of a broader functionalist theory, rather than a fundamental moral premise in a rival theory.

VII

Conclusion

I have raised some doubts about the connections Moore has made between individual autonomy, collective agency, and the value of collective self-determination. It is not clear that collective self-determination, on Moore's ostensibly value-individualist

account, can serve both to safeguard or promote individual autonomy, on the one hand, and to justify ‘territorial right as we know it’, on the other.

If we remove the appeal to the value of individual autonomy, what remains of the theory of territory based on the value of collective self-determination? The answer seems to be: a broadly communitarian justification of collective self-determination referring to the value of certain goods that are produced in, or by means of, various relations between individuals and groups and that can be properly managed only through collective control over a given territory. To repeat an earlier quote, but in truncated form: institutions of self-determination ‘give expression to the communities in which people live; they express people’s identities; and they are an important forum in which collective autonomy can be expressed’ (p. 64). None of these reasons for valuing collective self-determination presuppose either the value of individual autonomy or value-individualism more generally.

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