Unweaving the Threads: Territoriality, National Ownership of Land and Asylum Policy

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1. Introduction

Bounded territorial space has characterised the sovereign state. Although much attention has been given to the ‘positive’ attributes of bounded territorial space, the ‘structuring effect’ of conceptions of territory on our thinking about political membership and the treatment of admission seekers has been overlooked.1

The lack of attention to the spatial powers that national statism mobilises may be problematic,2 but it is hardly surprising. Territory has been viewed as an objective reality. As such, it is seen as a politically innocent concept.3 It is the land that a state has marked out as ‘its own’, by fixing boundaries and erecting walls in order to keep intruders and invaders out. As Herz has put it, [states] ‘have been surrounded by a “wall of defensibility”, relatively impermeable to outside penetration and thus capable of satisfying one fundamental urge of humans protection’.4

Regulating the permeability of the border, that is, the degrees of closure,5 has been a prerogative of sovereign states and the way by which they define their symbolic and political boundaries. Nationhood, in its various understandings and manifestations,6 has legitimised these boundaries. Territories have become national homelands; they are the object of supreme identification and exclusive loyalty,7 and are presumed to be the best place for individuals to live in.8

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2 The role played by the territorial dimensions of nationalism in the politics of citizenship and migration has been overlooked by the literature.
8 Accordingly, push-pull factors, cost-benefit considerations drawn from neo-classical economics, and
However, these premises of national statism are no longer as sound and appealing as they once were. On a theoretical level, poststructuralist perspectives have shown that space and territory are not emptiable containers and that their meanings are interwoven in discourses.\(^9\) Space and territory are thus not only socially produced, but they are also always understood and narrated ‘from a particular point of view’.\(^10\) Empirical developments above and below the nation-state have also shown that the connections between the state, the nation, sovereignty, territoriality, democracy and citizenship are not as tight as previously thought.\(^11\) In the European polity, borders have become porous, more complex and flexible. Old dividing lines have been transformed into zones of contact, and the free flow of goods, capital, services and persons characterises the internal market. Interestingly, this has not been achieved by abolishing state borders. Rather, it has been achieved by rendering borders ‘weightless’ for the purposes of internal market mobility. True, the symbolic and political reconfiguration of internal territorial borders and the pronouncement of transborder movement as a fundamental right have been accompanied by the ‘hardening’ of Europe’s external frontier.\(^12\) However, this does not annul the fact that the significance of borders changes according to context,\(^13\) and that territorial divisions are not necessarily as sharp-edged, inflexible and uncontested as portrayed by nationalist ideology and practice.\(^14\)

Impressive as these theoretical and empirical developments are, their impact is felt more at the level of conceptual terminology and academic discourse than in the institutional reality of the state and the design of asylum policy. As regards the latter, there exists a strengthening of executive powers of exclusion and detention of asylum-seekers. And although the theme of postnational membership is prevalent in the academic literature,\(^15\) mainstream asylum politics has shifted from ‘protecting the vulnerable’ to ‘explaining why they [migrants] come’. For a critique of such approaches, see A. Portes and R.C. Rumbaut, \textit{Immigrant America} (2nd ed. 1996), p. 276; T. Faist, \textit{The Volume and Dynamics of International Migration and Transnational Social Spaces} (2000).

\(^{9}\) See E. Soja, \textit{Thirdspace: Journeys to Los Angeles and Other Real and Imagined Places} (1996).

\(^{10}\) H. Lefebvre, \textit{The Survival of Capitalism} (1976). Compare approaches that stress the genetically inherent, territorial instinct of mammal, humans and collectivities. Charles Darwin’s \textit{On the Origin of the Species} (1859) exerted much influence on F. Ratzel’s thought (1844–1904). Pre-eminent geopoliticians, such as Alfred Mahan (1840–1914), Sir Halford Mackinder (1861–1947) and Karl Haushofer (1869–1946) were also influenced. See also R. Ardrey, \textit{The Territorial Imperative: A Personal Inquiry into the Animal Origins of Property and Nations} (1967).

\(^{12}\) See Connolly, above n. 11.

\(^{13}\) See Connolly, above n. 11.