Attributing what to whom? Nations, value-adding activities, and territorial rights

Hu Li

School of Political Science and International Relations, Tongji University, Shanghai, China

ABSTRACT
In recent years, political theorists have begun to systematically consider the concept and justification of territorial rights, and advance rival theories of state’s (or nation’s) rights over territory. This article aims to advance our understanding of the challenge facing territorial rights theories, by closely analysing one of the most developed and important theories of territory, viz., the nationalist theory. It argues that nationalist theory, which employs a quasi-Lockean argument for territorial rights, faces a problem of attribution: What value-adding activities can be attributed to a cultural nation, which is viewed as the primary holder of territorial rights by the theory? It proceeds to examine three approaches to solve the problem of attribution – but argues that all of them fail. In the concluding section, the paper explores the potential implications of this largely critical argument for all attempts to develop a coherent and plausible normative theory of territory.

Introduction

This paper is concerned with the coherence of one of the dominant strategies for justifying territorial rights – the nationalist theory of territory. The paper is thus situated within recent literature focusing not on a state’s claims to authority over its citizens, but its claims to authority over a particular geographical area – a territory – which is also an essential aspect of state authority. Territorial rights are primarily rights of jurisdiction, meaning rights to make and implement laws over whoever is on the territory, but also standardly include rights to control borders and rights to use resources in the domain of the state (Miller 2012; Simmons 2001). My concern is not with the precise rights that are elaborated in the theory but with the conception of territorial right-holder and the moral basis of the rights which are proffered by one of the main theories of territorial rights.

Until very recently, political theorists have tended to take the territorial dimension of state authority for granted, but there are now a number of strategies to explore the moral basis and limits of states’ territorial rights. The nationalist account, largely

CONTACT
Hu Li lihupol@tongji.edu.cn School of Political Science and International Relations, Tongji University, Shanghai, China

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associated with the work of Miller and Meisels, offers an appealing argument for why nations (not states) are the primary holders of territorial rights and what grounds these rights. It holds that nations acquire territorial rights over their lands because they have added value to the lands or are culturally connected to the lands (see Meisels 2009, 118–130; Miller 2011, 2012). On this view, the state acquires territorial rights indirectly from the nation when it is the legitimate representative of the nation. The nationalist account of territory has two theoretical advantages over some other theories that explain why it is a dominant theory in the territorial rights literature.

First, since territorial rights, especially jurisdictional rights, must be ‘reasonably stable’, the primary holder of these rights must be an agent that can stably exist across generations. Nations are transhistorical agents, which can endure the constant change of their members and the collapse of their states. This makes them suitable primary holders of territorial rights (Miller 2012). Second, the nationalist account can solve the so-called particularity problem. That is, it can explain why the state is entitled to a particular territory, rather than territory in general. This is a significant explanatory achievement: it means that this account is able to address the central weakness of the principal alternative – the Kantian-based theory of territory – according to which the state is entitled to a territory when it fulfils its central functions (that of implementing justice), for which it needs territory. The problem with the Kantian-based theory of territory is that it cannot explain why a given state should be attached to a particular territory. Indeed, it counter-intuitively suggests that a justice-superior state should be able to take over the territorial rights of a justice-inferior state, which seems to downplay the relationship between a land and the people living on it (Moore 2014, 126). Given these theoretical advantages, it is worth examining the nationalist account in greater detail.

The argument advanced in this paper is largely negative. It argues that, despite its advantages, the nationalist theory suffers from a problem of attribution. That is to say, it has difficulty explaining why it is the nation, and not some other agent, that should be credited with the activities that add value to and improve the land the nation occupies. The attribution problem is damaging because it undermines one of the central argumentative advantages of the nationalist theory, viz., its answer to the particularity problem. The attribution problem also undercuts the claim that nations are a collective agent of the kind that is entitled to hold territorial rights. In advancing this line of argument, I first detail the attribution problem facing the nationalist theory of territory, and then closely inspect the main approaches that have, or could have, been advanced to address it. In the concluding section, I lay out some potential implications of this paper for theories of territorial rights.

**The attribution problem**

The nationalist theory of territorial rights makes two distinct moves, both of which are critical to the success of the argument. Both are important not only to address the particularity problem but also to give an account of the transhistorical character of the

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2There is a structurally similar account focusing on ‘peoples’ rather than nations (or indigenous peoples). The account, which claims to be non-cultural, is not the focus of this paper (See Moore 2015, 46–65).
nation, which makes it an appropriate holder of territorial rights. In the nationalist theory, people who share a space with one another are connected by common cultural beliefs, patterns of behaviour, expectations and social norms, all of which are encapsulated in the idea of shared culture. This reference to cultural nations in the nationalist territorial theory has been criticized as exclusionary, but in this paper, I offer an additional, novel criticism, viz. that cultural nations are insufficient to bear the weight of collective agency.

Given that both territorial rights and property rights are land-related rights, the nationalist account draws on a Lockean type argument for individual property rights, extending it by attributing the improved value of the land to the nation. This is a crucial move because it can help to explain the nationalist response to the particularity problem, viz., why nations have entitlement over a particular territorial space (that the nation has improved the area). In this paper, I will doubt both these elements, for an inter-connected reason: that the value-adding activities may not properly be attributed to nations. This is because the nation lacks the quality of ‘embodiment’ needed to perform value-adding actions in the first place and none of the views of group agency deployed to address this limitation have provided a convincing response.

Let me be clear about what is and is not being claimed. In the original Lockean argument, individuals create property in land by adding value to it. In the nationalist territorial rights theory, as advanced by Miller and Meisels, the idea is that nations have added material or symbolic value to the lands they occupy, and are thus justified in asserting a claim to keep and enjoy those values (see Miller 2012, 259; Meisels 2009, 118–126). It is further argued that nations need to have territorial rights over the land in order to keep and enjoy the values. This paper accepts the view that a group of people (who, for argument’s sake, we will call a nation) who have been living on a particular land for a long time, have witnessed many value-adding activities on the land. Let us accept Miller’s basic story: wells for clean water are dug, roads are paved, and churches are built, important events of the nation’s history take place on the land, and so forth. It could be argued that some (but not all) of these improvements can be fully, or at least partly, attributed to the nation and that the nation needs to have territorial rights, especially jurisdictional authority, over the improved land in order to protect its members’ interest in the additional value those improvements have brought. The quasi-Lockean argument rests, then, on the ground that at least some value-adding activities can be attributed to the nation.

Some might think it apparent or self-evident that some value-adding activities are to be attributed to the nation. They might argue that, at the very least, those value-adding activities performed by the nation itself are eligible. This, however, assumes that the nation can carry out activities to improve the land, somewhat analogous to an individual labouring on the land. This assumption contradicts the usual – embodiment – view, which is widely applied to individual action, and is a widely held and indeed

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3 Miller (1995, 21–27, 2007, 124–127) defines a nation as ‘a community (1) constituted by shared belief and mutual commitment, (2) extended in history, (3) active in character, (4) connected to a particular territory, and (5) marked off from other communities by its distinct public culture [that serves] to distinguish nationality from other collective sources of personal identity’.

4 Moore (2014) and Stilz (2011b) argue that the nationalist theory cannot distinguish nations from other cultural groups, such as immigration groups, which can have the same connection of ethical force with a land as nations.
common-sense view of how an agent can do some actions. The embodiment view holds that bodily movements are indispensable to actions. On this view, all actions to improve the occupied land are carried out directly by individual members of the nation – since the nation, which lacks a body, is unable to perform any activities by itself. This fact does not necessarily have the normative implication that all activities should be fully attributed to individuals, and that none of them could be attributed to the nation. It leaves the door open that some activities can be fully or partly attributed to the nation even if they are directly carried out by individual members. However, the line between the value-adding activities of this kind and the value-adding activities which cannot be attributed to the nation is not clearly drawn. It raises questions such as: What value-adding activities can be attributed to the nation? How can these value-adding activities be attributed to the nation? Call this the attribution problem. If the attribution problem cannot be solved – and here I mean that the strategies below which I will consider addressing that problem do not work – the value-adding (Lockean) component of the nationalist argument cannot be used to argue for nations’ territorial rights. This would mean that the nationalist theory fails to address the ‘particularity problem’ by the quasi-Lockean argument.

The attribution problem is not easy to address. No matter how the question of attributing what is answered, nations would face some competitors when it comes to the question of attributing to whom. One competitor is those individuals who directly carried out the value-adding activities. Given that nations are transhistorical and imagined communities, nations include what I will call passive members regarding a specific value-adding activity. Who are passive members? They may be the national members who intentionally refrain from participating in the activity, are not aware of it, or perhaps are not even born when it occurs. Any attempt to attribute the activity to the nation must be able to establish a relationship of moral importance between the passive members and the value-adding activity in question. This moral connection is required for two reasons. First, the nation would have ownership over the created values in the name of all national members, including the passive members. Second, the passive members would substantially benefit from the collective ownership since they would probably have a certain entitlement derived from the collective ownership that non-members do not have. It is not clear how passive members are related to certain value-adding activities so that they can be part of the collective who gets credit for these activities. If there is no such moral connection, it seems more appropriate to attribute the activity not to the nation but merely to (the subgroup of) active members who carry out it individually or collectively.

In the following parts, I closely inspect the attempts to address the attribution problem. I start with two approaches which attribute national members’ political actions and cultural actions to a nation respectively. The first two approaches actually appeal to two views of collective national actions that are developed specifically in the nationalist literature. Then, my discussion is engaged with the general literature of collective actions or group agency, and it examines the possibility of forming joint

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5 For a discussion of whether embodiment is necessary for agency or actions, see Himmelreich (2015, 36–50).
6 Stilz (2011b) points out this difficulty with the nationalist account as well. She questions how nations’ territorial rights, which are collective rights, can be grounded on the improvement of land, much of which is physically undertaken by individuals.
intentions or joint endeavour of national members, which seems necessary for any actions to be attributed to a nation.

**The political action approach**

In his discussion of national responsibility, Miller (2007, 126–127) develops two views of collective national action which could be applied to address the attribution problem. Miller argues that an action can be regarded as a collective national action if (1) it is decided and carried out through ‘political channels’, or (2) it is performed by individuals, or subgroups of a nation but embodies some element in the ‘national culture’. I dub these forms of collective national action *political actions* and *cultural actions*, respectively. In Miller’s theory of national responsibility, nations can be held responsible for the consequences of either type of action. While responsibility for negative consequences is the usual focus in arguments of this kind, it need not be, and it seems just as natural to attribute the two types of actions to nations when they add material or symbolic values to land. In this section and the next, I explore whether the two kinds of collective national action can be used to resolve the attribution problem – that is, whether value-adding political or cultural actions can be attributed, fully or in part, to nations.

Before we turn to the two conceptions of collective national actions, it is worth mentioning that the attribution problem is closely related to but different from the collective responsibility problem. There is no doubt that both problems are concerned with attributing actions to collectives and in particular nations in the nationalist context. But they focus on different types of actions. The attribution problem is concerned about the *positive* actions which add values to the land, while the collective responsibility problem is centred mainly on the *negative* actions, such as making and enforcing the policies which lead nations into a position of economic disadvantage or doing injustice to outsiders. It would impose restrictions on the members of a nation to take responsibility for the outcomes of the negative actions, while it would confer on them privileges to get credits for the positive actions. So, arguments for collective responsibility should be acceptable to the members of a nation, but the attribution problem has to be addressed in such a way that cannot be reasonably rejected by people outside the nation. It is fair to assume that the requirements for attributing positive actions to collectives can be different from the requirements for attributing negative actions to collectives. This assumption denies neither that attributing positive actions to collectives can be one of the conditions for attributing negative actions to collectives nor vice versa. It just means that an account which is plausible as an account of collective responsibility may not succeed in resolving the attribution problem. What this assumption requires is that any account of collective responsibility, however plausible, must be re-examined when it is applied to addressing the attribution problem.

Let us now start with the approach which attributes value-adding political activities to nations. According to this approach, a nation can carry out value-adding activities

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7For a discussion of collective national responsibility, see Levy (2008); Miller (2008); Moore (2008); Pierik (2008); Tan (2008).
through its political agent, which can transform the land and increase its value by making and enforcing laws and policies (to save space, I focus on actions of the state, the typical political agent of a nation). If the nationalist theory adopts the political action approach, it would claim that the value-adding activities that are carried out by the state of a nation can be attributed to the nation partly, if not fully. Since the state adds not only culturally specific values but also universal values to the land, the political action approach could attribute a wide range of activities to the nation. However, this approach cannot work as part of the nationalist theory of territory. There are at least three serious problems with this approach which are concerned with the plausibility, the implication, and the applicability of this approach respectively.

First, the nationalist theory is faced with the difficulty of showing that a nation and a state have a genuine relationship so that what the state does can be attributed to the nation. The nationalist theory may argue that a state represents a nation to carry out a value-adding activity if national members decide the activity through democratic procedures. It seems appealing that national members can be held responsible or credited for the activities that they decide together (Miller 2007, 128; Stilz 2011a, 197). However, national members may participate in the democratic process but are opposed to the proposal which becomes the final decision. Or they may not participate in the democratic process at all. Even if a democratic decision can be plausibly interpreted as what all those who participate in the democratic procedure or have a right of participation collectively intend, we cannot say that the national members who are not born yet are also the co-authors of the decision.

Moreover, this model of co-authorship can only apply to democratic states, and it cannot be used to explain why nations can be attributed value-adding activities that are carried out by non-democratic or partially democratic states. Many nations do not have democracies, and many democratic states were not democratic in the past. These non-democratic or less democratic states have added material or symbolic values to the lands they govern. If the nationalist theory incorporates the co-authorship model to resolve the attribution problem, nations cannot be attributed the value-adding activities of those non-democratic or less democratic states. This would probably undermine nations’ claims for territorial rights over their lands.

Could the defender of a nationalist theory of territory reply that national members contribute to the force of a state to undertake the value-adding activities even if they are not the co-authors of the activities? It can be argued with some plausibility that the force or the ability of the state, which is formed by such compliant actions from its citizens’ as paying tax, is a necessary condition for the state’s activities. If citizens do not pay their tax, the state would lose its force and be unable to conduct activities. It thus holds that all citizens, especially those who pay tax, play a role in bringing about political activities. This argument has a certain degree of plausibility. It can support the nationalist theory to attribute the value-adding activities of states to the national members who have no say in the decisions to carry out these activities. However, this argument applies only to the national members who contribute to the force of the state, directly or indirectly. Many national members including those who are not born yet make no contribution to the force of the state when it carries out the value-adding activities. So, according to this argument, a value-adding activity of a state can be attributed to a subgroup of a nation (such as a specific generation), but not the nation as a whole.
Second, even if the political action approach is plausible,\(^8\) it may have implications for who are the primary holders of territorial rights which contradict the nationalist view. Nations are not the only groups which are organized into states and can be attributed the value-adding activities of their states. There are many subnational, cross-national, or multinational groups which are incorporated into states and credited for what their states add to the land. If nations acquire territorial rights in virtue of value-adding political activities, these other groups can acquire the same rights on the same basis even though they do not have such cultural features as common identity. So, it seems that any groups which can be attributed some value-adding political activities and not just nations are primary holders of territorial rights. To adopt the political-action strategy of attribution would therefore force the nationalist theory to make a fundamental adjustment that it could not accept.

Third, even if the nationalist theory can embrace the political action approach without making fundamental changes,\(^9\) there is a problem of application. The political action approach can be applied to nations where they are incorporated into states. By its definition, cultural nations have the aspiration to be politically self-determining (Miller 2007, 124–127), but they do not necessarily achieve this goal. Indeed, many nations do not have or even have never had their own states. The political action approach does not apply to these nations. Given that the nationalist theory attempts to defend the territorial claims of nations and not merely nations with their own states, this approach cannot meet the requirement of the nationalist theory.

The three problems make it difficult for the nationalist theory to adopt the political action approach. Can the theory learn anything else from the problems of the political action approach? This approach is a typical attempt to focus on the corporate actions of nations, actions which are carried out by nations as corporate actors. There are probably other attempts to attribute corporate actions to nations. For example, the nationalist theory may turn to List and Pettit’s view, which is an influential and general account of corporate agency.\(^10\) But the nationalist theory would face the same problems as the political action approach and especially the problems of limited applicability when it appeals to any other corporate views, given that many nations do not have authority systems or organizational structures, which can make decisions. Since it is difficult to rely on any corporate view to address the attribution problem, the nationalist theory could turn to the collective actions of nations, actions which are carried out by national members jointly.\(^11\)

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\(^8\)The proponents of the nationalist theory may remedy the incompatibility between this variant of the political approach and the transhistorical feature of the nation by arguing that national members are morally connected to the value-adding activities by their membership or participation in a transhistorical cooperative system (Miller 2007, 119–124, 2012, 260). This argument will be examined in more detail in the discussion of the inference argument.

\(^9\)The nationalist theory may develop a supplementary account to distinguish nations from any other groups which can fit with the political actions approach, and it may thus continue viewing nations as the primary holders of territorial rights.

\(^10\)List and Pettit (2011, 59–78) develop an influential theory of group agent in the emergentist tradition, which is a corporate view of group agency. Since they hold that a group must have organizational structure to be a group agent, the nationalist theory would find it difficult to incorporate their account into their arguments for territorial rights, since many nations do not have organizational structure.

\(^11\)For a distinction between collective action and corporate action, see Coleman (1994, Chapter 9, 13), Jones (1999).
The cultural action approach

The cultural action approach appeals to the value-adding activities which reflect national culture and attribute these activities to nations. Given that only some individual member(s) or some subgroup(s) of a nation take part in a value-adding cultural activity directly, such as building a church, while other national members are passive in the process of adding the cultural value to the land, how can a cultural value-adding activity be considered as the collective action of the nation and attributed to the nation as a collective?

Perhaps it could be argued that passive members make an indirect contribution to the cultural activity by preserving and promoting the cultural belief that causes the action (Miller 2007, 118; Feinberg 1968). In other words, the passive members stimulate the active members to conduct the activity by making it meaningful and appealing to do so. This argument employs national culture as an intermediate variable in a causal link between the passive members and the value-adding cultural activity. There is some plausibility to this view. Undoubtedly, the cultural context matters in determining the active members’ choice to undertake the activity. They would probably not do so if they were in a different cultural environment. Moreover, the causal link between preserving national culture and the value-adding cultural activity is relatively foreseeable and even intentional. When some passive members conserve national culture, they may do so hoping or expecting that some value-adding activity that reflects their national culture will occur. So, the passive members indeed make an indirect contribution to a value-adding cultural activity if they contribute to the preservation of national culture. However, there are national members who do nothing to sustain national culture and even are not born when the value-adding activity occurs. This argument cannot explain why these national members are morally connected to the culturally valuable improvement.

The proponents of the nationalist theory may argue that if a value-adding cultural activity is attributed to a nation, it is not because all members make direct or indirect contributions to the activity, but because all members would take part in the activity if they could. This argument assumes that (1) all national members share the same cultural belief that motivates the action, and that (2) all of them would take part in the activity if they could do so. In other words, the passive members would do the same thing as the active members in a hypothetical situation in which they have the opportunity that the active members have. So, the actual difference between the passive members and the active members is a matter of contingency: The active members happen to have the opportunity, while the passive members do not. The argument continues that the difference, as a matter of contingency, should not prevent the passive members from sharing the values created by the cultural activity with the active members. Call this the hypothetical action argument.

The hypothetical action argument has the advantage of being compatible with the transhistorical and imagined features of a nation. According to this argument, a culturally valuable activity can be attributed to a nation even though many of its national members are not aware of the activity or are not born when it occurs. However, the core view that national members can get credit for a value-adding activity that they would participate hypothetically is problematic. It is true that in some
situations, a person can share the credit of an activity that they do not actually take part in but would do hypothetically. Suppose two parents decide to raise their child jointly, but the mother is too busy to take care of her, and the duty falls mainly upon the father, who has a job with more spare time. Apparently, the mother would do the same actions as the father were she not so busy. The child can credit both parents for bringing her up. But a person can share the credit of an activity that she would conduct only if she has a joint intention with people who contribute to the activity. It does not make sense to attribute a hypothetical action to a person if there is no such joint intention. For example, people who become losers in the market because of their bad luck cannot share the success of the winners even if they stick to the same belief of maximizing profit as the winners and would make the same decisions as the winners if they had the chance.

The problem of the hypothetical action argument is that having a shared cultural belief does not necessarily imply a joint intention to carry out activity reflecting the belief. With the shared belief, national members probably have the same pattern of behaviour. They might also have common knowledge about each other’s action: the active members might know that passive members would favour and support a certain course of action, and the passive members know that the active members know this. However, shared behavioural patterns and common knowledge do not mean that national members have a joint intention to carry out the activity that preserves or promotes their shared cultural belief. So national members cannot be credited for an activity as a collective merely because it is what all of them would do were they given the chance.

In addition, the two assumptions underpinning the hypothetical action argument are problematic. There is scarcely a cultural element shared by every single national member. Even if a culture or cultural element is widely regarded as national culture, it is merely generally or mostly held by national members (Miller 2007, 125–126). For example, football is one of the national sports in Brazil, but not every Brazilian is a fan of football. In fact, some Brazilians may dislike football. Moreover, the same cultural belief does not necessarily lead to the same action. Passive members may share with active members the cultural belief that motivates a value-adding cultural activity, but the two groups may diverge at the level of action. Passive members may think that the particular action done by active members is overly radical or morally wrong, even though it reflects their shared cultural belief. They may even think that the activity does not reflect their shared belief at all. Since many passive members may differ from active members concerning either beliefs or action, they would not do the same thing as active members, even if they have the chance to do so. Some may even have the chance to join active members but intentionally – even deliberately – refrain from doing so. That is, the difference between many passive members and active members is not a matter of contingency.

As the arguments appealing to the causal link and hypothetical action both fail, the proponents of nationalist theories may turn to argue that it is not so important whether passive members, if they could, would join with active members to conduct a value-adding cultural activity, or whether or not they contribute indirectly. What matters most is that passive members share the same national identity with active members and feel pride or shame in what their fellow nationals do (Miller 2007, 141–143). The
passive members may feel especially emotionally connected to the cultural value-adding activity of active members since the cultural element behind the activity distinguishes their nation from other nations. This emotional connection is quite common in the era of the nation-state. But it is far less plausible that the passive members are morally bound to the activity just because they are emotionally bound to it. This view mistakes the sense of responsibility for responsibility itself (Dagger 2000). Group members may bear a responsibility even if they do not have a sense of responsibility, and they may feel a kind of responsibility but they do not actually have the responsibility. So, it is one thing to show that individuals feel pride or shame in certain activities, but quite another to show that they are credited or responsible for the activities.

In this part, I have argued that the approach to attribute value-adding cultural activities to nations (in addition to attributing them to those who carry them out directly) does not work because arguments for a connection of moral importance between passive members and a value-adding cultural activity fail. Even if nationalist theorists succeed in defending such an attribution, this approach has a flaw in its applicability. According to this approach, what can be attributed to nations are the activities that add culturally specific values to the land. This does not meet the requirement of the nationalist account, which also attempts to ground nations’ territorial rights partly on the activities that add universal values to the land, such as the activity of digging wells for clean water (Miller 2012, 259).

The joint action approach

The nationalist account may appeal to other general accounts of collective actions to resolve the attribution problem. It could invoke the idea that the nation is the kind of collective agent which, through the bodily movements of its members, can carry out joint value-adding activities. It seems an appealing view that some value-adding activities can be attributed to the nation because they are the joint actions of the nation. This, though, runs up against an immediate question. Most theories of group agency focus on groups such as a sports team, an academic committee, a criminal gang, or institutions such as a Supreme Court (List 2018). But a nation is not only a large and complex group, but also a transhistorical group. Can a nation also be a group agent, which can carry out collective actions? If it is a group agent, then perhaps the attribution problem does not apply, since we can attribute its joint value-creating activities to the group agent (the nation).

All the standard examples of collective agents – a sports team, a Supreme Court and so on – meet at least one of the two dominant theories of collective agency: the joint-intention and the joint-endeavour accounts. On both accounts, collective actions are actions that a group of people has performed together. But they are different in explaining how the various group members are related to the joint action. That is, they are different accounts of why the joint actions can be attributed to the group. The nation needs to fit at least one of these two criteria to be regarded as such a collective agent. Let me briefly outline the two accounts of collective agency and examine whether they can apply easily to nations.
(1) On the joint-intention theory, the attribution of the action to the group is justified on the ground of the ‘we-intention’ behind it. There are some disagreements about whether the joint intention can be reduced to individual intentions without remainder. The reductionist view interprets the collective intention as a special kind of individual intention (Bratman 1999, 121; Ludwig 2007, 357). That is, the collective intention can be reduced to every group member’s intention that every member intends to work towards the collective end. Suppose a group of people intends to build a house. The joint intention can be reduced to the individual intention that every group member intends that each of them participates in building the house. So, when it is said that a collective intends to do something, the sentence can be translated – via the reductionist view – as: every member of the collective intends that each of them be one of the multiple agents of the action. The non-reductionist view is that the ‘we-intention’ cannot be completely reduced to ‘I–intentions’. On this view, the intention that ‘we intend to do something’ must be formed in the interactions among the individuals and cannot be understood merely with the individual intentions, even if the individual intentions are other-regarding and include other’s intentions (Gilbert 2006, 146; Searle 1990, 407). Again, an example may help to show the features of the non-reductionist view. Suppose A and B intend to take a walk together. This is a ‘we-intention’. It is true that, given their collective intention, A and B would have two derived ‘I–intentions’ that A intends that she and B walk together, and B intends that he and A walk together. But their ‘we-intention’ is more than the combination of the two ‘I–intentions’ since A and B can have the two same ‘I–intentions’ without having a ‘we-intention’ if they form the ‘I–intentions’ separately.

Under either formulation – reductionist or non-reductionist – the joint intention of a nation is an illusion. Appealing to joint intentions makes sense in small, face-to-face groups. However, it is not clear that it can be plausibly applied to large and complex groups such as nations. What we have are many intentions of many individuals and many joint intentions, but it’s implausible to say that every single member of the nation intends exactly the same thing and shares the intention in the same way that we might think is possible with a walk or dancing the tango. Moreover, how can a nation jointly intend to carry out a value-adding action when not all members of a nation are aware of it or exist when it occurs? Subgroups of the nation could have joint intentions, but it does not make any sense to say that the nation jointly intends anything since not all members exist before the thing is supposed to occur.\footnote{It does not mean that the present members of a nation cannot form any joint intention. By contrast, they may have certain joint intentions which make them the appropriate territorial right-holder. For example, they may intend to live together in the same state.}

(2) On the joint-endeavour account of collective action, intentions are not crucial, but endeavours are (Ludwig 2007). On this view, when it is said that a group of people has done something together, it means that every member plays her part to bring about the event. Members probably play different roles in a collective action, but each of them makes a contribution. Their role or individual endeavour has a causal or constitutive relationship with the collective action.\footnote{The idea of a joint endeavour is compatible with the idea of proxy actions, those undertaken by a proxy agent of the collective. For a discussion of proxy agency in collective action, see Ludwig (2014).} In the above example of building a house, every person contributes to building the house by having completed her allotted tasks. We
can apply the idea of joint endeavour to small groups but cannot plausibly view a value-adding action as the joint endeavour of a nation. Not every single member of the nation – which may number many millions – takes part in the action. It’s not just that some individuals may be babies, and not make any actions at all, but that some people may actively oppose the action, and there will always be passive people who are not born yet. So even if we can say that the active members who directly contribute to a value-adding activity jointly engage in a joint endeavour to carry out the activity, but how do the passive members join the active members to do that?

Obviously, the nationalist theory finds it difficult to apply a general account of collective agency to nations, mainly because nations are transgenerational communities. There are always passive members who are not yet born at the time when any specific actions being attributed to nations take place. How can there be a morally significant connection between these passive members and purported collective actions that happen before their birth? Political theorists seem to address this question when they explore inherited responsibilities and intergenerational justice within nations. What they invoke is the idea that the present generation has inherited assets of various kinds including cultivated land and buildings from previous generations (Miller 2008, Chapter 6). This seems a plausible picture of people’s connection to the value-adding activities that occurred in the past. But it runs the risk of dissolving the attribution problem to discuss it within an intergenerational framework, since value-adding activities that grounds a nation’s claim to territorial rights would be attributed to specific generations of the nation rather than the nation as a whole. On this view, generational changes within a nation affect not only its representatives who exercise territorial rights but also the actual holders of these rights.

Although arguments for inherited responsibilities and intergenerational justice may not be compatible with the nationalist theory of territorial rights, they provide a way of conceiving of some value-adding activities as joint actions of members of a nation including the passive members who are born after the activities take place. These passive members do not directly carry out the tasks which have increased the value of their land, but they are among the people who pay the costs of conducting these tasks. The costs that could be imposed on the passive members are national liabilities which requires them to pay the relevant debts and take responsibility for historical injustice involved in the past value-adding activities (Miller 2008, 160). The passive members, by paying these costs, join the cooperative activities that were initiated by and conducted mainly by previous generations. The activities can thus be viewed as reflecting the joint endeavour of the passive members and their predecessors.

This line of argument, based on the idea of intra-generational cooperation, indeed opens a door to an application of the joint endeavour account of collective actions to the case of nations. However, it is not clear whether the passive members must consent to inherit national liabilities to participate in intra-generational, joint activities, and whether the fact of enjoying benefits of national inheritance would suffice. Moreover, there is an asymmetry between the inherited burdens and the inherited benefits. Most of value-adding activities that are claimed to be national joint actions were conducted within one or a few generations and did not leave any costs for later generations to pay. That is to say, these activities were not carried out by the means of debts; neither did the activities involved any historical injustice to outsiders or members of the nation.
The later generations, who are merely the beneficiaries of the value-adding activities, find no opportunities to be agents who join with others to bring the activities about or take responsibility for the consequences of the activities.

The attribution problem, therefore, remains, regardless of which general account of collective agency we adopt. Nations, as imagined and transhistorical groups, conform to neither of the two general views of collective agency. The joint or collective value-adding activities of a nation prove to be void. No doubt, there are joint value-adding activities that occur when a nation exists on the land, but these are joint actions of the nation’s subgroups, such as certain generations of the nation. If joint value-adding activities are what the nationalist theory focuses on, it seems that the activities should be attributed to the subgroups. These, then – and not the nation – would be the primary holders of territorial rights.

**Conclusion**

The paper advances our understanding of the challenges that face territorial rights theory, primarily through showing the difficulties that the cultural nationalist faces. It identifies the attribution problem in the nationalist context. But, in fact, the attribution problem is not unique to the nationalist theory but common to many theories of territorial rights which rely on the idea of group agency. These theories require an idea of group agency since they attempt to regard a type of collectives as the primary holder of territorial rights and employ a quasi-Lockean argument to justify their rights, both of which are appealing moves for a theory of territorial rights to make. The theories thus face the attribution problem: What value-adding activities can be plausibly attributed to the collective agent? Take Nine’s theory for example. In her theory, states acquire territorial rights directly because they change the land to make it more valuable to individuals (Nine 2008). But it needs to be demonstrated that those valuable changes can be attributed to the states, not merely those individuals who make and enforce the decisions or those who support the state by paying their tax.

The paper also explores the approaches that the nationalist theory could use to address the attribution problem. On closer inspection, these approaches cannot work as a part of the nationalist theory. But this does not necessarily mean that the nationalist theory cannot resolve the attribution problem since it might adopt other approaches than the examined ones to resolve this problem.\(^\text{14}\) Also, the fact that these approaches are not compatible with the nationalist theory does not mean that the approaches are problematic, they might be helpful for other theories which also face the attribution problem. For example, List and Pettit’s theory of group agency might fit with Cara Nine’s theory, given that Cara Nine regards states, which are corporate actors, as the primary holders of territorial rights.

What if the nationalist theory or any other theory of territorial rights is eventually unable to resolve the attribution problem? This failure would not imply that the nationalist theory or any other theory collapse completely since they might be able to

\(^{14}\text{The nationalist theory may appeal to a Strawsonian view of collective responsibility, which argues that collective-agents can bear moral responsibility since they can be the appropriate target of reactive attitudes, such as resentment and gratitude. For a Strawsonian view of collective responsibility, see Strawson (1962); Silver (2005, 2006).}\)
avoid the attribution problem. The nationalist theory can succeed in defending nations’ territorial rights by relying on their forward-looking or present-oriented claims, which can resolve the particularity problem. Indeed, Miller (2012) and Meisels (2009, 126–130) argue that a particular cultural nation is connected to a particular land because the land is culturally important to the nation, or because the national members of the nation are suitable to enjoy the value of the land. We can also find some forward-looking or present-oriented claims in other theories. Take Moore’s theory for example. In her theory, what links the people, which is the primary holder of territorial rights, and the land is not the value-adding activities, but the fact of occupancy (Moore 2015, 34–46). When theories of territorial rights decouple with backward-looking arguments, they are free from the burden to show that nations or any other type of collectives are capable of acting together, even if they still bear the burden to show that these collectives can hold territorial rights. So, theories of territorial rights can be successful even if they fail to address the attribution problem. But the failure would mean that the nationalist theory or any other theory cannot regard collectives as the primary holder of territorial rights and incorporate such backward-looking arguments as the quasi-Lockean argument at the same time.

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ORCID

Hu Li http://orcid.org/0000-0002-5387-9608

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