THE BASES OF TERRITORIAL CLAIMS
ANDREW F. BURGHARDT

VIRTUALLY all states and empires have treated territory as being of itself good, despite occasional warnings about the dangers of overextension. They have felt that increases in land area enhance the power of the state and prove the possession of power by the state. Machiavelli went so far as to conclude that "the wish to acquire more [territory] is admittedly a very natural and common thing; and when men succeed in this they are always praised rather than condemned."¹ It is not surprising, therefore, that the world is beset by numerous conflicting claims to territory. Yet political geographers have not given much attention to the bases of these conflicting claims, in contrast to their work on the Staatsidee and on the raison d'être of the state.² Even Isaiah Bowman rarely dealt with claims as such in his classic "The New World"; his detailed discussion of problems was largely limited to economic difficulties and to the presence of linguistic minorities.³

Ratzel saw the expansion of the state as an organic process that was divorced from such niceties as claims and defenses of claims.⁴ Because of the enormous publicity accorded the doctrine of Geopolitik, this organic emphasis dominated the publications within the field until the early 1950's. Whittlesey, in his study of France, seemed to view the expansion of that particular state as resulting from a long process of growth, conditioned by the physical factors of the terrain.⁵ One had to look outside of the geographical discipline, to a Swiss political commentator and historian, to find a clear statement to the contrary.

² The concept of the Staatsidee, or state idea, was first formulated by Friedrich Ratzel: Politische Geographie (Munich and Leipzig, 1897). A further discussion is found in Otto MauI: Politische Geographie (Berlin, 1956), especially pp. 25-26. The most thorough English treatment of both Staatsidee and raison d'être is in Richard Harshorne: The Concepts of "Raison d'être" and "Maturity" of States, Annals Assn. of Amer. Geogr., Vol. 30, 1940, pp. 59-60.
⁴ Ratzel's seven laws of the spatial growth of states are concisely summarized in Roger E. Kasperson and Julian V. Minghi, edits.: The Structure of Political Geography (Chicago, 1969), pp. 7-8.
⁵ Derwent S. Whittlesey: France, Archetype of the Occidental National State, in his The Earth and the State (New York, 1939), Chap. 6, pp. 129-165.
It is always a great temptation to project the result of a development back to its beginning and to find history prescribed in advance on the map without taking into consideration how much the map itself has been transformed by history. The growth of France can be explained by the neat articulation of the French provinces round the nucleus of the Paris basin . . . or by the existence of a radial river system without high watersheds to act as obstacles to traffic. . . . But that is begging the question. None of these geographical factors had any reality, either in political or economic development or in the heads of the men of the High Middle Ages . . . . The Capetians were not confronted with a predestined French "unity"; for it was they who first created it.\(^6\)

American functionalist political geographers, following the example of Hartshorne, have tended to treat the land as given and have focused their attention on the forces that seem to draw a nation together or to pull it apart.\(^7\) Similarly, Gottmann's emphasis on circulation and iconography appears to presuppose the existence of a state of stable territorial dimension.\(^8\) However, as abundant recent examples show, the land cannot be taken as given; our century has witnessed dozens of conflicting claims on territory and transfers of control over territory. Much of the tension of our time has been based on disagreements about which state, nation, race, or class possesses the right to rule certain territories.\(^9\)

Traditionally, international law has listed four modes by which sovereignty over territory can be acquired: occupation, that is, establishing control over territory that was unadministered (terra nullius or res nullius) at the time of the claim; prescription, or the maintenance of effective control for a sufficiently long period of time; cession, or transfer by treaty; and accretion, or growth of territory through acts of nature.\(^10\) A fifth mode, conquest, has, at least theoretically, been placed outside the law by Article 2 of the United Nations Charter:

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\(^9\) Several textbooks in political geography deal briefly with territorial claims. The fullest treatments are given in J. R. V. Prescott: Political Geography (London and New York, 1972), pp. 66–71, and in Norman J. G. Pounds: Political Geography (2nd ed.; New York, St. Louis, and elsewhere, 1972), pp. 252–263. Although now almost thirty years old, the most complete study of the topic remains that of Norman Hill: Claims to Territory in International Law and Relations (London, New York, and Toronto, 1945).

\(^10\) R. Y. Jennings: The Acquisition of Territory in International Law (Manchester, 1965), pp. 6–7.
All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State.

Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State.

The essentially conservative nature of international law is further exemplified in the statute of the International Court of Justice, which prescribes that the court shall apply international conventions, international customs, the general principles of law recognized by civilized nations, and the judicial decisions and the teachings of qualified experts in reaching decisions.\footnote{11} Clearly "the bias of the existing law is towards stability, the status quo, and the present effective possession."\footnote{12}

This conservatism is evident not only in the activities of the long-established tribunals but also in the newer regional organizations that have attempted to adjudicate territorial disputes. In his statement to the Organization of African Unity, Modibo Keita, the former president of Mali, stated, "We must take Africa as it is, and we must renounce any territorial claims. . . . African unity demands of each of us complete respect for the legacy we have received from the colonial system, that is to say: maintenance of the present frontiers of our respective states."\footnote{13}

The dynamic claims that work for changes in territorial control fall within the realm of political claims, which places them outside the scope of legal claims that can be handled within the terms of reference of normal international law. Political claims often appeal "to considerations that are looked upon as superior to the law."\footnote{14} In many, perhaps most, cases claims are based ultimately on nonlegal factors, and "legal arguments are used, not in order that the legal issues may be properly determined, but simply tactically in order to fortify the political claim."\footnote{15}

Various classifications of nonlegal claims have been devised. Hill

\footnote{12} Jennings, op. cit. [see footnote 10 above], p. 70.
\footnote{14} Hill, op. cit. [see footnote 9 above], pp. 26-27.
presented six types: strategic, geographical, historical, economic, ethnic, and miscellaneous. Pounds also listed six: strategic, economic, ethnic, proximity, spheres of influence, and geographical. An expanded listing was given by Strausz-Hupé and Possony in their twelve criteria for delimiting a frontier: linguistic, religious, cultural, military, economic, historical, administrative, ideological, geographical, racial, sociological, and psychological. Claims based on these considerations, though popular, lack a strong legal base. "The textbooks of international law do not recognize any legal right of self-determination, nor do they know any standards for determining which groups are entitled to independence." Nevertheless, such claims are often sympathetically heard by individual Great Powers or by the United Nations.

All claims to territory can be placed in one or more of the following categories: (1) effective control, (2) historical, (3) cultural, (4) territorial integrity, (5) economic, (6) elitist, and (7) ideological.

Effective Control

The principal legal claim to territory is the uncontested administration of the land and its resident population. It is normally the strongest claim of all; in most of the world at any one time it is assumed and accepted. In law, effective control is necessary for title. Legally no new prescription of a territory can be made without an abandonment of title ("a failure to maintain a minimum degree of sovereign activity") by the previously controlling state.

The definition of effective control remains necessarily variable; for the nature of the territory affects the degree of sovereign activity needed to establish effective control. Morocco and Algeria have argued about whether or not the Sahara is res nullius. The Greenland dispute led one analyst to ask, "What is required to constitute sovereignty over an arctic territory . . . ? Is sovereignty over part of the island sufficient . . . ?" In the case of the Arctic, the Canadians asserted their

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16 Hill, op. cit. [see footnote 9 above].
17 Pounds, op. cit. [see footnote 9 above].
20 Jennings, op. cit. [see footnote 10 above], pp. 4, 5, and 30.
claim by placing a plaque on a centrally located island. It is clear, however, that international acceptance of the claim has been primarily a matter either of the disinterest of the Americans, Swedes, Norwegians, and Danes or of their hesitancy to challenge the British-Canadian position. A dependence on plaques alone certainly does not make a strong case for sovereignty, as Britain found in the Falkland Islands. Effective control implies continuous administration and effective occupation of the land; ideally, the territory should be settled throughout and the natural resources of the area should be developed and used.

The weight given to effective control in all legal decisions suggests strongly that “possession is nine points of the law.” The temptation for the powerful to take from the weak has existed throughout history. Thus Bismarck justified the German annexation of Alsace-Lorraine partly on the right of conquest. And after the colonists of Belize repulsed the small force of the Captain-General of the Yucatan in 1798, they claimed British sovereignty over their area by right of conquest. In truth, almost every European state began with a conquest of some sort. Although this right has been officially disallowed by the United Nations Charter, the examples of Palestine (1948–1949) and Goa (1961) suggest that a limited form of conquest is still possible.

A special form of effective control occurs when a newly independent state inherits its territory from the preexisting colonial system. *Uti possidetis, ita possideatis*—as you possess, so may you possess—is the operative principle. Thus all the Latin American states claimed sovereignty over the territories they had held as colonies; effective control over the prescribed portion of land simply devolved from the colonial to the local power. The continuance of the old boundaries within the new Africa further suggests the potency of this principle.

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23 In 1774 because of the cost of occupation, the British withdrew their garrison from the Falklands but continued to claim possession of the islands, “in witness whereof this plate is set up, and his Britannic Majesty’s colours left flying as a mark of possession.” Effective British control did not resume until 1835 (J. C. J. Metford: Falklands or Malvinas? The Background to the Dispute, *Internatl. Affairs*, Vol. 44, 1968, pp. 469–481; references on pp. 468 and 476).


HISTORICAL CLAIMS

Effective control is the most legal basis of claims, but history forms the most emotional basis. History means memory and the history of a nation forms the central core of its self-identity. As Boggs has commented, "Boundary disputes in Europe . . . arise in many instances because too much history is remembered by both parties." 26

All historical claims are based on priority or duration. Priority simply means being there first in some sense. Discovery is the ultimate case of priority, but discovery by itself has generally not been enough to guarantee continued control. 27 However, the fortuitous act of discovery has in practice given the discoverer an option to pursue control. Thus, incredible as it may now seem, Stanley as a result of his transcontinental journey was able to offer the entire Congo to the King of Belgium. Similarly, in 1902 Otto Sverdrup offered several Arctic islands, which he had discovered and explored, first to Sweden and then to Norway.

In Europe the argument from priority has generally concerned settlement. The Serbs claimed that they were the indigenes in the western Banat; they were there before the Magyars, Germans, and Rumanians. In Transylvania the Magyars claimed that they had settled the region and had organized the state before the immigration of the Rumanians. "The essence of the problem of Transylvania in the soul of every Hungarian is . . . the question [of] whether it conforms to the human idea of justice to allot the house of a host to the family of newcomers whom he has suffered as guests against his will." 28 Priority of settlement can be argued even if the cultural proofs are no longer obvious. Thus the Yugoslavs claimed the Klagenfurt Basin on the grounds that it "had once been Slovene and would still be, were it not for the discriminating policies of the Austrian Government." 29 Likewise, Alfred Walheim, a German nationalist claiming Sopron for Austria, asked, "And which Ödenburg [Sopron] should be polled? The present one which the Magyars have made into a

27 "To establish a right to dominion on the fortuitous act of discovery, or on a momentary possession, is not sufficient: it must be formal or tranquil settlement, which includes habitation and culture" (Manuel Moreno, Argentine Minister in London, 1833, to Lord Palmerston, quoted in Metford, op. cit. [see footnote 23 above], p. 469).
29 Hill, op. cit. [see footnote 9 above], p. 104.
noticeably Magyar city, or the future one which we will have again made into a German city."^{30}

The principal of priority is applied within strict cultural and temporal limits. Some degree of equality is assumed to exist among the claimants; the principle is only operative among political entities which recognize each others' "international personality."^{31} During the Age of Discovery, the native governments of the Americas, Africa, Asia, and Australia, which obviously existed prior to the establishment of European claims, were largely ignored by the European claimants. The English, French, Portuguese, Spanish, and Dutch were concerned about their relative priorities of discovery and settlement, but any Choctaw or Iroquois title to the land was scarcely considered.

The determination of priority is rarely pushed back to the beginnings of history; rather, it is extended to the furthest point in time pertinent to the existing problem. The arguments about priority in Transylvania all dealt with the nature of the settlement in that area just before and just after the Magyar Conquest, about A.D. 900. The Roman conquest of the Dacians, the earlier conquests of Burebista, and the still earlier Celtic, Scythian, and Illyrian population movements were of no consequence to the conflicting Magyar and Rumanian claims. In the European subdivision of the Americas, the threshold date for any calculation of priority was 1492, visits by St. Brendan and the Vikings notwithstanding.

Historical claims are greatly strengthened by duration, by the existence over a long period of time (preferably to the present day) of those features that form the basis of the claim. Probably nothing can produce a stronger nonlegal claim than a peasantry that has lived in a territory for centuries. The close tie of peasants to the land suggests a man–land symbiosis that should not be violated politically.^{32}

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^{31} "International law applies only between entities which can claim international personality. . . . The entities concerned must be prepared to grant each other at least equality of status" (Georg Schwarzenberger: A Manual of International Law [4th ed.]; 2 vols.; London and New York, 1966], Vol. 1, pp. 1–3 and 47).

^{32} One of the clearest expositions of the belief in the primacy of the peasantry occurred in "the resolution of the leaders of the Croat and Serb parties in Croatia" (Zagreb, Nov. 7, 1932). Article 2 stated, "Whereas the peasants, considered as a collective whole, are the creators of our national culture, of our economic life, of our social structure and of our moral values, and moreover represent the overwhelming majority of the nation, the peasants have to construct a basis for the organisation of our life as a whole" (August Kossutitch: The Croatian Problem, Internatl. Affairs, Vol. 12, 1933, pp. 79–106; reference on p. 105).
dwellers do not share in this image, nor, obviously, do owners or managers of estates. In 1919 the Hungarian boundaries were partly located on the principle that the towns were to go with the countryside; thus Magyar urban centers were allotted to neighboring states because the countryside was Rumanian, Slovak, or Serb and despite the fact that the urban population outnumbered the rural in the immediate vicinity. (Although the peasantry formed the basis for many nationalist claims, these claims were almost always stated and urged by urbanites, generally by the intellectuals of the capital city.)

A timeless peasantry forms so powerful a claim to territory that states with such minority groups have tried various methods of liquidating the problem. Unfortunately, the most effective solution appears to be the forced uprooting and dispersal of the peoples concerned. Such Draconian measures have been applied all too frequently, from the Acadians of Nova Scotia, to the expulsion of the Ionian Greeks by the Turks, to the displaced populations of Eastern Europe. Where a mutual expulsion has been arranged, the euphemistic term "exchange of population" is applied. A far more humane method has been to attempt to assimilate the minority population. This succeeds well with urbanites but rather poorly with peasants. Finally, the least cruel has been Machiavelli's advice to plant colonies of loyal people within the area concerned.\(^33\) As the British have learned in Northern Ireland, this technique does not guarantee success.

Nations have a distressing tendency to remember in detail all the grandeur of the past. Thus the areal extents of former kingdoms have formed the bases of many conflicting claims in Eastern Europe. Each Balkan group when it emerged from Turkish rule claimed the territory that had formed the state of some mighty prince centuries before. From around 1700 to 1914 one of the continuing Hungarian demands was that the Hapsburgs return to Hungary every square foot of the lands of King St. Stephen (A.D. 1000). Many claims have been based on the continuance of place names; toponymy is no tranquil study in Central Europe.

The most powerful claim based on history is when the territory is seen as the homeland of a nation. The term "homeland" includes both priority and duration and expresses the ultimate case of man-land symbiosis. The land becomes an indispensable part of the nation's self-identity. Thus it would probably have been useless to think of setting up a Jewish nation-state anywhere but in Palestine. One need

\(^33\) Machiavelli, op. cit. [see footnote 1 above], Chap. 3, On Mixed Principalities.
only read the Israeli defenses of their claims to present-day Israel to realize that that particular territory remained their homeland regardless of who else happened to occupy it or how long the alien occupation happened to last. To a lesser degree the American Indians feel that despite the overwhelming white occupancy of the land North America remains their homeland, and that they therefore possess some kind of claim to it.

When a nation "reclaims . . . [territory] which it once held as of right," disannexation, or revindication, or restoration is said to occur. Disannexation is based on the assumption that "the normal course of history was rent by conquest" and that restoration to the original controlling nation will be restitution in justice.\(^{34}\) Thus disannexation is the reply to the right of conquest. The Israelis view their return to Palestine in these terms. In 1871 the Germans justified their acquisition of Alsace-Lorraine as a disannexation, while the French in 1917 referred to the coming disannexation of the same territory. Lloyd George called this a restoration, while President Wilson advised that "the wrong done to France by Prussia in 1871 . . . should be righted.\(^{35}\)

**Cultural Claims**

The cultural category of claims includes all those based on the sense of a group of people belonging together. This is well expressed in Hartshorne's definition of nationality: "a feeling on the part of the people in any area of more than provincial size that they belong together. Nationality, then, is a feeling of loyalty to a particular country, both land and people."\(^{36}\) This definition includes not only nationalism and their attendant irredentisms, but also all those ethnic, religious, and other cultural characteristics that bind people together. Whereas in Europe language has been the principal unifying force over the past two centuries, in the Middle East religion has enjoyed primacy. An attempt to ascertain the desires of the inhabitants of Eritrea revealed a split along religious lines: the Muslims wished independence, whereas the Christians (Coptic) wished union with Ethiopia.\(^{37}\) The rulers of Saudi Arabia claimed the Buraimi Oasis largely on religious grounds: the tribes had paid religious tribute, and

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\(^{34}\) Hill, op. cit. [see footnote 9 above], pp. 41 and 87-89.

\(^{35}\) Ibid., pp. 88-89.


many of them were converts to Wahhabi doctrine and acknowledged the spiritual authority of the Saudi ruler.\textsuperscript{38} The founding of Pakistan is another well-known case.

Irredentism depends on the existence of compact areas occupied by members of an ethnic group, located just beyond the limits of a state controlled by that ethnic group. Many such situations have plagued Europe in this century: the Italians in the Trentino, the Austrians in the South Tirol, the Sudeten Germans, the Magyars outside Hungary, the Albanians in the Kosmet. One can point to potential examples elsewhere, for instance, the Mexicans in the American Southwest and the French Canadians in New England. Probably the most potent current ethnic dispute is that between the Somalis and their neighbors.

The ultimate cultural-political ideal is expressed in the catchphrase "self-determination." In practice this has meant the right of a group to have its own state or to share with ethnic kinsmen in the fashioning of a state. The difficulties that have resulted from this ideal have been numerous. As Paul Ignotus, a journalist, has cynically remarked, "Self-determination, triumphant in Danubian Europe in the autumn of 1918 and after, meant that a few gentlemen in and around Paris told the peoples concerned what to 'determine' about their future; and this command was either meekly carried out, or degenerated into terror and gang warfare."\textsuperscript{39}

Attempts to implement self-determination immediately lead to questions of definition of the area concerned and, more simply, of its size. "We often find that some homogeneous population, while considering itself a national unit, may be too small to form a convenient area of government, while as soon as you enlarge the area, it ceases to be homogeneous."\textsuperscript{40} The Ibos were a minority within Nigeria but the principal tribe within their homeland, Biafra. Within Biafra, however, other tribes were minorities; these, in turn, were majorities within their small local areas. No threshold sizes for area or population have been established. Judging from the membership of the United Nations, none can be said to exist.


\textsuperscript{39} Paul Ignotus: Czechs, Magyars, Slovaks, \textit{Political Quart.}, Vol. 40, 1969, pp. 187-204; reference on p. 188.

The cultural argument tends to lead to another ideal, that of majority rule. This ideal is now widely espoused; it has been generally accepted by the members of the international community. It is closely linked to the democratic slogan of "one man one vote." According to this principle the largest cultural group is entitled to control the administration of the territory. In practice, majority rule works counter to irredentism. Instead of changing boundaries to allow members of the one nationality to exist within the same state, the boundaries remain set and the minorities are asked to conform to the wishes of the majority.

It is thus a paradox that the cultural principle can lead either toward irredentism or toward majority rule—that is, toward an extremely dynamic or a very conservative position in terms of territorial control. Although majority rule is highly venerated in the world today, it has been shown to be almost unworkable in those states with strong self-conscious minorities, such as Cyprus, Ceylon, Northern Ireland, and Yugoslavia before 1945.

Cultural arguments have occasionally been used to express claims extending far beyond the expected ethnic or religious limits. The Greeks claimed much of Albania on the grounds that despite language many of its people had been hellenized. The Germans claimed that large areas of Poland were part of the "German culturelands."

Territorial Integrity

Territorial integrity includes all claims based on the relative location of an area. Land is claimed because it is contiguous with territory already controlled or because some physical connectivity is perceived to exist. During the Age of Discovery vast tracts were annexed on the basis of linear exploration along coasts or rivers or on the establishment of isolated posts. Relatively small-scale activities formed the bases for claims to the entire Amazon and Mississippi watersheds. The efficacy of such sweeping claims depended, of course, on the absence of competition; the French claim to the Mississippi Basin became limited to the western side of the river by the advance of the British-Americans into the eastern part of the basin. During the nineteenth century such terms as "regions of attraction" and "hinterland" were used as rationales for the extension of claims.

For decades now geographers have been attempting to demolish the concepts of natural regions and natural boundaries, yet people continue to perceive certain areas as possessing a unity, an integrity, a wholeness. The history of diplomacy is full of "geographical" claims
that are based on this perception. It might be fruitful for geographers
to attempt to determine just which natural and cultural features are
seen as being unitive or separative and to investigate why they are per-
ceived to be so.

At their largest these territorial unities may be of continental scale.
Probably the most famous is the concept of American "Manifest Des-
tiny," which argued for the political unification of all of North
America. Somewhat weaker is the current pan-Africanism which, in
addition to working toward some kind of African unity, advocates the
removal of all "white" political supremacy from the continent. One of
the roots of the implacable Arab hostility to Israel appears to be the
feeling that Israel is an intolerable intrusion into the middle of the
Islamic Arab world.

More commonly, natural regions are of a smaller scale, such as
river basins, peninsulas, and islands. Florida was termed "an area that
physiographically belonged to the United States."41 Britain, France,
and Spain each claimed all the Falkland Islands on the basis of settle-
ments established on only a few. Yugoslavia claimed Trieste on the
grounds of geographical unity. The Rumanians claimed the entire
Banat because of its supposed indivisibility: "The Banat is not a geo-
graphical term, it is a reality, a real geographical region and also a real
province forming at the present day, as it has throughout the ages, a
complete and indivisible whole. The waterways which surround the
Banat on three sides form a natural frontier."42 One of the most inter-
esting examples is that of Greenland. In its Arctic claims Canada did
not include the northwestern parts of Greenland despite the fact that
they had been discovered by British subjects. In essence the Danish
claim across the ice cap was considered to be more significant than the
British claim to both sides of the water passage. The territorial integ-
rity of Greenland was not to be violated despite the fact that all set-
tlement was on the coast. Perhaps because of the way we draw our
maps, land appears to join and water to separate.

A recent example of the power of this concept was the United Na-
tions vote in December, 1968, calling for the transfer of Gibraltar
from Britain to Spain. Evidently the fact that Gibraltar was a part of
the Iberian mainland carried more weight than the expressed wishes
of the inhabitants, or the obvious fact that Britain had exercised ef-
fective control over the Rock for more than two centuries. Similarly,

42 Hill, op. cit. [see footnote 9 above], p. 79.
Nehru felt that India had the right to seize Goa from Portugal, despite some 470 years of Portuguese control.

Emotions become inflamed when a nation is convinced that the predestined integrity of its territory has been violated. German nationalists could never accept the interruption of the Reich caused by the Polish Corridor. Nor have Irish nationalists been willing to accept the division of the island since 1921. Claims of this type are strengthened when the coveted territory is seen not only as contiguous but also as necessary to the security of the claimant. The many attempts to obtain strategic frontiers, or military frontiers, serve as examples; thus the Soviet armies seized Karelia from Finland to move the boundary farther away from Leningrad.

A recent development has been the extension of the principle of contiguity back into the sea. Whereas in previous centuries claims were advanced from shorelines and rivers into the interior landmasses, now claims are being extended from the landmasses and islands into the oceans to the limits of proclaimed sovereignty, to the continental shelves, and perhaps into the ocean basins themselves.\footnote{43}

**Economic Claims**

Economic claims include all those which maintain that control of the coveted territory is necessary to the viability or development of the state. Such claims are usually specific and tend to deal with small bits of territory. Port cities such as Fiume and Danzig, railroad lines, ship channels, and mineral deposits have all been declared essential to the economic life of a state. Thomas Jefferson asserted that “the possessor of . . . [New Orleans] is our natural and habitual enemy.”\footnote{44} Hungary lost such Magyar cities as Arad, Nagyvárad (Oradea-Mare), and Lőcse (Lučenec) largely because of their location on railroad lines that were said to be necessary to the viability of Rumania and Czechoslovakia. Economic claims have occasionally been of a sweeping nature, such as the Japanese defense of their conquest of Manchuria and the German demand for a Lebensraum of indefinite extent. “The right to acquire land and soil can become a duty, if without an extension of soil a great people appears doomed to destruction.”\footnote{45}


\footnote{44} Hill, *op. cit.* [see footnote 9 above], p. 95.

Frequently, at the end of a devastating war, states will demand territory primarily as compensation for losses incurred. In 1815, when Austria was forced to surrender the Netherlands, she obtained Venice and Milan as recompense; Sweden obtained Norway to compensate for her loss of Pomerania and Finland; the Netherlands received Belgium for surrendering Ceylon, South Africa, and Guyana to the British. In 1919 France requested control of the Saar Basin as a reparation for the destroyed coal mines in the north of France.

The question of whether or not to grant independence has frequently been argued or decided on economic grounds. Thus a commission of investigation recommended that neither Eritrea nor the Fezzan be allowed independence because of their scarcity of resources and population.\textsuperscript{46} Movements of secessionist provinces for independence are usually defended on economic as well as cultural grounds.

**Elitist Claims**

Elitist claims state that a particular minority has the right or duty to control certain territories. Such claims are currently out of fashion since they run counter to the democratic ideal. However, throughout history they have been the most widely used claims. Every group of conquerors, such as the Macedonians, the Normans, and the Mongols, has ruled as an elite. The principle of legitimacy, as it was understood before 1800, was based on the inherited right of certain families to control and allot territory. Landholdings and provinces could be combined by marriage or separated by inheritance. The monarchy and the nobility were felt to have the right (even the divine right) to rule the territory; the sovereign was sovereign.

On a broader scale, many nations have felt that as cultural or technological elites they have had the right to control the territories and populations of their neighbors.\textsuperscript{47} In the early years of this century it

\textsuperscript{46} Stafford, op. cit. [see footnote 37 above], pp. 49 and 54.

\textsuperscript{47} "Haushofer's basic doctrine is that every geographic region should be under a people with certain definite qualities, and that a superior race is justified in occupying its destined area even if other inferior national groups must be exterminated in order to make this possible" (Hill, op. cit. [see footnote 9 above], p. 10, abstracting from Karl Haushofer: Grenzen in ihrer geographischen und politischen Bedeutung [Berlin, 1927]).
was still widely believed in much of the world that the white race had a God-given mandate to control the world. The most common contemporary elitist claim is based on technological ability. A particular group, so the claim goes, should have control over a territory because it has the ability to develop to the fullest the potential of the territory. The resources of the land, the possibilities of the site, will be unrealized if some other group is allowed to control it. This point of view can be used to negate other arguments, especially those based on priority; the earlier group may lose its claim to the land if it does not attempt to develop the resources of the area, to improve the land, and to contribute to world economic productivity. Thus one of the stronger arguments put forward by the Israelis is that they have made the desert bloom.

**Ideological Claims**

Finally, there are the claims that have been labeled ideological. Obviously all claims are based on some ideology, some Weltanschauung; the claims that are specifically termed ideological are those in which the ideology itself is the excuse for the claim. Historically, the most notable examples of these have been the many attempts to spread some kind of faith through extensive territories: the Crusades, the eastward drive of the Teutonic Knights, the Muslim outburst from Arabia, the advance of the Ottoman Turks, the dream of a pan-Slavic empire, even the "special mission" of the American people to "extend the area of freedom."

Perhaps the most potent ideology of the past two decades has been anticolonialism. Dozens of new states have arisen out of the corpus of the former British Empire alone. Somalia has based its opposition to

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48 According to Senator Thomas Hart Benton, of Missouri, the members of the white race had a superior claim to land because they "used it according to the intentions of the Creator" (Albert K. Weinberg: Manifest Destiny: A Study of Nationalist Expansionism in American History [Baltimore, 1935], p. 73).

49 Bowman, op. cit. [see footnote 5 above], p. 22.

50 "If they [the Arabs] really love this land why did they let it languish? Why did they not drain the spreading marshes? Why did they not stop the advancing sands? plant trees? build cities? We love this country. The proof of our love is what we have done for this land with our hands. For this is how we understand love: to transform desert into paradise" (from a defense of Israel in The Spectator [Hamilton, Ontario] Aug. 29, 1970, quoting from a pamphlet issued by the Association for Peace, based in Tel Aviv).

51 Weinberg, op. cit. [see footnote 48 above], pp. 100–129.
the African acceptance of uti possidetis on "the immorality and illegality of colonial borders."\textsuperscript{52} For United Nations members the attraction of the Spanish claim to Gibraltar was largely due to its anti-colonialist nature. The attraction of the anticolonial faith has been so pervasive that a British member of the commission of investigation seemed baffled by its absence: "somewhat strangely the Danakil of the coastal area [of Eritrea] . . . asked for return to Italy."\textsuperscript{53}

A potent claim in recent decades has been the call to justice, that is, the right to obtain recompense for injustices and sufferings endured. We are all familiar with the arguments for justice by both sides in the current case of Israel, but the idea of recompense has been with us for centuries. To note only two examples: after the First Balkan War Bulgaria claimed the greater part of the gained Turkish Territory on the grounds that it (Bulgaria) had endured most of the fighting; and after World War II Ethiopia, because of the Italian occupation it had suffered, was awarded the former Italian colony of Eritrea out of a sense of sympathy and justice.

In practice most territorial claims are composites of these seven categories. Thus the claim of the Catholic Irish to all of Ireland is based on territorial integrity, the unity of the whole island; on priority, they occupied the entire island before the plantation of the Scot Ulstermen; on duration, they have always been there and hence are the only true Irish; on cultural majority, they form the majority in the whole island; on self-determination for the Catholics of the North; and on justice. In contrast, the Orangemen maintain their right to control the six counties on cultural majority, they form the majority in the North; on effective control, which they clearly enjoyed until the outbreak of the current troubles; on economic elitism, they have produced a standard of living higher than that which exists in the South; on justice, they have always stood by Britain; and on the weaker arguments of duration—500 years certainly makes them Irish—and of territorial integrity, the unity of the British Isles.

\textbf{Unresolved Questions}

Problems arise when claims clash. Because of the frequency of such clashes it would be advisable for scholars and statesmen to examine a few basic questions that seem to arise repeatedly in one form or another.


\textsuperscript{53} Stafford, \textit{op. cit.} [see footnote 57 above], p. 49.
Can any territory be said to belong permanently to a group, even though the group no longer occupies the land effectively? For example, can American Indians entertain any claim to the land outside their present reserves? If so, what are the limits to their claims? On the other hand, can a traditionalist claim on a homeland be overcome by the simple expedient of moving in sufficient numbers of another group, such as the immigration of Italians into the South Tirol?

Can territory under the effective control of one state be claimed by another state on the grounds that it is of far greater significance to the claimant than to the possessor? For example, Skagway is of no particular importance to Alaska but is potentially of great economic importance to the Canadian Yukon. Does effective control automatically overrule a clear economic claim?

If a group that controls a territory invites in or allows in members of another group who then do not assimilate but become the majority, which has the greater claim, the hosts because of priority or the immigrants who are the majority? The unsuccessful Magyar claim to retain Transylvania in 1918 was based on priority. Opting for the majority suggests that the group with the higher birthrate should always gain political power.\textsuperscript{54} Zero Population Growth could be political suicide.

If an elite group develops an efficient productive economy, but a group that lacks the technological training to maintain such an economy forms the cultural majority, which has the greater claim, the economic elite or the majority? If a politically organized group within a state wishes to secede from that state, who has the greater claim, the overall majority or the local majority? In the hierarchy of claims do federal claims have precedence over regional or provincial claims, or vice versa?

The preceding questions may seem na"ive to some readers. Territorial disputes have almost always been settled by force, and as long as the great states claim to be sovereign little prospect of significant change exists. However, the arguments prepared on these bases have been of importance to the smaller states. The boundaries delimited in Eastern Europe in 1919 were largely the result of specific evalua-

\textsuperscript{54} The Israelis are facing precisely this problem: the Arabs of the West Bank and the Gaza Strip have a higher rate of population increase than the Jews have. Likewise, the Flemings have increased their political power in Belgium, through a century of higher birthrates than the Walloons have had; and in the nineteenth century the French-Canadians looked forward to regaining political power through the revanche des berceaux.
tions of myriad competing claims made by the Triple Entente powers. That these transfers of territory were not merely exercises in power politics is proved by the award of territory to a noncombatant (Denmark), by a transfer from one enemy state to another (Hungary to Austria), and by many plebiscites.

At present Israelis and Arabs, Pakistanis, Indians, and Bangladesh supporters, Ecuadorians, and Somalis are all eager to defend their territorial claims before world opinion. The United Nations has already made and enacted a number of territorial decisions: Congo-Katanga, Cyprus, and Egypt (1956) are three examples. In these cases the claims of Katanga, the Turks, and the British and French were, in effect, rejected. Even the Great Powers seem to feel the need to defend their territorial activities before the United Nations. As Hill stated almost thirty years ago, "The evidence points clearly to the conclusion that in the great majority of non-legal disputes over territory, the statements of claims by the disputants are given careful consideration and used in good faith. Disputants would hardly go to the pains of formulating elaborate statements if they felt that decisions would certainly be on some other basis."\(^{55}\)

A Theoretical Evaluation

Is a relative weighting of these bases of claims possible? In a lengthy evaluation, Hill concluded that no permanent ranking is possible. From his standpoint at the close of World War II, the historic claims were confusing, and the strategic were generally deplored. Economic claims, though also deplorable, he considered to be fairly strong. Geographical claims were popular, because the natural boundary was a powerful concept. However, "beyond doubt, the claim that has attained first place in popular esteem is the ethnic . . . [the] democratic."\(^{56}\)

In the past decade, inspired by the works of Lorenz and of Ardrey,\(^{57}\) geographers have begun to fashion a theory of territoriality. Analysts, knowing of the observed attachment of individual animals or groups of animals to distinct areas, have postulated a similar innate human attachment to discrete space. Soja lists as the three basic ingredients of human territoriality the sense of spatial identity, the

\(^{55}\) Hill, op. cit. [see footnote 9 above], pp. 166–167.

\(^{56}\) Ibid., pp. 167–180.

sense of exclusiveness (the citizen-alien dichotomy), and the compartmentalization or channeling of human interaction in space.  

Territoriality, unless its meaning is extended to include all human identifications with, and evaluations of, space, fits within the fourth category of bases of claims, territorial integrity. As such it cannot serve as a unifying concept, bringing together all the various claims on territory. Territoriality suggests further that the sense of territorial ownership is at its peak at some fixed point or within a core area and that this sense of proprietorship declines toward the periphery. It would be difficult to prove that such a diminution of nationalist feeling does indeed occur; rather, it is the essence of territorial claims for the protagonists to be concerned primarily with situations along or beyond the peripheries.

It may prove useful to examine in a theoretical sequence the process that results in a close tie of a people with their land, in a man-land pair bonding. Cultural unity will be assumed, and the questions of the development of leadership, of an elite, and of the expression of the cultural consciousness will be left aside as outside the scope of this schema.

At the opening stage of the schema the group resides in what has been termed abstract space. Obviously some relationship with superficial space is necessary, but no ties with specific space, that is with particular points or areas, are felt. The group is, in theory, free-floating. At the second stage the group achieves effective control of a fairly specific area, although the frontiers remain vague. This can be taken to be the mythicized ancestral conquest, the legendary entry of the heros, the Landesnahme, which forms the beginnings of political history for most of the nations of Europe. Plymouth Rock and Budapest's magnificent millennial monument representing the entry of the Magyars into the Pannonian Basin illustrate dramatically the psychological significance of this stage. The group has become rooted, implanted in a certain land, and that land is to be imprinted with the image of the group.

At the third stage the group develops its own territorial image. Space is no longer abstract, but bounded and compartmentalized. It no longer diverges, it converges; it is coalescent. Territorial units are perceived to exist, and the members of the group come to identify themselves with these units. Man has fashioned space in his own

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image. The group learns to understand itself in terms of, and in conjunction with, the land it perceives as being its own. At the fourth stage man becomes utilitarian. The group comes to see its perceived space not only in terms of extents and limits, but also in terms of its economic possibilities. Development commences or, if the land had been exploited earlier, is intensified.

The fifth stage consists simply of a period of time sufficient to allow for the development of an intense national memory. Long possession suggests unqualified ownership and leads to a belief in immutability. The perceived territorial units become accepted as natural units or regions. A deeper self-understanding emerges in terms of the group's particular terrain. Ultimately there could be the man–land symbiosis of man in harmony with nature. The group need not include a peasantry, because it could be argued that the corporation farm on the Great Plains is as much a local man–land symbiosis as is the Oriental rice farmer in his milieu. Nor need the urbanite be ignored, even though nationalist intellectuals continue to overvalue a rural image.

Without memory or the sense of historic continuity the man–land relationship remains overly economic; without economic control the relationship remains only spatial (as in the Canadian North); without territorial integrity there can be no clear national identity; without effective control there can be no rootedness in the area. Man's claim to a particular part of space may thus be viewed as a multidimensioned structure. At the center is effective control, which binds the area to the particular group. Territorial integrity forms a horizontal dimension by bounding the space that is perceived to be one's own. History forms the vertical dimension, extending the ties through time and creating a sense of immutability. Finally, the degree of cultural similarity defines the intensity of the cohesiveness of the entire structure.

Ultimately we can conclude that three interrelated types of claims possess the greatest persuasive power: effective control, territorial integrity, and a combination of culture and history. Effective control is the basis of international law. Since it is also the status quo it has inertia and the desire for peace on its side. Force must be applied to change the status quo, and given the international network of alliances force can rarely be applied lightly. Territorial integrity is based on man's perception of space. This also can be a conservative factor, since existing units, from municipalities to states, come in time to be perceived as natural. The combination of cultural and historical, of ethnic and duration, suggests the closest possible man–land
symbiosis. When these three ultimate claims coexist in an area it is
difficult to imagine a territorial dispute. Could any other state hope
to put forward a serious claim to any part of England or to the Île-de-
France?

Thus the strongest claims to territory are by their nature conserva-
tive or at least traditional. The three remaining categories of claims
tend to be dynamic. Economic considerations force statesmen to look
beyond national boundaries. A belief in the rights of an elite leads
easily to imperialism. Most potent of all, ideology transcends tradi-
tional notions of space and calls for new structures on a world scale.
Whereas effective control, territorial integrity, history, and culture
tend to maintain present territorial patterns or to create smaller local
units, economy, elitism, and especially ideology lead toward the amal-
gamation of territory into ever-larger units. Eventually a one-world
ideology may vitiate the power of claims based on local culture and
history. In the meantime a more just evaluation of conflicting claims
is needed, based not only on the legal interpretation of previous
treaties or established claims but also on a careful balance of all the
possible justifications for control of territory.