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Sinking Islands, Rising Duties:

Insights from theories of territory on climate exiles

Synkende Øyer, Stigende Plikter:

Innsikter fra teorier om territorium anvendt på klimaeksiler

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Abstract

This thesis addresses the case of “climate exiles”, people displaced due to their whole territory becoming uninhabitable due to climate change. The central research question is whether climate exiles should be granted the same rights as refugees. While granting climate exiles the same rights as refugees and including them in the international refugee system would provide them with critical support, it falls short for climate exiles. Climate exiles differ from refugees in that climate exiles are necessarily collectively displaced and can likely never return to their homelands. Granting climate exiles the same rights as refugees will only help them as individuals and not as a collective. This can lead to the end of the climate exiles existing as a group. Through an examination of theories of territory, we see the significance of territory for both individual and collective identity and autonomy. Meaning that having some degree of territorial rights over the area a people occupy is necessary for that people to be collectively self-determining. Since there are nations with outcome responsibility for them becoming climate exiles through excessive emissions of greenhouse gasses, or having profited from such emissions, this grounds stronger remedial responsibility towards climate exiles. Specifically, a responsibility to help them sustain their collective self-determination. The proposed solution for achieving this is a form of power sharing within a larger political project. This will allow the climate exiles to sustain their collective self-determination in a new area while not being an unreasonably high cost to those with a duty to help the climate exiles.

Sammendrag

Denne avhandlingen tar for seg «klimaeksiler», mennesker som er fordrevet fordi hele territoriet deres har blitt ubeboelig på grunn av klimaendringer. Det sentrale spørsmålet i avhandlingen er om klimaeksiler bør gis de samme rettighetene som andre flyktninger. Selv om det å gi klimaeksiler de samme rettighetene som flyktninger og inkludere dem i det internasjonale flyktningsystemet vil gi dem viktig hjelp, så er det utilstrekkelig for klimaeksiler. Klimaeksiler skiller seg fra flyktninger ved at de nødvendigvis blir kollektivt fordrevet og sannsynligvis aldri kan vende tilbake til hjemlandene sine. Å gi klimaeksiler de samme rettighetene som flyktninger vil bety å hjelpe dem som individer og ikke som en gruppe. Noe som kan føre til slutten på deres eksistens som en gruppe. Gjennom en undersøkelse av teorier om territorium, ser vi betydningen av territorium for både individuell og kollektiv identitet og autonomi. Dette betyr at det er nødvendig å ha en viss grad av territorielle rettigheter over området et folk okkuperer for at de skal kunne være kollektivt selvbestemmende. Det er nasjoner med et «utfallansvar» for at de blir klimaeksiler gjennom overdreven utslipp av klimagasser, eller gjennom å ha tjent på slike utslipp. Dette gir disse nasjonene et betydeligere ansvar for å hjelpe klimaeksiler. Primært vil dette ansvaret innebære å hjelpe dem med å opprettholde deres kollektive selvbestemmelse. Den foreslåtte løsningen for å oppnå dette er en form for maktfordeling innenfor et større politisk prosjekt. Dette vil tillate klimaeksiler å opprettholde deres kollektive selvbestemmelse i et nytt område, samtidig som det ikke vil være en urimelig høy kostnad for de som har en plikt til å hjelpe klimaeksilene.

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Introduction

Rising temperatures worldwide is an issue that does and will continue to affect life on Earth. These changes in temperatures can lead to warmer and drier summers in already dry climates, warmer winters, wetter rainy seasons, warmer oceans, more extreme weather, and melting of glaciers. These direct effects of climate change can lead to the worsening of crop yields, destruction of man-made structures, and loss of habitat for animals. Another effect of climate change that will have a massive impact on life on earth is that the global sea level will rise. The UN has observed that the global mean sea level is rising and in fact accelerating (Oppenheimer et al., 2022, pp. 323-324). Countries like the Netherlands have a history of building flood defences like dikes and maintaining sand dunes to protect its mainland and islands from flooding. But in the face of climate change, even the flood defences of the Netherlands seem ill-equipped to tackle the coming extreme conditions, and their sand dunes are at risk of disappearing if they are not maintained (Van Loon-Steensma, 2015, p. 930). As one can imagine, these flood defences are expensive and thus unavailable to poorer communities. A possible consequence of climate change that can happen in our current lifetime is the submerging of entire countries, like Kiribati, Tuvalu, and the Marshall Islands. These people will be entirely dependent on moving from their homelands in order to survive. Chris Armstrong discusses their situation and uses the term “climate exiles” to describe them (Armstrong, 2022, pp. 162-165). I will adopt this terminology and use the term “climate exiles” to refer to people who are at risk of losing their whole territory due to climate change¹. The focus of this thesis will be the situation of climate exiles, what rights climate exiles should have, and what duties others should have towards them. My argument will be applicable to climate exiles in general, but when I use examples, I will use Tuvalu for the sake of simplicity.

Assuming that all of their land becomes submerged and thus uninhabitable, the Tuvaluans will become climate exiles and their survival will be dependent on moving to another area of land. We live in a world where virtually all habitable land is claimed by some state, so the climate exiles’ survival will be dependent on continuing their lives on land that is currently

¹ There will also be cases where just parts of a population will be displaced due to climate change making them internally displaced. But in this thesis, I will limit my discussion to cases where all the inhabitants of a country are displaced. When I use the term “climate exiles” I will only be referring to this latter case where all the inhabitants are displaced.

considered to belong to another state or country. I think most would agree that other agents, perhaps states or nations, should help climate exiles to some extent. Perhaps they even have a duty to do so. A fitting parallel could be the duty we as individuals have to help if we come across someone in need. I think most would agree that if we come across someone in need and have the capacity to help them, we should help them. It would be morally wrong to refrain from helping them, so we have a duty to help them. I think most would agree that others have a similar duty to help climate exiles. But what kind of duties might others have? Who has these duties? How strong are the duties? What actions do the duties demand?

A possible answer to these questions is to give climate exiles the same rights as refugees. Then the duties to help climate exiles would coincide with the duties to help refugees. The conventional definition of a refugee in international law is found in the 1951 UN Convention Relating to the Status of Refugees. It defines a refugee as a person who is outside of their home-country and cannot return because they are being persecuted (Article 1). Since climate exiles are not fleeing persecution, they might not fit this definition. But one can widen the definition so climate exiles would be included. We could for instance use the definition David Miller puts forward in *Strangers in our midst*. Miller defines refugees as “people whose human rights cannot be protected except by moving across a border, whether the reason is state persecution, state incapacity, or prolonged natural disasters” (Miller, 2016, p. 83). If we use this wider definition, climate exiles will arguably fit the definition of refugeehood. Their land becomes uninhabitable so staying there will mean death and that their human rights cannot be protected. But their lives can be saved, and their human rights protected if they move across a border into another country. So, there does not seem to be anything conceptually wrong about defining climate exiles as refugees, giving them the same rights as refugees, and including them in the international refugee system.

If climate exiles are to be defined as refugees and have the same rights as refugees, they would have the right to be given short-term protection and long-term help in the form of “durable solutions”. The three conventional durable solutions are compensation/voluntary repatriation, resettlement to a third country, and local integration (UN, 2024) (Betts & Collier, 2017, pp. 8, 13-14). So, in the short term, they would be protected, meaning be given what is necessary for their survival and security. In the long-term, they would be helped to a durable solution so they can live normal lives. They cannot be sent back to their homelands since it is permanently uninhabitable, so they would either be integrated into the country that is giving

them protection or be resettled in a third country. This is obviously better than not helping them at all, and I will argue that climate exiles should at the minimum have the same rights as refugees. But I will also argue that climate exiles should have a right to something more and that other agents have a duty to help them achieve this. That is a right to sustain their collective self-determination as a people. Collective self-determination is not something the international refugee system is designed to or attempts to protect. The rights given to refugees are only intended to protect refugees as individuals and their individual rights. For most refugees, this might be the best remedy. But I will argue that the situation of climate exiles is different than that of ‘regular refugees’ such that they have a right to be helped as a collective and have their collective self-determination sustained. Treating climate exiles like the Tuvaluans as refugees would likely lead to the end of the Tuvaluans as a political and cultural people. They would have to abandon their homelands and be resettled as individuals in other countries. They could potentially be spread out amongst a number of different countries, and they would have to be integrated into these countries. Even though this would be better than not helping them at all, I will argue that their collective self-determination is something that can and should be sustained.

What sets climate exiles apart from refugees is firstly that climate exiles will *necessarily* be displaced collectively, and secondly, they will never be able to return to their homelands². These differences matter because if they are not helped, it will mean the end of their existence as a people and their collective self-determination. But these differences also make it possible for the climate exiles to be helped as a collective and have their collective self-determination sustained in a different area. I will also argue that collective self-determination is of great moral value and can even be considered a human right that is held collectively, meaning that it is something that should be saved if possible. There are agents who are outcome responsible for making them into climate exiles either by emitting a large amount of greenhouse gasses knowing the consequences of this or profiting off such emissions. This ground a strong remedial responsibility to help climate exiles sustain their collective self-determination. These kinds of responsibilities can be held by collectives such as nations, and the members of such nations can take part in holding these responsibilities.

² I am using “never” in the informal sense meaning that it is highly unlikely in the foreseeable future.

Here it can be interjected that the international refugee system is a failure and that my following argument is rather pointless because the current system does not even provide most current refugees with what international law promises them. Instead, our focus should be on fixing the existing system and helping those who are currently in need. This is important and something that should be acknowledged. Refugees are currently being promised short-term protection and long-term help. But according to Betts and Collier, in 2015, less than 2% of refugees in the world received access to one of the three durable solutions, and less than 1% got resettled to a third country (Betts & Collier, 2017, pp. 15, 22). So even though the international refugee system does help some refugees, it fails to help most. If I were to ask if this system would be an adequate solution to the climate exiles' problem and a good reflection of the duties other agents have towards them, the question would most likely be no. I am not going to engage in a discussion on the prioritization of refugees and climate exiles in the current refugee system. Rather, my focus will be on the different normative situation climate exiles are in compared to refugees. For this reason, I will compare an idealised version of the current international refugee system that does manage to provide all refugees with both protection and a durable solution.

To make my argument I will use insights from theories of territory to argue that the loss of territory that climate exiles will suffer is a serious loss that goes beyond just a place to live. It will be a loss of the individuals' homes, places they care about, the background of their lives, and a potentially significant part of their identity, life meaning, and the place that allows them to control their own lives. Because control over one's environment is necessary for having meaningful control over one's life. The collective will suffer much of the same losses as an extension of the members' individual losses. Since control over where the members of a collective live is necessary to be collectively self-determining, loss of territory will mean the loss of collective self-determination. Since collective self-determination is a basic right, and climate exiles are in a good position to have their collective self-determination sustained elsewhere, they have a right to sustained collective self-determination. The agents responsible for their displacement, and those who have benefitted from it, will have the corresponding duty to help them sustain this collective self-determination. But there is a limit to what costs those with a remedial responsibility can be expected to carry. They cannot be expected to take actions that will lead to their own society collapsing and thus making themselves into refugees. So, to find a solution that can strike a balance between these considerations, I will present four claims and corresponding models climate exiles can make. Even though none of

these models are perfect and will involve a cost for someone, I will argue that a form of internal autonomy is the model that strikes the balance and should be preferred.

An insight from theories of territory which will be relevant in this discussion is the particular land the climate exiles will be relocated in. Because of the significance of the particular land one as individuals and collective is connected to, the climate exiles would need to be relocated on land that would allow them to continue being collectively self-determining. Both in terms of size and what ways of life the land allows for. In addition, there are also considerations to be made between different cultures and how strongly located they are. Meaning that some cultures are more dependent on their location than other cultures. I will present two conditions from Dietrich and Wündisch which can be used to determine whether a piece of land will allow the relocated climate exiles to be collectively self-determining there.

The thesis will proceed in the following way. In Chapter 1 I will investigate whether climate exiles should have the same rights as refugees. I argue that even though there are many similarities between climate exiles and refugees, and that giving them the same rights as refugees will provide them much needed help, this will be insufficient. I argue that there are morally relevant differences that warrant stronger rights to climate exiles and corresponding stronger duties on others to help them. These differences being that climate exiles are necessarily collectively displaced, and their homelands are permanently uninhabitable. In Chapter 2 we will have a look at different theories of territory to get an understanding of why territory is significant, and that the primary loss connected to loss of territory will be the loss of collective self-determination. In Chapter 3 I argue that climate exiles have a right to sustained collective self-determination that is grounded both in the moral value of relationships of a self-determining people and in the outcome responsibility of nations that have contributed to making them climate exiles. This outcome responsibility grounds a remedial responsibility to help them sustain their collective self-determination. I present four different claims and corresponding models that climate exiles can make related to having their collective self-determination sustained in another place. Even though none of the models are perfect, I conclude that the claim and model that seems most plausible is a form of power-sharing within a larger political project. I also note that in making such decisions, considerations should be made regarding how strongly located the culture of the particular

climate exiles are, and that the land they are relocated in must be of an appropriate size and allow them to live approximately how they currently live.

Chapter 1: Should climate exiles have the same rights as refugees?

When trying to think about solutions to the peril climate exiles find themselves in, the most obvious one is probably to treat them as refugees and give them the same rights as refugees. As we will see, even if the conventional definition of refugeehood would not include climate exiles, it is possible to widen it such that climate exiles would be considered refugees. I argue that refugees have rights to be helped and others have duties to help refugees out of a general duty of care to help protect those who are not receiving the protection they are entitled to from their state. The rights refugees have match pretty well with what they are promised in international law, namely short-term protection of their basic rights and fulfilment of their basic needs, and long-term solutions where they are settled somewhere safe and where they can live their lives. The international refugee system is intended to help those who need to move across borders to save their lives and or basic right. So it might sound like giving climate exiles the same rights as refugees is the right remedy. I will argue that giving climate exiles the same rights as refugees would be a lot better than nothing, but that there are morally relevant differences between climate exiles and refugees which warrants them having more demanding rights and others having more demanding duties to help them. These differences being that climate exiles are necessarily collectively displaced, and their homelands will be permanently uninhabitable. I will argue that these differences mean that climate exiles will suffer even greater losses than refugees, but also that it means they will be in a good situation to be collectively self-determining in another place than their homelands.

1.1 What is a refugee?

There are many similarities between climate exiles like the Tuvaluans and refugees. But before discussing whether climate exiles should have the same rights as refugees, we should look at how refugeehood is defined. The most prominent legal definition today is the one that is grounded by the right to asylum found in The Universal Declaration of Human Rights (UDHR). It describes the right to asylum as: “Everyone has the right to seek and enjoy in other countries asylum from prosecution” (UDHR, 1948, Article 14). If you are experiencing systematic mistreatment, typically from your own state, you have the right to seek protection

in another state. This article served as the grounding article for the 1951 UN Convention Relating to the Status of Refugees (from here referred to as “the 1951 Convention”), which was amended in 1967 by the Protocol Relating to the status of Refugees (from here referred to as “the 1967 Protocol”). It defines a refugee as a person who “[...] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country” (Article 1). According to this definition, a person is a refugee if they are outside of their home country because they are fleeing persecution. But there are also other legal definitions of refugees, like the one found in the Organisation of African Union Convention of 1969 (from here referred to as “the 1969 Convention”) which is wider in that it also includes those who seek refuge due to “external aggression, occupation, foreign domination or events seriously disturbing public order” (Article 1). Climate exiles could therefore fit the definition found in the 1969 Convention if their islands disappearing falls under “events seriously disturbing public order”.

We also have moral definitions of refugeehood like the one presented by Andrew E. Shacknove who argues that refugees are “in essence, persons whose basic needs are unprotected by their country of origin, who have no remaining recourse other than to seek international restitution of their needs, and who are so situated that international assistance is possible” (Shacknove, 1985, p. 277). What happens when a state fails in protecting the basic needs of its citizens is that the “normal social bond” is severed (Shacknove, 1985, p. 277). This social bond meaning the relationship of “trust, loyalty, protection, and assistance” between individuals and a larger collective (Shacknove, 1985, p. 278). Persecution is just one way of severing this bond. Others like David Miller have criticised Shacknove’s definition on the grounds that it does not explain why refuge in another country is the right remedy (Miller, 2016, p. 80). According to Miller, it seems that a person who does not have their basic needs met by their country could potentially be helped where they are. If the country fails to ensure their basic needs out of a lack of resources rather than malice, it seems reasonable that the population could be helped through receiving material aid instead of crossing a border and be helped somewhere else. Because of this, Miller argues that refugees should rather be defined as “people whose human rights cannot be protected except by moving across a border, whether the reason is persecution, state incapacity, or prolonged natural disasters” (Miller, 2016, p. 83). This narrows down the definition such that it only captures those who must cross a border in order to have their human rights protected. This is perhaps what the legal

definitions of refugeehood attempt to get at. Only include those who must leave their home country to have their human rights protected and exclude those who could be helped in their home country.

Climate exiles would arguably fit Miller's wider definitions of refugeehood. If they stay put, they will die and even if their state tried to, it would not be able to save their lives or protect any of their human rights where they are. So, there are many similarities between climate exiles and refugees. But before I will present what I take to be morally relevant differences between climate exiles and refugees, we will investigate why others have duties toward refugees in the first place. We will do this to be able to consider whether the same reasons apply in the case of climate exiles.

1.2 Why do others have duties toward refugees?

Before arguing that climate exiles have stronger rights than conventional refugees, we will have a look into why refugees have rights and others have duties towards refugees in the first place. We can go back to Kant to find reasons for having duties towards both regular immigrant and refugees. In *Toward Perpetual Peace* he argues that there is a cosmopolitan right of hospitality. This cosmopolitan right is a form of judicial constitution based on how both individuals and states are members of a universal state of humankind. This right of hospitality is a right to visit and not be treated with hostility when one arrives in another's territory. One can be returned to one's homelands only if this will not lead to one's death (Kant, 2006, 8:357-8). The last point that one cannot be returned to one's homeland if this would lead to one's death is also a principle in international law today and is known as the principle of non-refoulement. Article 33 of the 1951 Convention states: "No Contracting state shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". For Kant, this is a duty towards all visitors, not just refugees. Kant does not argue that any visitor has the right to stay in the territory, but that they have right to establish contact and should be treated with a minimum of respect and hospitality. An implication of the principle that one cannot be sent home if this could be a threat to one's life can be that one would have the right to stay until it becomes safe again. But Kant is silent on what rights such persons would have. It is not clear if Kant thinks that visitors who cannot be returned due to concern for their safety (and thus

probably be considered a refugee) should be able to stay and gain at least some of the same rights as citizens like a right to work and hold property. But providing these rights might be a reasonable thing to do considering a respect for their innate right to freedom. Individuals need to be somewhere, and if they cannot return to their homelands out of concern for their safety and thus all their individual rights, they might have a right to stay where they are. Over time, if they still cannot return, they might have a strong claim to gain some rights that ordinary citizens have. Without going into a discussion about Kant's works and how he should be interpreted, I think we can extract that all humans have some worth and right to freedom that must be respected. For visitors, this is why we must treat them with hospitality and not hostility. We do not have to create lasting relations to visitors, but they should be allowed to make contact and be treated with hospitality. When it comes to a refugee who is an individual in need which cannot be returned to their homeland, out of respect for their life and freedom, they should at the minimum be allowed to stay somewhere safe until it is safe for them to return.

David Miller argues that states have a "duty of care" toward refugees under the principle of non-refoulement. One cannot send refugees that would be unsafe for them, so they must be allowed to stay somewhere safe. As for duties towards refugees more generally, Miller compares this to the duty of rescue one has to individual is in emergencies where there is a danger of serious harm or death, and the rescuer is able to help out without too high of a risk to themselves (Miller, 2016, p. 78). So, assuming that a state is able to help refugees and refugees are individuals who do not have their human rights protected, the state has a duty to help protect the refugees' human rights. Because when a person's own state cannot protect their human rights, other states have a duty to help them out and protect their human rights. In the clear case of a group being the victim of persecution or genocide where their state intentionally violates their human rights, it is obvious that other state should help these individuals if they are able to. But this is arguably also the case when individuals flee because of war, state collapse or other situations that endangers the individuals' human rights. Others therefore have duties towards refugees out a duty of care to protect their human rights.

1.3 What rights do refugees have?

As with the definition of refugeehood, there is a difference between what legal and moral rights refugees have. We will start with the legal rights before moving onto the moral ones.

As we touched on earlier, in the current international refugee system refugees have a right to primarily two things, protection and long-term “durable solutions”. Meaning that when individuals have fled their country origin and arrived in a second country seeking asylum, their basic needs should be met like somewhere safe to be and access to food and water. If they are not granted asylum, they are not deemed to be refugees in need of help in another country and can be sent home. If they are deemed refugees in need of help, they should be given a durable solution. The three conventional durable solutions are compensation/voluntary repatriation, resettlement to a third country, and local integration (UN, 2024). Meaning they are either to be integrated into the country they applied for asylum in, resettled in a new third country, or voluntarily sent back to their home country if that is safe. So international law seems to promise refugees what they need. Out of concern for their own safety and human rights they cannot stay in their home country, so international law promises to give them a new place to stay where their safety and human rights are taken care of. If they are in need of somewhere to stay long term and live normal lives, the refugees are promised this. If they can and want to return to their homelands, the international refugee system will support them in this. Now that we have had a look at what refugees have a legal right to, we can move onto what moral rights they might have.

Some writers like Christopher Wellmann argue that the main right refugees have toward those who can help is protection from those that are persecuting them. This can not only be done by letting the refugees into their country, but also by providing them a refuge in their home country through humanitarian intervention (Wellmann, 2011, p. 121). Michael Walzer also understands refugees as victims of persecution and argues that refugees should not only be given protection and long-term settlement, but membership in the country that gives them a refuge. The reason for this is that refugees are lacking political membership. Political membership is a “non-exportable good” which means that other states cannot give it to them in their home country, they need to be let in and given membership in a new political community (Walzer, 1983, pp. 49-49). Matthew Price argues similarly that victims of persecution are suffering “a *political* harm” that calls for “a political response”, in the form of condemnation and surrogate membership. He calls this the “membership principle” and is therefore arguing that refugees have a right to protection and political membership (Price, 2009, pp. 167-168). It is possible to interject that automatically giving membership to refugees is problematic since in the case of persecution, there is a possibility that the victims of persecution can and want to return to their home country if there is a regime change. But it

also likely that a lot of individuals do not want to return even if this were to happen, perhaps especially when a lot of time has passed. Matthew Gibney highlights that protection of basic rights and somewhere to stay is the minimum refugees should be given. Consideration should also be given to the fact that refugees also lose their social world and should therefore be resettled in places where they can not only survive, but flourish (Gibney, 2015, pp. 459-460). But this might not be enough to warrant a right, but rather just an accommodation that should be made if possible.

Despite disagreeing on some rights, especially whether they have a right to become citizens, all the philosophers I have looked at here seem to agree that refugees at least have a right to short-term protection. Meaning their basic needs must be met and their human rights protected. Those who also argue that refugees have a right to political membership in a new country seems to argue in favour of the long-term solutions found in the global refugee system. This meaning they are permanently resettled so they can live out their lives in a new place without the possibility of being sent home to their homelands if this were to become safe. So, it seems like the philosophers mostly agree with international law over what rights refugees should have. Before moving on, we should acknowledge that there is a discrepancy between what refugees are promised and what they are given.

Even though refugees are promised protection and long-term durable solutions in international law, the reality is that less than 2% of refugees was given a durable solution and less than 1% got resettled in a third country in 2015 (Betts & Collier, 2017, pp. 15, 22). Betts and Collier's book does a great job explaining the realities that face modern refugees and how the global refugee system fails them. I will not go into detail about that here, but their diagnosis of the global refugee system is that in practice, the only options available for most refugees are "encampment, urban destitution, or perilous journeys" (Betts & Collier, 2017, p. 119). Encampment here meaning that they can live in refugee camps which in practice means putting their lives on hold, but they can get some material assistance. Urban destitution involves living in urban areas without really receiving any help from the refugee system or the country they find themselves in. Perilous journeys is what we saw ramp up during the "refugee crisis" in 2015 when masses of refugees decided to take the dangerous journey to rich European countries and seek asylum there.

Additionally, as Serena Parekh points out, because of the way the international refugee system is set up, Western states have put in place measures that inflict secondary harms on refugees that try to seek asylum. The principle of non-refoulement gives Western states an incentive to make it hard for refugees to arrive in their territory and to make it undesirable to go there, because if they do arrive the state must allow them to seek asylum and cannot send them back to their home country if it is unsafe. Amongst the measures she lists are interdicting asylum seekers at sea, expanding out-of-country detention, and separating kids from their parents on arrival. Additionally, they have made it hard to obtain visas and travelling to their territory legally, meaning many refugees must break the law in order to seek asylum there (Parekh, 2020, p. 29). In the words of Matthew J. Gibney “Western states now acknowledge the rights of refugees but simultaneously criminalize the search for asylum” (Gibney, 2006, p. 143). Parekh’s argument is that the secondary harms refugees are suffering in trying to exercise their human right to asylum are a result of intentional actions by Western states. Regarding these secondary harms, Western states have a more interconnected role and stronger obligations to help the refugees than what they conventionally are thought to have. Conventionally they are thought to have merely a duty of rescue, meaning a weaker duty that requires them to do less and allows them to refrain from helping if it will incur a high cost for them (Parekh, 2020, p. 27). Keeping these realities in mind is important, but in the following philosophical discussion, we will discuss the conventional system as if it did manage to provide refugees with what they have legal right to.

1.4 Morally relevant differences between refugees and climate exiles

There are many similarities between climate exiles and refugees. They are both in need of protection and long-term solutions. So, climate exiles should at the minimum have the same rights as refugees. But I will argue that there are morally relevant differences between refugees and climate exiles that warrant stronger rights to climate exiles, specifically a right to sustained collective self-determination. The two differences I will present are (A) climate exiles are necessarily collectively displaced. (B) their homeland becomes permanently uninhabitable.

A. Necessarily collectively displaced

What makes the case of climate exiles unusual, though not unique, is that the whole group will be displaced. The entire territory of climate exiles is being submerged and uninhabitable, such that refusing to relocate will mean certain death. Refugees are also sometimes forced to flee collectively, for instance, if the whole people is located in a small area and a larger outside aggressor invades and displaces the whole population. But what sets climate exiles apart from refugees is that climate exiles are *necessarily* collectively displaced. Refugees can both be displaced collectively and as individuals. This matters because refugees can be in widely different situations depending on how they are displaced and the state of their people. To illustrate what I mean and why I think it matters we can imagine a situation where a people who holds territorial rights are invaded by an outside aggressor.

The outside aggressor manages to occupy half of the territory and displaces the individuals living in this area. These individuals become displaced and might flee into the other half of the country or they might flee into a neighbouring country. What is important here is that the people still exist in that it has not split or stopped existing as a whole. The displaced people are still part of the people, even if they are now internally displaced or refugees in another country. Then the people can still be said to exist, hold territorial rights, and be collectively self-determining. Even if their territorial rights are challenged by the outside aggressor, we will still say that they have rights to these occupied areas. If the people tried to defend itself by fighting back, the people is clearly demonstrating that they are a collective agent, they are being self-determining by taking up arms, and they show that being part of the people is so valuable to them that they are willing to risk their own individual lives. In this case, being collectively self-determining somewhere else is not the only available option for them. They can stay put and fight as a people, and for them, defeat their enemy. Helping those displaced in another country to establish a new system where they could be collectively self-determining could be seen as abandoning their current people and attempting to create a new collectively self-determining people. The help the refugees should get is what international law promises them, short-term protection and long-term solutions. Hopefully for them, the people manage to win the war and the refugees can move back to their homeland and people. But not all refugees are created by outside aggressors invading.

Some individuals become refugees due to internal social and political reasons like civil war and state collapse. In cases of civil war, the people can be said to have split into two or more different peoples. Each of these peoples might then establish territorial rights in their areas. Those displaced as a result of the civil war would have belonged to the people that existed before the split of the people. They would then likely either have aligned themselves with one of the factions, or be caught in the middle. Regardless, the way to help these refugees would not be to provide them sustained collective self-determination elsewhere but rather short-term protection and long-term solutions. Then they would have their human rights protected and have the option to move back when the situation has settled down. Providing these refugees sustained collective self-determination would arguably not be possible since those displaced would likely be belonging to one of the people who holds territorial rights and are being collectively self-determining. Creating new institutions for this elsewhere would have the same problems as we discussed with outside aggressors previously. If we argue that it is not possible for a people to split like that and that the whole people still exist, the people will then still have territorial rights and be collectively self-determining. Thus no need for those displaced to continue being self-determining elsewhere. If on the other hand a people is not able to split into new peoples, but rather the people stops existing as a whole and the individuals thus lack membership in any people, the individuals would then have no collective self-determination to sustain elsewhere. The individuals would have to establish new or become part of an existing people first. In any case, this would not be a case of the refugees having sustained collective self-determination somewhere else. The correct remedy would still be to help them as individuals with short-term protection and long-term solutions.

But there are some refugees who are collectively displaced. This can be by an external aggressor and relatively small people living in small areas might be most prone to collective displacement. In such cases, the displaced people could still be a people and would have a right to be collectively self-determining. But they would have a right to be collectively self-determining in the area they used to inhabit. The right remedy for such a people would be that the occupiers leave the area and let the displaced people return and continue their collectively self-determination in their homelands.

On the other hand, climate exiles a people who can have their collective self-determination sustained elsewhere. The reason for their displacement is not internal, rather it is external and outside of their control. So they would not suffer the same fates as people who split or

disappear due to internal social and political reasons. They also differ from peoples who are collectively displaced since they do not have any homeland to return to since they are being displaced because their homelands become uninhabitable. Establishing institutions elsewhere to ensure their collective self-determination would be both possible and the only way they could continue to be collectively self-determining. This leads us into the second major difference between climate exiles and refugees.

B. Long-term state of their homeland

The homeland of many refugees could at least in theory be safe to return to someday. After a situation that have led to many refugees and internally displaced individuals, parts of the homeland might be temporarily uninhabitable or require rebuilding. But most of the time, the homeland will be habitable and given that the political situation changes, there is a possibility for individuals to at least move back inside the territory of their state and in the best case move back to their homes. Even the two cities which were victims of nuclear attacks during the second world war, Nagasaki and Hiroshima have later been rebuilt and are now the homes of more than a million individuals. There might be exceptions where the land is purposefully been made uninhabitable for a long period of time, but in general the homeland of refugees will be possible to move back to given that there are no political or social factors preventing it. Meaning that refugees should have the option of moving back to their homelands, even if most end up not doing so. The case is quite different for climate exiles. What causes their collective displacement also causes them to never being able to move back. Meaning that the homeland can be seen as permanently lost. If they are to sustain their collective self-determination, it will necessarily have to be somewhere else. Establishing new institutions for collective self-determination elsewhere would also avoid the problems discussed earlier where parts of the people still inhabit their homelands and are collectively self-determining there. The climate exiles will likely feel a great deal of loss for their homeland, but they would realise they need to resettle permanently.

To summarise, we have now established that climate exiles could fit into the definition of refugees, that others have duties towards refugees out of a general duty of care, and that refugees have the right to short-term protection and long-term solutions. Giving climate exiles the same rights as refugees will be lot better than nothing. They would then be helped to survive, have their basic human rights protected and could potentially live good lives in a new

society. But then they would only be helped as individuals, and this would likely mean the end of the people. I argue that there are two morally relevant differences between climate exiles and refugees that allows for helping climate exiles collectively and not just individually like refugees. Climate exiles are necessarily collectively displaced, and their homelands will be permanently uninhabitable. These are important differences since refugees will either have membership in a people which will continue to exist in their homelands, be part of a new people that also is located in their homelands, or be peopleless. In all cases, the right remedy for the refugees is to be helped as individuals, either because the collective people still are collectively self-determining in their homelands, or because there is no people to help. Climate exiles will be a people and thus able to be helped collectively, but could also be collectively self-determining elsewhere because no part of the people can stay in their homelands. Their collective self-determination is possible to be continued somewhere else, and they can have a right to sustained collective self-determination. We will move onto theories of territory to see why it matters that they lose their territory and why their collective self-determination is dependent on having some form of territorial rights.

Chapter 2 Insights from theories of territory: Why do we and why should we care about territory?

In chapter 1 I argued that climate exiles should at the minimum have the same rights as refugees. The definition of refugeehood can be slightly changed so climate exiles fall in under the definition, and assuming a working refugee system, they would get their basic human needs and rights respected. But I also argued there are two main morally relevant differences between climate exiles and refugees, namely (1) climate exiles are necessarily collectively displaced, and (2) climate exiles lose their territory and are not ‘just’ displaced. To understand why these differences matter we will look to the literature on theories of territory. These will show us why the loss of territory and the collective displacement it will involve is a loss of much more than ‘just a place to live’. It will mean the loss of territory which is important for humans’ individual and collective lives, relationships, identities, and autonomy. The most important loss climate exiles will suffer is the ability to be collectively self-determining. As we will see, territorial rights play an integral role in a people’s ability to be collectively self-determining. Let us now start with looking at territory.

2.1 Why do we and why should we care about territory?

The word “territory” might evoke thoughts of state government and armed border guards. This is not surprising considering a conventional definition of territory is that it is a space under jurisdictional control by a state government, and the borders between different territories is where the existence of these territories become most obvious. But how much you notice a border will depend on what border you cross. Certain border crossings have long lines of people, you must show multiple travel documents, your belongings can be searched, and the border is protected by armed guards. Other borders are barely noticeable like the ones in the Schengen area that sometimes are only signified by a sign welcoming you to another country. In the Schengen area, you could cross an international border without noticing it. If you live in a peaceful country, have a strong passport, and perhaps especially if you live inside the Schengen area where there is free movement of people, you might rarely think about territory or whether it is important. Those who are not as privileged and especially those who need to cross a border to save their lives are painfully aware of the existence of territories and the importance of them. I will argue that even if you do not think you care about territory, you probably do. You also should care about it since we live in a world of territories, and territories are important for humans both as individuals and collectives. To see why we do and why we should care about territory, let us start at the most fundamental level.

Human beings are spatial beings and need physical space to exist. We also need to be on land in order to exist and survive. We need somewhere to source food and water, and we need shelter to protect ourselves from the elements. Humans are therefore physically dependent on a place to live in order to exist and live. Humans also tend to live together in groups. We are social creatures that like and perhaps even need to be around other humans. Living together in groups is advantageous for our survival and development since we can collaborate on everything from sourcing food to caring for each other when someone gets sick or injured. It also allows for specialization that has led to more and more humans not having to work on producing food, something which has led to technologically advanced societies that have produced amongst other things, the computer I am using to writing this very text. These communities are in the same way as individuals, dependent on a physical place to be and live. Without somewhere to be, neither individual humans nor collectives of humans could exist.

In addition to land being a necessary condition for our individual and collective survival, humans also form emotional connections to physical places. On the individual level, going back to your childhood home after many years might bring back a whole bunch of memories. You might get a feeling of nostalgia when you see the local pitch where you played football as a kid or get sad when you see that a forest you used to play in has been cut down and turned into a shopping centre. Through spending time and having experiences in certain places, you form emotional connections to the places and start to care about these specific places. You can see a similar football pitch in a different city, but this will not evoke the same emotions because it is not the football pitch you have an emotional connection to. This is not only true for where you grew up, you continue to form emotional connections to new physical places even as adults. This can be especially apparent when you move to a new city or country. In the beginning you might feel lost since everything is new to you and you need to explore the place. After a while you start to form emotional connections to certain new places. You might have found a café you like or a steep hill you dislike because you always get sweaty walking up it. After some time, you can have formed strong emotional connections to these new places as well. If you have spent most of your adult life in a new country or city, going back to the country or city you grew up in might also feel strange if it has changed character. It is familiar but different. This experience might be comparable to meeting an old friend. They might have changed over the years so that they still feel familiar, but they are different from when you used to see each other regularly. But the relationship between individuals and physical places are deeper than humans just becoming fond of and getting nostalgic for certain places.

Individuals shape their environment to fit their needs and preferences. Examples of this are cultivating the earth to produce food, building homes to protect us from the elements, and even just painting the walls of your home in colours you like. This relationship is mutual. The environment also shapes the individual. The place you live is the backdrop of your life, it determines how you can live, and it probably effects your preferences. If you grow up in a cold place that is hilly and has mountains close by, you will probably be good at walking uphill and knowing how to dress to stay warm. So the environment shapes how you can or need to live, and what skills are necessary for survival and living comfortably. You also have a higher probability of enjoying spending time in the mountains. Meaning your environment can also shape your preferences and influence your individual identity. But as with forming emotional connections to physical places, this can also change over time. If you also grew up

far from the sea you might not enjoy sea food or know how to swim. If you move to a warm coastal city, you might be exposed to sea food and start liking it, and learn how to dress for the warm climate. So individuals are shaped by their environment and will often have an impact on the individual identities. This does not only hold true for individuals, it also holds true for groups and collectives.

As mentioned earlier, humans are social creatures and tend to be part of loads of different social groups. Just like individuals have identities, groups can also have collective identities which also shapes the members' identities. For some of these groups, the physical location will influence their collective identities similarly to how it shapes individuals' identities. An example of this is sports clubs. My local football club Brann, coming from the city of Bergen, have a slogan and song called 'Brann Bergens Stolthet' ('Brann the pride of Bergen'). Before every match the song commonly known as 'Nystemten'³ is sung, and this is considered Bergen's national anthem is sung. The identity of the football club is tightly knit together with the city of Bergen and the physical place it exists. Football clubs does not have to represent a city or place, but they often do. The more salient example of a group or collective getting their identity partly from the physical place they exist is political communities like countries. The physical location influences can determine or at least influence how the political community can develop and how its institution can be act, for instance by how hard it is for others to invade them, how easy trade with other groups are, and how much food can be produced. But it also influences the group identity. For instance, Norway is a country in Northern Europe with a cool climate and is peppered with both mountains and fjords. This means there are limits to what food can be grown on land but the sea is filled with high quality fish, the combination of mountains and fjords made roads hard to build and thus access to the sea important, and snow covered landscaped made skiing an important skill. The cold climate and especially the mountains have become part of the identity of Norway. Norwegians often say they are born with skis, and Danes sometimes refers to Norwegians as "fjellaper" or "mountain apes". The physical environment is part of how both how Norwegians themselves and non-Norwegians identify Norway and Norwegians. To summarise, having somewhere to live is essential for the existence of humans. The particular place we live is emotionally important to us and can influence both our individual and collective identities. But why is it important to control these physical places and turn them

³ Officially called 'Udsigter fra Ulriken'

into territories in the sense that it is under jurisdictional control? To answer this, we can see how territory connects to autonomy.

As we have seen, the specific place you grow up and live is the backdrop of your life. You need it to survive, but it is also something you form emotional connections to, it is background of the relationships you form to other people, and it allows you to be part of different groups, amongst them political collectives. Being able to control your own individual life is an important aspect of human existence. We can agree that having some form of minimal control over our own lives to do what we ourselves decide to do is morally valuable. Because our environment is a necessary condition for our survival and it is the backdrop of our lives, having control over our lives will to some extent involve controlling our environment. If your place of residence is constantly changing or you are forced to constantly move to new places, it will be hard for you to have any meaningful control over your own life. Never knowing where you can get food, where you can sleep, or where you can meet the people you know will make living a normal life hard or perhaps even impossible. So having a stable place of residence over which you have some minimal amount of control is necessary to be able to control your own life. Stability and control are necessary for what we have already looked at when it comes to shaping and being shaped by your environment, being in meaningful relationships to others, and creating a joint life with others. An aspect of having this control over our own lives and the place we live is controlling what outside influence is allowed. This will involve the power to deny people physical access to an area, like building physical barriers around a town or denying other people access through laws. Here we can see how we are starting to move towards creating a territory.

One might resist this and argue that on the most basic level, all humans should be free to use the natural environment. There is nothing in nature that indicates that some specific piece of the earth should belong to some specific individuals or collectives. But at the same time, I think most would say it is fine to harvest an apple from the earth and excluding others from it by eating it. We do need nutrition to survive, and if nobody would be allowed to take anything from the earth because it belongs to everybody, it would result in all humans dying. It seems simply ridiculous to say that nobody could eat anything from the earth because it would exclude others from it. The same probably holds true for denying other people access to their home and doing what they want with their own home. Part of what makes it your home is that you can decide what you want to do with it and controlling who can enter. If

nobody could deny others entry into their home, it would to some extent not really be *their* home. There do not seem to be anything intrinsically wrong with controlling your own home and therefore excluding others from it. But does the same go for controlling and denying people access to a whole city? Well yes because cities are the home of a collective of people and they need to control both the land it exists on, and the people allowed in to be free and self-determining. Another aspect is that a collective probably needs this authority to be effective and develop in a way the group themselves desires. If there are other groups that would like to take over the city, the city might need to establish sort of military force that could withstand an invasion, in order to protect this ability to be self-determining. Suddenly we find ourselves in a situation that looks quite similar to the world we have today where groups of people have an area that belongs to them and controls it with physical force. We can call this area their territory. There seems to be some ways in which having a piece of land as one's territory is justified, like when the citizens of a city wants to protect themselves and control who enters so as to keep the city's character intact, or take control over unoccupied land to allow the city to expand. But there also seems to be other ways to control territory that is not justified like forcibly taking control over land that another group controls and expelling them from the land because you want to use the land for yourself. What if we add to the mix that the conquering group can use the land more efficiently and do a better job at defending the land and themselves. Would the invasion be justified now? Here I will guess that most people will draw a line and think that such behaviour is not justified, even if the conquerors are "better" at controlling land. I think this shows that we have contradicting intuitions about territory. At some level it seems unfair that some people can control and exclude other from a piece of the earth. At the same time, it seems obvious that some control and exclusion is justified. So having territory can be justified, but there are limits to it. But exactly what rights can humans have to control land, who can hold these rights, why or when can they have such rights, and what other rights can one be entitled to as extensions of these rights? These questions are what theories of territory try to answer. The reason I think these questions and theories are relevant in the discussion on climate exiles is that they show us how the specific place we humans live matter to us, why there is value in controlling territory, and what will be lost if a groups territory essentially is lost. Getting a grip on what a people will lose when they become climate exiles will be important when deciding how they should be helped, and what they might do themselves if they do not receive the help they should get. Seeing how territorial rights can be justified can also guide through how climate exiles could get territorial rights in a new place if they have a right to sustained collective self-determination.

Up until now I have used words like “territory”, “land”, “place”, and “area” in a casual everyday way without defining them. These words are defined and used differently both within and outside of philosophy, and perhaps especially the word “territory”. Modern states today are often called “territorial states”, and the words “territory”, “state”, and “country” are often used synonymously. Sidgwick picked up on this when he wrote “in modern political thought the connection between a political society and its territory is so close that the two notions almost blend” (Sidgwick, 2012, p. 213). In the social sciences there are examples of writers like Gianfranco Poggi who claim that “The state does not so much *have* a territory; rather, it *is* a territory” (Poggi, 2020, p. 70). Even in everyday conversations, these notions blend all the time. Instead of saying “the state of Sweden has decided that it will reduce the tax on liquorice pipes”, most people would probably just say “Sweden has decided that it will reduce the tax on liquorice pipes”. Even if this happened through a referendum, most people would probably still say “Sweden has decided” instead of “the Swedish people has decided”. If you are traveling most people would say “I am traveling to Sweden” instead of “I am traveling to the territory that belongs to the state or the people of Sweden”. If you say the latter, you will probably get a few confused looks. Or a more extreme example, if Sweden were to give away some of its land to Norway, you would probably hear people saying that “Sweden shrinks”. In everyday conversations, “Sweden” will often be used to describe the state of Sweden, the Swedish people, and the physical land that this state and people control. To avoid future confusion, in this thesis, I will understand “territory” as a political term that means a space or area that is under jurisdictional authority. “Land” is a geographical term meaning the earth’s surface that is not covered by a body of water. This means that land can become territory if it is put under jurisdictional authority. But it is not only land that can become territory, the seabed, and airspace can also become territory. But for the most part, I will focus on land as territory since this is the most important subject of territory. When a space or area has been socialized by humans it becomes a “place”. So, territory is related to land, but the two must not be confused. Per these definitions, land is merely physical, territory is a social construct and the result of actors putting a space or area under their control. Territorial rights are usually a bundle of different rights associated with having a right to a territory, but this will vary from different theories of territory. What rights there are, how to acquire them, and who can hold them will be discussed later.

2.2 Theories of territory

There are many different theories of territory, and some of them have long roots within philosophy and political thinking. The theories I will present here are all jurisdictional accounts of territory, meaning they view territory as land that is put under the authority of some jurisdictional authority like a state. The different theories are categorised as individualist property theory, collectivist property theory, statist- and functionalist theories, non-statist theories, and the self-determination theory. The theories differ in how they define territory and territorial rights, who can hold territorial rights, and how one can come to hold territorial rights. We will start with the individualist property theory of territory.

2.2.1 Individualist property theory of territory

John Locke

In his book *Two Treatises of Civil Government* John Locke provides what has later been called an individualist property theory of territory. The essence of the theory is that God has given the world to all of mankind. So nothing by nature belongs to any particular humans or groups. Humans have a natural right to their own body and their own labour (as an extension of their body), and a right to self-preservation. To be justified in taking something which is given by God to all mankind, you can mix it with your own labour, and thus you are making it your property (Locke, 1962, pp. 129-130). You can do this by picking an apple off a tree, and you can do it with land by improving it through for instance building a well or sowing seeds. These things can become your property. But this is on the assumption that you are not taking too much since there has to be enough for everyone, and that you do not destroy it. Locke claims God intended for humans to mix their labour with the land to improve it, thus making it their property (Locke, 1962, p. 132). When humans improve the land, thus making it able to sustain more people, families increase in size and numbers, and people start to live together in larger communities. In the end you are finding yourself in a situation where you have no other choice but to live alongside a lot of other people. Because of this, property holders come together to form political organisations. Through consent, the state gains authority over the people and over territory since the private property of the individuals becomes the territory of the state. So, authority over people and territory are created jointly (Locke, 1962, pp. 135, 165). This is an example of a theory that takes property to be prior to both territory and

political institutions. Territory spring out of property, and territorial rights are justified because humans have a natural right to property.

A. J. Simmons argues in favour of a Lockean theory of territory and emphasise that “When people consent to make or join a political society, then, what their consent should normally be understood as consent to whatever arrangements are necessary for a peaceful, stable society” (Simmons, 2001, p. 313). This consent also includes one’s private land property so that the political power can effectively protect its subjects. Simmons argues that a state’s territorial rights must go through the state’s subjects. The territorial rights are therefore justified through these subjects’ claims or needs (Simmons, 2001, pp. 307, 313).

2.2.2 Collectivist property theory of territory

Grotius

Another type of theory of territory that is similar to Locke’s individualist property theory is the collectivist property theory we find in Hugo Grotius. In *The Free Sea*, Grotius argues for why the sea should not and cannot become anyone’s property. So, the discussion is centred around how the sea is different from other things humans can take possession of. He starts from the assumption that “by nature neither land nor sea is the property of anyone, but that land through nature can become property, while the sea can not” (Grotius, 2004, p. 81). So like Locke, nothing originally belongs to any specific human. But he argues that humans can hold or apprehend physically things that are limited corporally and can thus own these things. This is the reason land can be owned but not the sea. The sea is limitless thus unable to be held according to Grotius (Grotius, 2004, pp. 107-108). In order to have something as your possession, you need to occupy it, meaning you need to limit it and exclude others from it (Grotius, 2004, pp. 109-110). This is also similar to Locke in that by taking a thing, you make it yours. But Grotius does not make any reference to labour mixing. This argument is mostly about how anyone can be in possession of anything, not specifically about territory. In *The Rights of War and Peace* it becomes apparent how Grotius views both war, territory, and the seizing of things: “every Man in a solemn War acquires the Property of what he takes from the Enemy, and that without Rule or Measure; so that both he and his Assigns are to be defended in Possession of them by all Nations; which, as to the external Effects of it, may be called the Right of Property” (Grotius, 2005, pp. 1316-1317). Taking things in war is according to Grotius legitimate, and it becomes your property if you can defend it. Further he

writes that if you can take moveable things such as ships, back to your land without the former owner able to take it back, it is yours. With immovable things such as land, if you manage to take and hold the land with fortifications such that the former owner has no chance of taking the land back, that also makes it yours (Grotius, 2005, pp. 1320-1323). Land or territory is therefore something you can take, and you have territorial rights if you can keep others off it. War is a legitimate way of doing this. Territorial rights are not something that is created through living on the land, or being a certain group, it is something you can acquire through taking control over land, including through war. So in this way, Grotius' view of territory is similar to Locke's in that territory is a form of property. It is something that can be acquired, given, taken, and lost. The territorial rights spring out from having territory as your property. But Grotius and Locke differ in that Grotius thinks a state gets its territory from whatever it can control and keep others off. There is not talk about individual property owners coming together and consent to create a state. Rather states as a collective have the right to go to war and keep whatever they can seize in war. This is why the theory is a collectivist and not an individualist property theory like Locke's.

Cara Nine

Another flavour of a Lockean property theory of territory is the collectivist version defended by Cara Nine. She points out a flaw in the individualistic theory which she calls "the problem of locating meta-jurisdictional authority within property rights" (Nine, 2008, p. 151). This problem is best formulated by a question. Do individuals have a meta-jurisdictional authority to create a political power? If they do, Nine claims this causes a problem because then the individuals can retract their consent and can secede at any time. Effectively taking away the state's authority over the subjects and the land. On the other hand, if individuals do not have this authority, then a state with territorial rights cannot be created through consent by individuals (Nine, 2008, pp. 152-153).

Instead, Nine favours a Lockean collectivist account. Calling Nine's theory a collectivist *property* theory or account might be controversial since she states herself that the territory is not the same as property. Nine favours the label Lockean or neo-Lockean theory of territory. But since territorial rights are grounded in property, I think it is still an apt name for the theory. The main difference between the individualistic and collectivist accounts is that the collectivist does not rely on the consent of the individuals. Instead, the state can acquire rights to land if they fulfil two criteria "(1) agents must be capable of changing the land, thereby

creating a relationship with it; and (2) this relationship must be morally valuable – established by the Lockean principles of liberty, desert and efficiency” (Nine, 2008, pp. 154-155). To fulfil the first criteria, a state must do what individuals must to gain property rights, change it through labour. What counts as labour for a state is “creating, adjudicating and enforcing laws” (Nine, 2008, p. 155). These are land changing acts that can create rights claims to land. A state is justified in having territorial rights because they “help to realise the values of liberty, desert and efficiency” (Nine, 2008, p. 156). The state enforces laws that regulate and ensure property rights, thus motivate individuals to act in certain ways, and the state should therefore be able to control its jurisdictional powers. This is justified through the realisation of liberty, desert, and efficiency (Nine, 2008, p. 156). For Nine, territorial rights are not property rights even though they are justified in a similar fashion to how rights to property are justified for individuals. She justifies each of these Lockean principle (liberty, desert, and efficiency) from either an institutional perspective, a token right perspective or both. On the institutional level, a system where states have territorial rights is justified if this is the best way of protecting and ensuring liberty. On the token rights level, such a system should be limited when it denies legitimate secession movements territorial rights (Nine, 2008, pp. 157-159). A state has a weak⁴ territorial rights claim to territorial rights over a particular piece of land if it deserves it. The state can deserve the land if the value of the land is due to the state, which happens through labour. According to Nine, this also solves the particularity problem since it creates rights to a specific piece of land that the state have added value to (Nine, 2008, pp. 159-160). Land should be used as efficiently as possible with regards to the preservation of mankind, so the preferred system of rights to land should be one that promotes the most efficient land use patterns. If there is a value to individuals having property rights since it is efficient, the same is true for a political system that protect and reinforce these rights (Nine, 2008, p. 161). From the token rights perspective, it can work as a limiting principle such that if a territorial rights holder is not using the land efficiently or “wasting” it, and others are suffering severely from not being allowed to access the land, the rights to land may be limited. This holds for basic goods that will be valuable to all people like food, water, and natural resources. But also basic goods that enable a people to be politically organised such as basic infrastructure, and places to assemble (Nine, 2008, p. 162). Here Nine uses the case of sinking island states like Tuvalu to argue that her theory is well equipped to deal with such a case. Given that the Tuvaluans have a right to self-determination and that all land is claimed

⁴ Meaning it can be defeated, for instance if someone else have a prior claim (Nine, 2008, p. 159)

by a state, some state(s) must give up a part of their territorial rights to allow the Tuvaluans to make a new state. Since they are in a dire situation, they have a stronger claim to unutilised land than land that is utilised (Nine, 2008, p. 163).

2.2.3 Statist- and functionalist theories of territory

Hobbes

In *Leviathan*, Hobbes can be said to defend a statist/functionalist theory of territory. He describes the situation of humans before political organisations as: “the condition of Man [...] is a condition of Warre of every one against every one” (Hobbes, 1985, p. 189). In this state of nature, “the life of man, solitary, poore, nasty, brutish, and short” (Hobbes, 1985, p. 186). This state of war is a result of every human’s natural right to their own preservation and the absence of any common power that can implement and enforce laws. This state of war does not necessarily consist of constant fighting and violence, but there is constantly a latent violence because there is no laws or state power (for instance in the form of police) to forbid and hinder it (Hobbs, 1985, p. 186). The only objects you can be in possession of is what you can maintain control over by fending off others who try to take it away from you. Humans are not constantly fighting over things because humans also have a fear of death which lead them to seek peace (Hobbes, 1985, pp. 188-189). These two factors in combination lead people to make agreements to leave this state of war by erecting a common power that can hinder violence between the individuals. By establishing this common power, the individuals give up their natural right to govern themselves on the condition that all others do the same. This is done for their mutual benefit by hindering violence amongst themselves and to protect the collective from outside forces. This concentration of power in one person is called a “common-wealth” or “civitas”, and the sovereign can be called Leviathan (Hobbes, 1985, pp. 226-227). Such an organisation where individuals come together and consent to subject themselves to a sovereign is called by Hobbes a “Political Common-wealth” or “Common-wealth by *Institution*”. When a sovereign is instituted not by agreement but through coercion, he calls it “Common-wealth by *Acquisition*” (Hobbes, 1985, p. 228). The reason for its creation and its goal as a common-wealth, or state as I will refer to it as, the assurance of peace, security, and justice. Hobbes discussed three forms of state governance, monarchy, aristocracy, and democracy. According to him, the main difference between the three is ability or aptitude to secure the three ends previously mentioned. An absolute monarchy is the best suited candidate for a number of reasons, but two of them are (1) a monarch’s private

interests are the same as the public's, (2) a monarch cannot disagree with themselves, but an assembly can, something that can lead to civil war (Hobbes, 1985, pp. 241-243). To be able to secure these ends and avoid eruption of civil wars, the authority of the sovereign should be indivisible and unlimited (Hobbes, 1985, pp. 236-238). When such a state has been erected, even the minority that do not wish to consent to the sovereign, must do so because dissenting would be an injustice. If not, he can expect to "justly be destroyed by the rest" (Hobbes, 1985, p. 231). So even though Hobbes does not write explicitly on territory or try to create a theory of territory, we can still tell how he viewed it. The job of a sovereign is to end wars and instil peace, security, and justice. To do this, their power must be indivisible and unlimited. Meaning that if a sovereign decides so, it has territorial rights over the land they control. These territorial rights are thus also limitless. The state is justified in this because control over the land is necessary for the function of the state, which is to assure these three goals. So territorial rights are justified by being necessary for the functioning of a state, hence the name statist- functionalist theory of territory.

Similar to the Lockean accounts, having control of territory is viewed as necessary to realize certain morally valuable goals, such as peace and security. Losing control over territory or losing the territory itself might lead to a state of nature since the state can no longer function and secure peace and security.

Kant

Like Locke and Hobbes, Kant also imagines a state of nature before political organisations where all external objects originally belong to everyone in common. According to Kant, originally there is nothing that is mine or yours, but individuals can acquire originally something external to themselves and it be rightfully theirs. But without political institutions and what he calls a "rightful condition", things can only be *provisionally* rightfully theirs in the state of nature. Acquiring something originally is to bring it under your control, you can use it, and will it to be yours. This must happen in accordance with the law of outer freedom and thus cannot for instance be something which someone else already holds. This gives you the right to exclude others from having that object and if they try to take it from you, it will be an attack on your innate right to freedom (Kant, 1996, 6:258-9). This might seem similar to Locke's theory, but it is essentially only similar in that people can acquire objects in the state of nature. Kant rejects Locke's labour mixing theory when he argues that one cannot acquire an object like land by transforming it. A right to a thing is not a relation between a person and

a thing, which is what Locke seems to argue. Rather, Kant thinks it is a relation between persons (Kant, 1996, 6:268-9). By controlling an object, using it, and willing it to be yours, you have the right to use it even though it originally belonged to everyone. This right is not a relation between you and the object, it is a relation between you and other persons. It would not make sense for someone who was the only person on earth to have or acquire a thing, because there are no other persons to have this right aimed towards. You need other persons to be able to have a right to a thing, because a right to a thing really means a right to exclude others from the thing (Kant, 1996, 6:260-2). According to Kant, the only thing that can be the subject of first acquisition is land, defined as “all habitable ground” (Kant, 1996, 6:261-2). On land you have movable and immovable things, the latter will be destroyed if you move it, the former will stay intact. This is because in order to have a right to anything that is moveable on the land, you first need to be in possession of the land. Importantly, all humans are originally in common possession of all land because they have a right to be wherever they happen to be (Kant, 1996, 6:262-4). But it is as previously stated possible for individuals to provisionally be in possession of a thing by controlling it. When it comes to land, this means that you can have it as long as you can defend it. But lasting and conclusive possession cannot happen in the state of nature according to Kant. In the state of nature there is only provisionally rightful possession. To have conclusive rightful possession we need public right, and necessary for this is a civil constitution and civil union (Kant, 1996, 6:306-7). Entering a rightful condition with a civil union and public right is not entirely voluntary. From the concept of right you ought to leave the state of nature and enter a rightful condition when you have no other choice but to live side by side with others. The land that provisionally rightfully belongs to the individuals that enter into this civil union and the civil condition becomes the territory of the state. According to Kant, it is wrong to choose to remain in the state of nature which is characterised by lawless freedom, when you can help establish a state and a rightful condition (Kant, 1996, 6:307-8). In the state of nature there is no justice (not to be confused with injustice, no justice just means the absence of justice), because when individuals disagree on rights, there is no one that can make a judgement on the matter with rightful force. This would require a state, public law, and judges. This is only possible when people have agreed to leave the state of nature, created a civil union with a constitution, and created a society. Here public rights can exist, and they are to be understood as the laws which need to be enacted for a rightful condition to emerge. These laws need a united will in the form of a constitution to enjoy the rights put down in the laws. This is what Kant means by the civil condition (Kant, 1996, 6:311-4). Because of this necessity to create societies and the fact that there is not

unlimited land, there is a need for rights of states and nations. Or as Kant puts it, cosmopolitan right. This is something he further explores in *Toward Perpetual Peace*.

In *Toward Perpetual Peace*, Kant lays out six preliminary articles that are prohibitions among states to reduce the likelihood for war. The three definitive articles are about structures of states and their relationship to make them more peaceful. Here he describes the state of nature similarly to Hobbes in that it is a state of war and one of the state's tasks is to stop this (Kant, 2006, 8:348). But states also fight each other. An idea that often springs to mind when trying to find ways to stop states from fighting wars with each other, and that seems to follow from Kant's logic, is to create a world government. A civil condition for states. But this is an idea he explicitly rejects, rather opting for the establishment of a federation of free peoples that has the goal of creating a lasting peace. Amongst the things such a federation (or in modern terms, more likely a confederation) must be built upon is international right, and an important part of this is that states cannot have a right to war (Kant, 2006, 8:356-7). Here Kant differs significantly from both Hobbes and Grotius who sees war as a legitimate tool of foreign policy. But one of the most important parts of international right is what he writes about in the third definitive article. That there should be a cosmopolitan right of hospitality. This stems from what we mentioned previously that all humans are originally in common possession of all land because they have a right to be wherever they happen to be (Kant, 1996, 6:261-3). As we touched upon in the introduction, humans need to be somewhere just to exist. The cosmopolitan right of hospitality means that everyone should have a right to visit other peoples' territory to establish peaceful relations. This is both to hinder wars (such that entering a territory cannot be seen as an act of war that one can retaliate against) and to make it possible for peoples to interact, trade, and eventually establish rules that can regulate their interactions, thus creating a rightful condition amongst them (Kant, 2006, 8:357-9).

In *Toward Perpetual Peace* Kant states that there are three forms a judicial constitution can take "(1) based on the right of citizens of a state [...] (2) based on international right [...], (3) based on cosmopolitan right, governing individuals and states like citizens of a universal state of humankind" (Kant, 2006, 8:349). The cosmopolitan right of hospitality is based on this view of individuals and states as part of a common humankind. So just being part of humankind can ground rights, namely the cosmopolitan right of hospitality (Kant, 2006, 8:349).

Kant's ideas about territory can be categorised as statist and functionalist because states are the holder of territorial rights, and having territory is necessary for the state to fulfil its functions. In Kant's case, this is primarily to establish a rightful condition with public law.

Anna Stilz

Anna Stilz have argued for an account of territorial rights that she calls "the legitimate state theory". Her starting point is examining one of the three main claims to territory states actually make, the claim to territorial jurisdiction (Stilz, 2012, p. 573). According to her theory, a state needs to fulfil four criteria to have rights to a territory:

"(a) the state effectively implements a system of law defining and enforcing rights, especially property rights, on a territory; (b) its subjects have a legitimate claim to occupy that territory; (c) that system of law "rules in the name of the people," by protecting basic rights and granting the people a voice in defining them; and (d) the state is not a usurper" (Stilz, 2012, p. 578).

Importantly for the theory, the state "creates" a people and plays a role as proxy for the people. To explain this, Stilz compares it to a child having a guardian exercising the child's rights, and how a guardian can create a relationship between multiple wards. The child needs a guardian to be able to exercise its rights, for instance to private property. So the guardian acts in the name of the child. Similarly, individuals have rights in territory, but need a state to exercise them. The state then exercises these rights as if it was the people and derives this role through its capacity to do so. Consent is not required in either case (Stilz, 2012, p. 579). The relationship between the individual, their relationship as a people, is created by the state. There is no requirement to be in any relationship prior to the state in order to be the same people. Rather, by being governed by the same state over time, the individuals can be made into a united people. Similarly to multiple wards being represented by the same guardian does not have to have been in a prior relationship, and over time they can connect over having a shared history with the guardian (Stilz, 2012, pp. 579-580). The consent which is central for Locke is not necessary on this view since Stilz argues that we have a Natural Duty of Justice to support and comply with existing legitimate institutions. This means that such a state necessarily represents you, even without your consent (Stilz, 2012, pp. 581-582). If a state manages to enforce a legitimate system of law on a territory, it fulfils condition (a).

Condition (b) regarding a people having a right to occupy a territory, means that the individuals are in legal residency on the territory. This means "to be physically present and to

have one's rights defined and enforced by whatever state has jurisdiction there" (Stilz, 2012, p. 582). For a person to have occupancy rights in a territory, three criteria must be fulfilled:

"(1) he resides there now or has previously done so; (2) legal residence within that territory is fundamental to the integrity of his structure of personal relationships, goals, and pursuits; and (3) his connection to that particular territory was formed through no fault of his own" (Stilz, 2012, p. 585).

The background for this right is the need for a stable legal residence, which is necessary for almost all other rights (Stilz, 2012, p. 528). Stilz argues that having a right to occupy a specific territory connected to autonomy because being able to stay in an area without being displaced is important for almost all our plans, goals, relationships, and pursuits (Stilz, 2012, p. 583). If you can never be sure that you will be allowed to stay where you live, this will be a mental burden and can prevent you from making long term plans and develop relations since you could be removed at any time. The need for such a stable legal residence is what Stilz think is the central point in the importance of rights to territory (Stilz, 2012, p. 584).

When it comes to criteria (c), the state must be a good representative for the people living on the territory such that the laws it enforces are to the benefit of the population. To know if a state meets the standard for legitimate representation, the state must guarantee some basic rights for the individuals. Just like with the human rights in the UDHR (Universal Declaration of Human Rights), there is disagreements on what rights should be considered important and fundamental enough to be *human* rights. But among the most fundamental human rights Stilz claims a state needs to provide and protect are rights to life, liberty, and security, rights against slavery, torture, and arbitrary imprisonment (Stilz, 2012, p. 588). The laws the state enforces should be ones that the subjects could agree on with regards to their own interests, and the subjects have some sort of say on the state's actions (Stilz, 2012, p. 589). If a state reaches this threshold for legitimate representation, the state can be said to be legitimate.

The last (d) criteria means that the state cannot illegitimately annex an area. Even if a state fails, the people can persist, which is defined as a group of people that have been sharing a state in the recent past and that can create and support a new legitimate state (Stilz, 2012, p. 591). An annexation can temporarily be legitimate if it has some collective consent among the people being annexed. This can be done for instance after a devastating war to stabilise the situation and allow the people to establish a new legitimate state (Stilz, 2012, pp. 590-591). But annexation is wrong, even by a legitimate state, because "where a people's intuitions can

be legitimate, they have a claim, not just to any legitimate institutions but to the ones they have created together through their political history” (Stilz, 2012, p. 595). Just by being a state of another people even a legitimate state is wrong in annexation. Through annexation the state denies the people from having their own state that the state represents.

If a state manages to implement a system of law on a territory, the people have a legitimate claim to occupy the territory, the state protect basic rights for the people and allows input on the state’s actions, and the state is not a usurper, the state is legitimate and can have territorial rights if there are no prior claims to this. What is important about territory? Individuals need a stable legal residence somewhere to be able to act as autonomous since it is important for making plans, creating and maintaining relationships, and essentially live a full life. Territory is also necessary for a legitimate state to implement a system of law that is to the benefit of the individuals occupying the territory, and act as a guardian for the collective to reach their collective goals and be an entity they can influence. Importantly, the state needs to be *theirs* and not just any state.

2.2.4 Non-statist theories of territory

Non-statist and cultural theories of territory has a rather different approach than statist-functional theories. Instead of viewing territory as property of the state or as a necessary means for a state’s function, non-statist theories link authority over land and people before or independently of a state. Meaning that they justify why some agents can have territorial rights over a particular piece of land, before or independently of justifying the creation of a state that can ensure these territorial rights. There are different theories who fall into this category, the ones I will focus on here is the cultural theory by Miller and the ethnogeographic theory by Avery Kolers.

Avery Kolers

In his book *Land, Conflict, and Justice* Kolers explicitly rejects property theories of territory and the Aristotelean view of the state as the institutions, and not the people or the land (Kolers, 2009, pp. 66-68). States are according to him “not just inevitably but inherently territorial” (Kolers, 2009, p. 69). Meaning that the state cannot have territory like a person can have property, or just be its institutions. A state is a placemaker, being a state means making a place. Every individual human being is also a placemaker in the way that we take up physical

space, and take control over our environment. We create rules for it, we shape it and are shaped by it. A space becomes a place when it is socialized which happens through “bounding and controlling space” (Kolers, 2009, p. 69). In a similar way, but on a higher order, states are also placemakers. States makes places by controlling the way its citizens act and interact, and they can determine how the individuals can make places. So, the state makes both itself and its citizen through placemaking. Meaning that territoriality is an important part of what it means to be a state and a citizen of a state. This is what Kolers mean by states being inherently and not just inevitably territorial. Territoriality is not an unavoidable consequence of a state, it is part of what it means to create and be a state (Kolers, 2009, pp. 69-70).

Territoriality for Kolers is “a strategy whereby an agent makes and controls geographical places”, “understood as re-identifiable places that are normally fixed relative to the Earth’s surface” (Kolers, 2009, pp. 70-71). But such strategies do not automatically give rise to territorial rights since territoriality can be used by individuals to control for instance rooms in a building or a lawn. Making and controlling a lawn and calling it your garden does make it a territory and does not give you territorial rights to this piece of land. For land to be territory it needs to be “a geographical place bounded with borders that are semi-permeable to (among other things) people, and that are structured in a stable fashion by a legal system” (Kolers, 2009, p. 73). Meaning that a state or a country is a juridical territory. Additionally, a state needs to be resilient in order to be a legitimate candidate for statehood. Meaning that it cannot be totally dependent on others (even though some interdependence is necessary and can be a good thing). It needs some amount of resources in order to be sustainable (Kolers, 2009, pp. 73-80). What it means to have territorial rights is to have a right to make such a juridical territory. What sets Kolers’ theory apart from the others is who can be the holders of territorial rights. On his theory, it is not states or imagined communities who can hold territorial rights. Rather it is “ethnogeographic communities”. He defines an ethnogeographic community as “a number of persons with 1) densely and pervasively interacting land-use patterns, and 2) a shared ontology of land” (Kolers, 2009, p. 86). In order to understand what this means we will break it down and start with the first requirement. First of all, land-use patterns are the way persons use the land. This can be using the land as farmland, grazing, hunting ground, building, and using infrastructure such as trains, shopping centres, and office buildings etc. Persons’ land-use patterns are *densely* interacting when they are co-dependent. For instance, a modern industrialized country with train lines can only exist because a lot of the people use the land in a similar way. Using trains to commute to another city for work

would not be possible if nobody was driving the trains, building the infrastructure, doing maintenance etc. Persons' land-use patterns are *pervasively* interacting when they determine or influence how they live their lives. For instance, without trainlines between cities, it would not be possible (or at least a lot more troublesome) to live in one and commute to another every day. So, in that way the land-use patterns determine what ways of life are possible for the persons. Secondly, a shared ontology of land means that the persons accept and endorse the same way of thinking about the land, or they live as if they do. An ethnogeographic community is therefore persons who use the land they live on in a way that is dependent on each other, it structures how they live and they either do have or live as if they have the same way of thinking about land and how it should be used (Kolers, 2009, p. 86). Such ethnogeographic communities are the ones who can hold territorial rights. But being one does not automatically give one territorial rights over a piece of land. Because what Kolers think it means to have territorial rights is primarily one right. The right to "make viable one's ethnogeography by controlling a juridical territory, particularly through legal, political, and economic institutions (Kolers, 2009, p. 4). But how can an ethnogeographic community gain this right? This happens when they achieve plenitude in a juridical territory.

Plenitude is Kolers' criterion for whether an ethnogeographic community has attachment to a particular place and can thus have territorial right over this place. It is essentially about whether an ethnogeographic community fills a place objectively, seen through their ethnogeography, and their attitude to enhance or maintain the place's plenitude. If they have plenitude, they have an attachment to a space and can be eligible for territorial right. Firstly, the empirical side of plenitude is whether the ethnogeographic community can be said to fill the place, relative to their ethnogeography. Meaning that we need to see if an ethnogeographic community that claims to have a certain land-use pattern and ontology of land, actually practises this in a space, and thus "fills" the place. Secondly, they must have an attitude or an intention to enhance or maintain this plenitude in this space. This must not be equated with settlement, even though it is one way of achieving plenitude. His theory attempts to make room for other types of land-use patterns than the standard "Anglo-American ethnogeography" which sees nature primarily as a resource to be extracted. Meaning that other ethnogeographics where land is used for other purposes than permanent settlement can also create plenitude (Kolers, 2009, pp. 112-120). He argues that this is a good criterion for determining whether an ethnogeographic community is attached to a particular piece of land or not for three reasons: (1) the criterion is already commonly accepted, (2) plenitude is linked

to state legitimacy, and (3) it links political philosophy with ecology in a way that promotes sustainability (Kolers, 2009, pp. 123-136).

The theory is non-statist since the territorial right holder, or the source of the territorial rights, is not the state. It is ethnogeographic communities who by definition is bound to a certain place. For individuals territory is important because humans create places through living their lives as humans, and this ability is connected to both having agency and experience (p. 69). We cannot help interacting with our environment, and this shapes both it and us. In the same way, groups of humans create ethnogeographies or ontologies of land involving the persons living in an area accept and endorse the same way of thinking about the land, or they live as if they do. The group also interact, shape, and are shaped by the environment. In doing so, territories are created and are integral to human life, both for individuals and groups.

David Miller

David Miller argues that statist- functionalist theories of territory are wrong in claiming that states are the primary holders of territorial rights. Rather he argues for a nationalist theory of territory which takes peoples to be the primary holders of these rights. He argues that Locke and Kant base their whole theory of territory on an “unstable conception of political community” (Miller, 2011, pp. 108-109). Neither give any account of how people find themselves, rather they assume that people naturally come together to form different societies that are differentiated by cultural factors. This is problematic because some of the most important questions when it comes to territory and formation of societies are about (1) membership, (2) rightful occupation, and (3) what area is rightfully occupied. What exactly is used to distinguish between members and non-members of a particular society, what makes some occupation rightful and some not, and what are the borders of the rightfully occupied area? Both Locke and Kant essentially skips these questions (Miller, 2011, p. 109). Miller’s answers to these question is that only states that are legitimate representatives for peoples can exercise territorial rights (Miller, 2012, pp. 257-258). Miller claims territorial rights should be collective rights that are stable over generations, and thus the appropriate holder of territorial rights must be a transhistorical agent. Peoples are such agents since they endure over generations since they have the same collective identity and are governed by the same set of social rules (Miller, 2012, p. 258).

A group can acquire territorial rights in an area through long occupation of the area, and most often they will transform the land in both a material and symbolic way. Material transformation means increasing the land's material value through for instance making it apt for agriculture and building infrastructure. Symbolic transformation means that the land becomes symbolically important for the group through important events happening in certain places, rituals, ceremonies, and other culturally valuable practices (Miller, 2012, p. 258). Both types of transformation are ways in which the territory becomes valuable for the people in question. Adding universal value (increasing conditions that are necessary for all humans to live a good life regardless of culture) and culturally specific value (value only in the eyes of a certain culture) gives a people a prima facie right to reap the fruits of their transformative labour through remained possession of the territory (Miller, 2012, pp. 259-260). This right can be defeated if there are some other people who already have territorial rights there (Miller, 2012, p. 261). A quote from Miller that can summarize why continued control of a territory is important for a people on his theory is: "Since land has been shaped in a way that reflects the group's distinctive culture, continued occupancy of that land becomes essential if the group is to live a flourishing life" (Miller, 2012, p. 260). A people is an agent capable of holding such a right that spans over generations, and it has a culture which is partly dependent on the members being able to continue living in that area. If they have a state that legitimately represents it, the state can exercise their territorial rights to continue living in their area and essentially be a vehicle for their collective self-determination.

2.2.5 Self-determination theory of territory

Margaret Moore

In her book *A Political Theory of Territory* Margaret Moore presents both overviews of other types of theories of territory, and her own theory of territory. She argues that her theory is different from the other kinds of theories discussed in this text. She rejects the property views of territory, so it is distinct from the individualistic- and collectivist property theories. She also rejects the idea that states have territorial rights because it is necessary for the state to be a state, or for a state to fulfil its desirable functions. States can hold territorial rights, but the source of these rights does not come from the state. It can be said to be a form of non-statist theory of territory, since a non-statist group is the source of territorial rights. But she argues that the theory's emphasises on the political identity, political capacity, and political history sets it apart from Kolers' ethnogeographic concept and Miller and Meisel's

nationalistic/cultural concept of a territorial rights holder. This is why Moore herself sets her theory in its own category as a self-determination theory of territory.

Moore argues that there are three different place related rights: rights of residency, rights of occupancy, and territorial rights. A moral right of residency is a right that is held by individuals, and it is a liberty right to two things. Firstly, to settle in unoccupied areas, and secondly a right of non-dispossession. Meaning that individuals have a moral right to settle down and live in an area where there are no others, and a right to remain there. This latter right also includes a right to return if they are removed unjustly. A moral right of occupancy is similar to that of residency, but instead of attaching to individuals, it attaches to groups of people. When a group or collective has rights of occupancy, the group gains the same rights as the individuals who have rights of residency, but also rights to control the land. Which can be helpful in defining its members' residency rights (Moore, 2015, p. 36). Individuals gain a right to residency in a particular place through living there and having relationships, commitments, and attachments which is connected to the place (Moore, 2015, pp. 36-37). In doing this the individuals can also form groups and develop a collective identity, of which the place they live become an important part of their collective identity. This can result in the group gaining a right of occupancy.

According to Moore, individuals have this right of residency for a few reasons. Firstly, because of what I touched upon earlier in the chapter, humans are spatial beings. We are dependent on a physical space to exist, and we need a place to live, source food, and somewhere to pursue projects and relationships. The place of these projects and relationships can be important not only because we need somewhere to pursue these projects and relationships, but because sometimes they are directly related to the place. Such that it is not possible to pursue them anywhere else. Meaning that the physical place a person lives can be important to their individual identity and what gives their life meaning. So, having a right to continue living in a certain place and not just any place is an important interest for individuals. Being able to have control over one's life will involve having some sort of control over where one lives. Importantly, this right is not dependent on the individuals having property rights. Even people who do not own real estate or a plot of land have these interests and this right of residency. They acquire this right through living their lives in the place (Moore, 2015, pp. 38-39).

Moore argues that groups can have a collective right to occupancy because even though individuals are the ultimate source of rights and are the ones rights matter to, an important part of being an individual is one's collective identities. Where humans live mean something to them as individuals, but also as a member of a group or collective. Where the group is located can heavily influence the group's identity, meaning that forcibly moving a group is a flagrant wrong which can hurt the group's identity. Which in turn hurts the individuals. There are therefore two main reasons for why groups can have a moral right of occupancy in a certain place. Firstly, if the individuals have right of residency there and the group has special ties to the place, it would be a wrong to forcibly move the group. Secondly, the group, much like the individuals, should be able to have some control over the place that serves as the background for their way of life, as part of the group. A group that has special ties to a place should therefore have a right of occupancy there if it does not violate any other rights. This would mean that the group has the same rights as the individuals in virtue of their rights of residency (settle in unoccupied areas, non-dispossession), but also rights to control the land where the group lives. Included in this is the right to define where its members have rights of residency. But as Moore points out, these rights are defeasible. Meaning that other considerations can void their right of occupancy. Having occupancy rights in an area is necessary for the group to gain territorial rights, but it is not enough. There are further requirements a group needs to meet in order to gain territorial rights (Moore, 2015, pp. 40-45).

To gain territorial rights, the group in question must be what Moore calls a people. She defines a people as:

“a collective agent that [...] First, they must share a conception of themselves as a group [...] being engaged, or desiring to be engaged, *in a common political project* and they are mobilized in actions orientated towards that goal. Second, they must have the capacity to establish and maintain political institutions, through which they can exercise self-determination. Third, the people have a history of political cooperation together, we can identify objective and historically rooted bonds of solidarity, forged by their relationships directed at political goals or within political practices” (Moore, 2015, p. 50).

A collective agent is here understood as “an entity with two or more members that can perform joint actions” (Moore, 2015, p. 48). In order to have territorial rights, which for Moore is not just one right but a bundle of rights, one must be a people. A people is an entity

of at least two people who can act collectively. The members must live in close geographical proximity to each other, they need to want to take part in a common political project, have the capacity to establish and maintain political institutions, and have cooperated politically in the past. In order to have territorial rights over a certain piece of land, the individuals must have right of residency and the group must have right of occupancy. If they are also a people, they are the right kind of group to hold territorial rights. But why should such groups have territorial rights? According to Moore, because they also have a right to self-determination. In order for a people to be self-determining, some control over where the people live is necessary (Moore, 2015, pp. 50-51). But why should peoples have a right to self-determination? There are a lot of benefits of living in an organised society, but why does it matter that such a people get to decide everything for themselves? Cannot they get the same benefits from another state or society shared by other peoples?

Moore argues that there is an implicit moral value in the relationship of a people. Connected to this is a moral right to collective self-determination. Participants in a people as she defines it are active agents, the relationship that makes them a people is actualized through actions. Moore follows Seglow in arguing that relationships can yield two kinds of goods, relationship-independent and relationship-dependent goods. Relationship-independent goods are goods one can receive from a relationship with anyone. For instance, if you are moving house and you get help moving your sofa, this is a good you can get from almost anyone. It does not really matter who helps you as long as they are able to move a sofa. Meaning that a stranger could help you and you would still get the relational good. But there are some goods you can only get from certain people such as love and affection. This is a type of relational good where it matters who you get it from. If you and your best friend or your partner are going to spend time together, this is a type of good you can only get from them specifically. Of course, you could have a good time hanging out with a stranger, but it would not be the same. Moore argues this distinction is useful when discussing the value of self-determination because a people can get relationship-independent goods of living in an organized society with anyone. It does not really matter who makes up the society and who runs the state in order to enjoy goods like a police force that enforces just laws, independent courts, and freedom of speech. This is possible to obtain from essentially any state or society. But there are also certain relationship-dependent goods a people can enjoy through creating their own society and laws, that can only come from doing so with certain others. There is a value in creating a society with people you have a relationship with and share an identity with. Doing so has

agency goods for the collective. For much the same reasons autonomy is valuable for individuals, so is autonomy valuable for collectives. It is a good for a collective to decide for itself how it should be run and create its own life. This is actualized through political institutions, of which the most common is the modern state. It is therefore valuable for a people to be self-determining (Moore, 2015, pp. 62-65).

To summarize, Moore argues that individuals have rights of residency and collectives have rights of occupancy. These are gained in a specific area through living there and having a relationship to each other and the land. Humans have these moral rights because they are important for individual human beings for their identity and way of life. If the individuals of a community have rights of residency in an area and the collective has a right of occupancy, and they are a people, they are eligible to hold territorial rights. They are a people if they are a collective agent and the members identify themselves as a political community, they have the capacity to be politically self-determining, and they have a history of political cooperation. A group that fulfils these criteria is the right kind of group to hold territorial rights over land where its members live or is of special importance to them. Peoples have a moral right of self-determination because there is a moral value in such communities governing themselves, for the individuals as members of these communities. A way of exercising self-determination and territorial rights is through a state. In this way a state can hold territorial rights. But not because it is a state, rather because it is a tool of self-determination for a people. Such peoples are the sources of states' territorial rights (Moore, 2015, p. 66).

2.3 What are the insights from the theories of territory?

We have now gone through multiple different theories of territory, and they provide different answers to the questions of what territorial rights are, who can hold territorial rights, and how territorial rights are justified. Even though these theories differ quite a lot regarding how to answer these questions, they are all trying to understand territory and reading them together highlights multiple aspects of why territory is important. Most of the theories seem to be based on the ideas that having somewhere to be is fundamental for human existence and that originally, the earth belongs to either all humans or no humans. In both cases, the earth is not divided into chunks belonging to different individuals or collectives. There is nothing in the world that indicated that some part of the earth belongs to specific individuals or collectives. But at the same time, they all also agree that because land and what can be found on land like

food and water is necessary for our survival, it is acceptable to take this for ourselves to sustain ourselves. This can happen even before political institutions through a Lockean labour mixing process, or an act of controlling the items in the Hobbesian, Kantian or Grotious way. Regardless of exactly how this can happen, they all agree that it is necessary for the self-preservation to take for instance food and water from the earth and exclude others from it, despite all humans having some sort of equal claim to it. Had this not been justified, humans could not sustain themselves and could not enjoy any other rights. The different writers also seem to agree on the importance of control over land and thus territory for individuals and collectives. They all seem to agree that there are certain goods that comes from crating a political society with territorial rights, like peace, security, and justice. Without a political structure, humans are essentially left fendng for themselves and only having a right to what they can physically defend. This aspect is given special importance in the statist- and functionalist theories which argues that territorial rights are justified through achieving these ends. The non-statist and self-determination theories acknowledge these benefits of having a state and territorial rights, but they argue there is more to the story. Peace, security, and justice can in theory be achieved through any state, with any members, anywhere. But it is also important to live under a *particular* state, with *particular* others, in a *particular* place. It is important for individuals and collectives that they live under *their* state which they participate in together with people they feel a special bond to and that this happens in their home so to speak. Because exercising and being part of a self-determining collective is important to individuals as an extension of their individual self-determination which they use to control their own lives. Control over territory is necessary for achieving both individual and collective self-determination.

In addition, the importance of the particular place we live is something Kolers, Miller, and Moore emphasises. Kolers in that a people can be an ethnogeographic community where they use the land in a similar and interacting way, and have the same conception of how the land should be used. Miller by arguing for land being integral to their culture. Moore through arguing that the place individuals and collectives are influence their identities and is part of what gives their lives meaning.

These theories show us what both climate exiles and refugees lose when they are displaced. Refugees have to leave their homes and country. But in most circumstances, refugees can in theory still move back to their homelands or at least visit (when this becomes safe), and in

many cases their state and people will also continue existing. As we have seen, the situation of climate exiles is different. They are necessarily collectively displaced, and their homelands becomes permanently uninhabitable. The individuals will not only have to leave their homes, they can never move back or even visit home, and the whole people and state is at risk of disappearing because of this. Even the whole collective will suffer massive losses, and is at risk of disappearing because of the necessity of territory. So the losses regular refugees will suffer are terrible, but climate exiles will almost certainly suffer even greater losses.

Here another aspects of the theories of territory becomes apparent, the limits to territorial rights. Most of the writers argues that there are limit to territorial rights. Locke who states that a precondition for property and territory is that there is enough for everyone and that you are not destroying it. Kant in that there is no right to war and that visitors have a right to be treated with hospitality. Stilz who argues annexation is illegitimate. Miller and Moore that states territorial rights are defeatable for instance in cases where another group already has territorial rights over an area. Most relevant for my argument, Nine who uses the same example as me, Tuvalu, while discussing sinking islands. She argues these people have a right to collective self-determination and thus other states have to give up part of their territorial rights to make room for Tuvalu and that Tuvaluans have a strong claim to land that is underused. These insights will be valuable when we move into the next chapter where I will answer the question of whether climate exiles have a right to sustained collective self-determination.

Chapter 3 Do climate exiles have a right to sustained collective self-determination?

In Chapter 1 we investigated what refugeehood is and whether climate exiles should have the same rights as refugees. I argued that there are morally relevant differences between climate exiles and refugees which warrant stronger rights to the climate exiles and corresponding stronger duties on others to help them. In Chapter 2 we had a look at the literature on territorial rights and saw the importance of particular places for individuals and collectives in terms of their identities and ways of life, and how territory is necessary for protecting basic rights and exercising self-determination both as individuals and collectives. Essentially, we saw the importance of territory and territorial rights and how the loss climate exiles will suffer

is even deeper than what regular refugees already suffer. We also saw that there are limits to territorial rights and that they must be balanced with each other. Cara Nine argues that the central loss climate exiles will suffer is the loss of collective self-determination, and this means others will have to give up some of their territorial rights to allow climate exiles to have territorial rights somewhere else. This leads us into the main question of this current chapter, does climate exiles have a right to sustained collective self-determination? If yes, does this mean others have a duty to help the climate exiles achieve this? In the current chapter I will argue that the answer to both questions is yes. My argument for why climate exiles have a right to sustained collective self-determination is firstly that collective self-determination is of great moral value and can even be considered a human right. Secondly, that there are some states who are outcome responsible for making them into climate exiles, and this leads them to have strong duties to remedy this. Since territory is a necessary condition for collective self-determination, this will mean that the climate exiles will have to be allowed to control some territory to some extent. But there are many ways in which they could have territorial rights and be collectively self-determining. I will present four different claims the climate exiles can make with corresponding models for how they can continue their collective self-determination in another place than their homelands. I will discuss the advantages and disadvantages of each claim and model, and conclude that in all such cases, there is not one obviously right answer. But the model that seems to have the most merit and strike the balance between right of climate exiles and duty of those with the remedial responsibility is a form of internal power sharing within a larger political project. I will also consider some special considerations regarding how to find land that will allow climate exiles to live approximately how they currently live and how closely located a people's culture is, which should be taken into account when making judgements on where to relocate and how to ensure their collective self-determination.

3.1 What is collective self-determination, and can it be a human right?

To see what collective self-determination is, we can look to the International Covenant on Civil and Political Rights from 1966. The first article of the International Covenant on Civil and Political Rights from 1966 (ICCPR) says "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development" (Article 1). From this we can take that collective self-determination is the right and ability a people has to make their own

decisions regarding their present and future as a people, amongst them their political status, economic, social, and cultural development. In other words, it is the right and ability a people has to be the masters of their own destiny and not be controlled by another agents. According to Margaret Moore, a people is a group of persons able to take joint action (a collective agent), who recognizes themselves and each other as part of the group, who cooperates or wants to cooperate in a political project with each other, who must be able to create and maintain political institutions that can serve as a means to their self-determination, and who has a political history based on relationships between the members. (Moore, 2015, p. 50). Using Moore's definition of a people, we can see that it makes sense that such a collective agent can be self-determining.

But there is disagreement in the literature on exactly what the nature of right this right to self-determination is and who can hold it. Even in the ICCPR, there is uncertainty about what this right is grounded in and who holds the right. In article 1 it is said that "*peoples* have a right to self-determination". Giving the impression that peoples are the holders of this right. But in the preamble it is stated that "The States Parties to the present Covenant [...] Recognizing that these rights derive from the inherent dignity of the human person". Meaning that the right to self-determination is grounded in the dignity all human persons have. This could mean that the right is held by individuals, but only exercises together with other people who holds this right or collectively as a people. But it could also be derived from individuals but held and exercises collectively. Additionally, do any of these interpretations make sense if we argue that the right to self-determination is a human right?

Some writers like Jeremy Waldron argue that the right to self-determination must be a right held by individuals, but because of the nature of the right, it can only be exercised with others who also hold that right (Waldron, 2010, p. 408). Peter Jones rejects this and argues that collective self-determination "is an act that determines the collective life of a group and that act is not reducible to a set of conjoint individual acts of individual self-determination" (Jones, 2018, p. 443). Individuals can have the right to participate in collective self-determination, but the right to self-determination cannot be held by individuals because collective self-determination is "essentially rather than contingently collective in character" (Jones, 2018, p. 443). One individual cannot in isolation exercise collective self-determination because this is a collective act. It is different from for instance reading a book, which is something one can do alone but also collectively. Jones argues that the right to collective self-

determination should be understood as a collective right that is held jointly by members of a group (Jones, 2018, p. 444). The main reason for this is that the good that the right is to is a collective good. Being collectively self-determining is a good that is inherently collective. For collective self-determination to be the good that it is, it must be enjoyed with others (Jones, 2018, p. 447). It is an inherent public good, which is different than contingent public goods. Contingent public goods could be enjoyed in private as the same good, but is public because people happen to enjoy them together. Example of contingent public goods Jones uses is clean air. People enjoy this together, but it could also be enjoyed as the same good in private (Jones, 2018, pp. 446-7). Collective self-determination is different since the only way to enjoy that good is publicly. This right being held collectively is according to Jones not a hinderance to the right being a human right since other human rights have both individual and collective dimensions. The example Jones give is religious freedom which can be held both by individuals and collectives. Individuals have the freedom to partake in religious ceremonies they value, and the community of that religion also has the freedom to organise these ceremonies (Jones, 2018, p. 450-1). Jones argue that both of these cases are obviously cases of human rights, the collective dimension does not matter in whether it is a human right or not. But the human right to collective self-determination is only held by those who can be said to be political peoples. Meaning a “population that is, as a matter of fact, constructed as a political unit” (Jones, 2018, p. 456). So, Jones’ theory gives preference to those populations who already are organised politically. But this does not mean that new peoples can come into existence, but they will not have the collective right to self-determination prior to becoming a people. I think Jones makes a good case for self-determination being a right held by collectives. As we have seen earlier, peoples cannot be seen as an accumulation of individuals, but rather its own entity with its own identity and agency, where the members take part and have both individual and collective identities. So even if collectives like a people ultimately are made up of individuals, it still makes sense to talk about the people as more than merely a collection of individuals. I therefore think that Jones is correct in the critique of Waldron and in that the right to self-determination can be a human right held by collectives. Now that we have established that collective self-determination is both a people’s ability to be the master of their own destiny, and that it can be a human right, we must consider why it has moral value.

3.2 Why collective self-determination is morally valuable

We can see collective self-determination as an extension of individual autonomy. Moore argues that there is a value in individuals having the freedom to make their own choices and shape their own future. The same goes for collectives (Moore, 2015, pp. 63-65). Having control over one's own life as an individual is important for humans. We value this freedom and ability to do what we want to with our own lives. One of the harshest ways we typically punish criminals in modern democracies, at least legally, is through taking away their freedom and ability to control their own lives. The reason imprisonment, even in the best prison systems in the world, is considered a punishment is because having the freedom and ability to control our own lives is important to us. Following Moore, something similar can be said for peoples. It is not strictly necessary for the survival of its members that the people is collectively self-determining, but it is still important to the people.

In addition to self-determination being valuable in itself, the relationship the members have to each other is morally valuable. For an argument on this we can look to how Moore builds on Seglow and his account of special relationships and associative duties. Seglow argues that individuals and collectives have relationship dependent and independent interests (Seglow, 2013, pp. 34-35). Meaning that there are certain interests or goods one can get from any relationship with any person, but certain interests or goods one can only get from certain relationships with certain persons (Moore, 2015, p. 63). For individuals this is best illustrated with good friends or romantic relationships. You can share a good meal with any person and have a good time, but it would not be the same as sharing a good meal with a close friend or your partner. The same goes for political relationships like a people. An individual and even a group can get relational goods from living under the self-determination regime of any people like a stable economy or a police force. But there is something valuable in a collective being able to engage in their own political project, they themselves creating their joint life and expressing their collective identity (Moore, 2015, pp. 64-65). So, in many ways, collective self-determination and autonomy are valuable in the same way that personal self-determination and autonomy are valuable. But just because something is morally valuable does not necessarily mean that others have a duty to protect or sustain it. This is what we will see next.

3.3 Why someone has the responsibility to help climate exiles sustain their collective self-determination

Why do I argue that climate exiles have a right to sustained collective self-determination? The answer to this is that there are agents who are responsible for making them into climate exiles in the first place, and this outcome responsibility gives rise to a remedial duty to help them sustain the collective self-determination. Here I am building on David Miller's two concepts of responsibility, outcome- and remedial responsibility. Outcome responsibility meaning "the responsibility we bear for our own actions and decisions", and remedial responsibility "the responsibility we may have to come to the aid of those who need help" (Miller, 2007, p. 81). There is a difference between being responsible for the outcome of one's actions and decisions and be responsible for helping someone in need regardless of responsibility for the outcome. This is not to say that outcome responsibility cannot ground remedial responsibility, it certainly can. For instance, if person A has chosen to steal person B's car, A thus has outcome responsibility for the car being stolen. This will also give rise to A having a remedial responsibility to either give the car back or if this is not possible, remedy their wrong in some other way. But person C can have a remedial responsibility to help A if for instance A got their car stolen while on a hike and is now stuck on a mountain with no means to get safely back home. Even if C bears no outcome responsibility, they can still have a responsibility to help A. In the case of refugees, those who have taken part in creating refugees are outcome responsible for the situation they are in, this will also ground remedial responsibility towards them. But others can also have remedial responsibility towards refugees even without having outcome responsibility. But in the case of refugees when the creator of the refugees is their own state as in cases of persecution, the outcome responsible party will arguably have the greatest remedial responsibility, but it will not be a good or trusted candidate for going through remedying it. In such a case there is a need for finding agent(s) that are good candidates for having and fulfilling their remedial responsibility. In the case of refugees, there are many agents without outcome responsibility, but who could have remedial responsibility. But how can we move from saying that these many agents have a general duty of care and remedial responsibility towards refugees in general, and towards claiming that this particular agent has a duty to help this particular refugee? Here it is useful to look at Miller's distinction between identifying and assigning responsibility.

When one identifies responsibility, one is looking for which agents fulfil the relevant conditions for having responsibility. When assigning responsibility, one rather makes a choice to give particular costs or benefits to someone. To be assigned responsibility, one does not have to fulfil the relevant conditions for having responsibility like in the case of identifying responsibility (Miller, 2007, p. 84). An illustration of these different actions is when the head of an administration walks into the copy machine room and sees that the room is a mess. If the head of the administration says that Professor Müller is outcome responsible for the mess, the head states that Professor Müller fulfils the relevant criteria for having this responsibility, meaning he was the one that caused the mess, something they can be wrong about if it was in fact Professor Evans who caused the mess. But the head could also choose not to identify responsibility and rather assign Professor Müller with the remedial responsibility to clean up the mess, regardless of who caused it. This can be justified if for instance Professor Müller is usually the one who makes a mess of the copy machine room and never cleans up voluntarily or if the room is always a mess and cleaning it up goes in turns and this time it was Professor Müller's turn. But it can also be unjustified if Professor Müller never creates a mess, and the head always makes Professor Müller clean up the mess of others just because they do not like Professor Müller. Anyways, the assignment of remedial responsibility can be justified regardless of outcome responsibility.

In the case of refugees, a way international law assigns this remedial responsibility by stating that that if a refugee crosses into the territory of a state, the state needs to allow the refugee to apply for asylum and they should be given short-term protection. But since this responsibility is likely to be put unproportionally on states close to where the refugees come from, the refugee system has mechanisms for assigning this remedial responsibility to more states through for instance resettling refugees in a third country. Even though a third country far away from for instance the warzone that creates the refugees, they can still be assigned remedial responsibility to help the refugees. When a state says that they have no duties or responsibility to help refugees since they are not responsible for making them into refugees, they are using the word 'responsibility' in the two different meanings. As we have seen, they could still have remedial responsibility without having outcome responsibility. The remedial responsibility comes from a general duty of care and the refugees' need for protection of their basic rights. But if they in fact had outcome responsibility, through for instance bombing and invading the county, they would definitely have remedial responsibility, and arguably a stronger responsibility than other 'innocent' states.

What about climate exiles? Climate exiles are made to flee because of internal factors like persecution or state collapse. They must flee because their territory becomes uninhabitable. As already shown, this is because of human caused climate change. So they are becoming climate exiles due to the action of other agents. I argue that it is possible to identify those who are outcome responsible and that these agents have a special remedial responsibility towards climate exiles. Those responsible are the nations that have emitted excessive amounts of greenhouse gasses and or profited off such emissions, and have done so knowing what the consequences would be. Here we can follow Dietrich and Wündisch who argue that after 1990 it is not possible to claim ignorance about the effects of emission of greenhouse gasses (Dietrich & Wündisch, 2015, pp. 84-85 footnote 4.). But here one might ask if it makes sense to say that nations as collectives can have such responsibilities at all? Also, if this makes sense, can one say that the individuals who make up these nations also share some of the responsibility? Miller (2007) argues that the answer to both is yes, but with some nuances.

Miller (2007) presents two models for collectives that can have collective responsibility and where the individuals can take part of this responsibility. These are the “like-minded group model” and the “cooperation practice model” and groups can to different degrees fit one or both (Miller, 2007, p. 114). Roughly, a “like-minded group” is a collective where the members are acting together with the same general attitude and recognize their like-mindedness (Miller, 2007, pp. 115-117). When all the members of the collective have the same idea of what the group is going to be doing, the collective can be responsible for the actions and individuals as members can share this responsibility. If the mob destroys private property, the mob can be held outcome responsible for this as a collective, and even individuals who did not themselves throw bricks that smashed windows or slashed tyres, can share in this responsibility. This is because they came in with the same attitude and were all part of the collective and contributed in different ways. This outcome responsibility also leads them to have remedial responsibility (Miller, 2007, pp. 115-116).

A collective that fits the “cooperative practice model” is one where the members are cooperating in a practice and the individuals share in the benefits this produces, but they do not have to recognize each other as having the same identity (Miller, 2007, pp. 118-119). Miller uses the example of an employee-controlled firm to illustrate this. If they together decide democratically to continue to use a manufacturing process that pollutes the local river

instead of switching to a more environmentally friendly process that is more expensive, the collective and individuals will be outcome responsible for this. The individuals bear this responsibility through taking part in the practise of cooperating and by reaping the benefits this cooperation produces. Miller emphasises that the minority dissenters cannot be morally blamed or punished, but they can be held outcome and remedially responsible for the consequences since they are cooperating as part of the group (Miller, 2007, p. 119-120). But if such a decision is made by a section of members unbeknownst to the rest, or some of the members are being exploited so that they do not reap the benefits of the cooperation, this can exempt them from the responsibility (Miller, 2007, pp. 118-120). So there are differences between these two models, even though they are similar. Importantly, Miller has shown that it makes sense for collective to have these two types of responsibilities and that individual members can take part in this responsibility through membership of the like-minded group or through practicing cooperation.

This type of collective responsibility can be extended to nations since they can act collectively in two ways. Part of Miller's definition of a nation is a group with a shared identity and public culture, so the first way they can act collectively is expressing this identity and public culture through practises and behaviour by individuals. This fits with the like-minded group model. Secondly, nations that have political institutions that work as vehicles of self-determination can act collectively through these (Miller, 2007, pp. 124-127). This is reminiscent of the cooperation practice model. With regards to how individuals can take part of the responsibility of their nation, there are nuances here for different degrees of self-determination. On the one end of the spectrum there are autocratic dictatorships that brainwash their population and punish dissenters severely. On the other end there are enlightened liberal democracies where the population to a large extent can influence the leaders and not worry about punishment for speaking out against their leaders. The closer a nation is to the latter, the more outcome responsible the members of the nation can be for the collective actions of the nation. Miller admits that nations that fall in a grey area between these two are hard to make a judgement on (Miller, 2007, pp. 127-130). But in principle a nation can collectively be outcome responsible for the actions of the nation, and the individuals can share this responsibility. The paradigmatic case of this is liberal democracies.

I think Miller's conception of a nation fits with Moore's conception of a people, so I will use people in the Moorean sense going forward. Using Miller's concepts of responsibility, in the

case of refugees, all peoples have to some degree a remedial responsibility to help individual refugees. Much in the same way as they do through the international refugee system, they have a duty of rescue to help them. We have seen earlier that this duty can fall on certain nations randomly through the refugees showing up on their territory physically. This is partly a result of how the right to asylum works, being physically within the territory of a state gives the potential refugees a right to seek asylum there. We can say that this is a form of assigning remedial responsibility regardless of outcome responsibility. It can be debated whether this assigning of responsibility is justified or not. As we have touched upon earlier, if some nations purposefully make it as difficult as possible for asylum seekers to reach their territory as to avoid having to consider their asylum application and other peoples are forced to take care of more asylum seekers than they can handle, this assigning can be unjustified. But if the system works such as to evenly assign the responsibility so that nobody is overwhelmed, it can be justified. Importantly, it does not require anyone to be outcome responsible to have a remedial responsibility. But if some peoples are outcome responsible they have a stronger remedial responsibility. The same can be said for the case of climate exiles. Just by being a people on the world stage can ground remedial responsibility towards climate exiles. But having outcome responsibility grounds a stronger remedial responsibility. It does make sense to state that peoples that after 1990 have emitted excessive amounts of greenhouse gasses are outcome responsible for creating climate exiles and thus have a stronger remedial responsibility towards them.

To summarise, we have established that collective self-determination is of moral value. We have also established that nations that have emitted excessive amounts of greenhouse gasses after 1990, and or profited from it, either have or should have known about the consequences of these emissions. It is plausible that these nations can be identified as having outcome responsibility for creating climate exiles, and thus it is plausible that they also have a stronger remedial responsibility to help climate exiles⁵. But the next question we need to answer is what kind of claim climate exiles can put on others, and what duties others can have towards them. Because as in the case of refugees, there are limits to refugees' rights and peoples' duties to help them. Even if a people is outcome responsible and thus has a strong remedial responsibility, this does not mean that refugees can demand help that would make the whole

⁵ The literature on historic responsibility is rich but due to space constraints I will not engage with this literature in detail. I therefore conclude that it is plausible that such nations can have outcome responsibility for climate exiles and refugees.

society collapse. In other words, the cost of helping must be in proportion to the right of the refugees. The same is true for climate exiles and receiving help to sustain their self-determination. So now we will have a look at different models for how climate exiles can be helped to sustain their collective self-determination, before we identify one model that seems to strike an acceptable balance between the right of the climate exiles and the cost on the helping people.

3.4 What claims can climate exiles make to sustain their collective self-determination?

As we established in chapter 2, territorial rights are necessary for collective self-determination. For a people to be collectively self-determining, they need to be able to have some degree of control over their environment. But there are multiple ways in which climate exiles could be relocated and have collective self-determination, with different degrees of territorial control. The easiest solution would probably be if there is unclaimed, unoccupied, and habitable land on earth. The climate exiles would as Moore (2015) argues, have a moral right as individuals to settle in such an unoccupied area (p. 36). Residing there as individuals, later occupying the area as a group, and eventually living there as a people can lead to them having territorial rights over that land (p. 15). The climate exiles could essentially resettle there and recreate or move their state to the new land over which they could have fully fledged territorial rights. This would have the advantage that there are no local people that need to share their land or relocate to make room for the climate exiles. It would also work as a clean slate for the climate exiles to build a society that is as good as possible for them. The cost to other humans and collectives would therefore be relatively small. The people with a remedial responsibility could assist them through transporting the climate exiles to this land, help them develop the land to build infrastructure, houses, and other social necessities. But it would involve a cost for the natural environment. Without going into the moral value of nature here and comparing that to the needs of climate exiles, it is still something that should be taken into consideration. Especially since such development would emit a lot of greenhouse gasses and would therefore contribute to creating more future climate exiles. In comparison, relocating the climate exiles into a large city where there already is infrastructure, would be more efficient and less costly for the environment than creating a new society where there is currently untouched nature.

Regardless, most habitable land already belongs to some collectives and large parts are inhabited. Finding unclaimed, uninhabited, and habitable land seems unrealistic and we should therefore consider how to go about relocating climate exiles on land that is inhabited and that someone currently has territorial rights over. Assuming this is the case, what claim can climate exiles make to be helped to sustain their collective self-determination? There are multiple different claims they can make with corresponding models for securing their collective self-determination. These different models have different advantages and disadvantages, both for the climate exiles and whoever has territorial rights to and lives in the area the climate exiles will move into. Here I will present a few different options that can all be put on a spectrum depending on how strong of a claim the climate exiles will have. I will again take Tuvalu as an example.

A. Tragic situation

On one end of the spectrum, we might conclude that the climate exiles of Tuvalu only have a weak claim, whereby no third-party can be expected to bear the cost of allowing the climate exiles to be self-determining in their area. We would then have to conclude that the situation of the climate exiles was tragic: They lose their territory and since the cost associated with helping them is higher than what others have a duty to bear, they will have no other choice than to be treated as a refugees and cannot be helped to be collectively self-determining. If they are treated as refugees, they could potentially be spread amongst many host countries. Since they would not be helped to sustain their collective self-determination, and since they have to integrate into possibly multiple different societies and peoples, this would likely lead to the end of the people of Tuvalu as a people. Losing their territory would therefore not only mean losing their land, but it would also mean losing their state, and potentially also their culture and the whole people. If the state then disappears, the climate exiles would therefore also lose the territorial rights to what will then become ocean. Such ocean rights can potentially have a lot of monetary value, which is income the climate exiles could then lose out on. The disadvantages associated with this model for the Tuvaluans, essentially treating them as refugees, is that the collective is not helped at all and could mean the end of the people. The advantage is that this will not have any higher cost on the helping countries than what they would have to bear for other refugees.

B. Digital state

Moving up a notch, we can take inspiration from one of the suggestions of Armstrong to detach possession of marine territory from occupation of land to allow climate exiles to be resettled in different countries, while holding onto their original citizenship which would also allow them to hold the right to the exclusive economic zones around their current islands (Armstrong, 2022, p. 177, 179-180). In such an arrangement the climate exiles could be relocated in one or multiple countries and they would be integrated in these societies, but would keep their citizenship of Tuvalu. This state of Tuvalu would then not be a state that exists on their territory, and neither would its citizens. But the state could be located in one of the territories the climate exiles have moved to and exist primarily as a digital state. This state could then hold onto rights to their marine territory and reap the benefits this would bring. Such a digital state could potentially use this income or financial aid from nations with a remedial responsibility to work for a form of non-territorial collective self-determination. This could potentially be political in that it might be used to influence the countries the climate exiles reside in to allow them or even protect their cultural practices.

The advantage of such an arrangement is that it provides the climate exiles with a greater ability to be collectively self-determining, they would continue to have territorial rights over the ocean, which could lead to them having financial gains which can be used in their work for collective self-determination and preservation of their people. It is also likely to not involve a huge cost on the host countries. From their perspective, the climate exiles would still to an extent be refugees and might be comparable to other refugees with dual citizenship. It might potentially have a slightly higher cost if they must accommodate the digital state to have some offices on their territory, or if they have to help out financially to the upkeep of this digital state. The disadvantage of such a solution for the climate exiles is that it is a far cry from full collective self-determination. They would still have to relocate into a new country and to some degree integrate into this society. Despite having dual citizenship and having a digital, but non-territorial state, this only allows for a small degree of collective self-determination. Especially in the long term, it is likely that this could lead to the disappearance of the climate exiles' culture. Over time when generations of Tuvaluans are born and grow up in another country, it is arguably likely that each generation will feel less as Tuvaluans and more as whatever people they are now living with. Even if they still get Tuvaluan citizenship, are taught Tuvaluans traditions, learn the language, and get the monetary benefits of the ocean

territories, I still think there is a great likelihood that they will identify as Tuvaluans less over time. If the individuals stop identifying as Tuvaluans, the people will stop existing. This is potentially accelerated if the Tuvaluans are spread out into many different countries. So even though such a solution could secure some limited form of collective self-determination, it will likely fade over time and potentially lead to the climate exiles as a people disappearing.

C. Power sharing within a bigger political project

Another option for sustaining the collective self-determination of climate exiles would be to resettle them inside an existing country and put in place a form of power sharing arrangement. In different countries today we can find several different power sharing structures that work differently and serve different purposes, they are both territorial and non-territorial. The most famous form of territorial internal power sharing is federacy. Federations are unions of partially self-governing regions united by a federal government. Two famous examples of federations are Switzerland and the United States of America. The Swiss cantons or American states are united by a federal government that decides on matters that have been delegated to the federal government, for example foreign policy and military service. The autonomous regions can decide their own laws on matters that are decided to belong to the cantons or states, for instance regional taxes or language laws. The autonomous regions in federations can have similar powers and degrees of autonomy, making it a symmetrical federation, but they can also have different powers and degrees of autonomy, making it an asymmetrical federation. In some federations like Switzerland, the regional autonomy is valued because of the cultural and language difference in the different regions. So the regional autonomy can be said to protect and ensure the collective self-determination of these communities, while at the same time enabling the Swiss to have a loyalty and bond towards every other Swiss across these differences. Here it is worth mentioning Will Kymlicka's differentiation of "nation states", "multinational states", and "polyethnic states". A nation state is a state that contains only one nation, nation here meaning "a historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture" (Kymlicka, 1995, p. 11). A multinational state is therefore a state which contains more than one such nation. A polyethnic state is a state which has ethnic subgroups within them that are results of voluntary immigration (Kymlicka, 1995, pp. 15, 113-114). A federation like Switzerland would for Kymlicka be a multinational state since the different "nations" of German, French, Italian, and Romansh speakers are all united by a national Swiss identity

(Kymlicka, 1995, p. 13). The special rights these ‘nations’ have in multinational states are meant as self-determination rights to protect these nations. The special rights of minorities in a polyethnic state (which importantly are considered to be voluntary immigrants) are intended as means to help them integrate or assimilate into larger society, for instance by exempting them from laws that affect them disproportionately negatively. An example of such an exemption is allowing religious headwear in a uniform, something that will not negatively affect the majority population, but which can make an important difference in integrating the minority. Such minority rights would not be a form of power sharing but rather special rights for the minority.

Devolution is another form of regional autonomy within a state that by contrast to a federation, is not written in the constitution. The United Kingdom is an example of a devolved state where the regions Scotland, Wales, and Northern Ireland have their own legislatures, but the local autonomy is not protected by the constitution and could therefore be revoked without amendments to the constitution. There are also other more non-territorial forms of collective self-determination inside bigger political projects like the Norwegian Sámediggi (Sami parliament). As Spitzer & Selle (2020) notes, the role of the Sámediggi has changed over time and is today tasked with politically representing all Sami in Norway and promoting the Sami language (Spitzer & Selle, 2020, p. 15). This is not to say that the Sami people has no territorial autonomy. They do in the form of having the exclusive right to pursue reindeer herding, for instance (Spitzer & Selle, 2020, p. 17). But, as Spitzer and Selle, state: “Sami exercise a sort of patchwork of territorial authority. There is no specific ‘Sami Province’ over which they comprehensively rule” (Spitzer & Selle, 2020, p. 22). Another way to ensure self-determination for particular segments of the population but without resorting to regional autonomy is what Lijphart (1969) calls “consociational democracy”. This is a form of power sharing in democracies with deep internal divides where rule by the majority is rejected in favour of cooperation of the elites of the different groups. Lijphart uses Lebanon as an example of a power sharing structure for a presidential system where the two main political offices – President of the Republic and President of the Council – must be held by a member of each of the two major religious groups in the country, namely Maronite and Sunni (Lijphart, 1969, p. 213). This is often done to ensure stability where there is no other real alternative, for instance if the population is so intermingled that regional autonomy or separate states would not be possible without huge population movements. Lijphart uses a translation from Gerald R. McDaniel to describe this kind of arrangement as “politics of

smoothness” (Lijphart, 1969, p. 225). I will not go into any more detail about the power sharing literature. There are many forms of institutional design that can ensure different degrees of collective self-determination within a political project. These can be both territorial, non-territorial, or a mix of the two. Depending on the specific circumstances, different institutional designs can be the best option.

In cases of both territorial and non-territorial autonomy, the climate exiles would be granted citizenship in the country they are being settled in. They would therefore partake in the political people of that country and would therefore also take part in the territorial rights of that people. So, the climate exiles would be collectively self-determining as that larger people. But as I argue, they have an interest and right to be collectively self-determining as Tuvaluans inside this larger political project. If they thus are granted territorial autonomy, they would get a more meaningful type of limited territorial rights over the region they are being settled in. They might not have control over who might cross the border to their region, but they can for instance decide what language should be used in the regional government and how the local communities should develop. The advantage of such territorial autonomy is that they could potentially have a large degree of collective self-determination within their region to preserve their way of life, culture, and future as a group. They could also reap the benefits of being part of a larger political unit like greater food security and more and better infrastructure. A potential downside of regional autonomy for those who happen to already live there would have to make a choice between continue living in an autonomous region intended to allow the self-determination of a different group than themselves, and they could therefore feel like they were being alienated in their homelands. If this is undesirable to them, they would have to move to a different part of their country to not be subjected to this rule.

If climate exiles are granted non-territorial autonomy, this would also involve that they get citizenship in the state and therefore partake in the larger collective self-determination and territorial rights. The way they would be able to be collectively self-determining as Tuvaluans would be through non-territorial means like having their own parliament or special representation in the national legislature. Even though this collective self-determination would be on non-territorial matters like promoting the language and culture, it could also be supplemented with some special territorial areas of control like the Sámediggi. If there is an important cultural practise that the climate exiles could exercise in an area that is underused by the host country, the climate exiles could perhaps get the exclusive right to use this area for

this cultural practice. These arrangements could be granted both through devolution and amending the constitution. The advantage of non-territorial autonomy is that it could still secure the climate exiles with collective self-determination over key matters like culture and it could be supplemented by some territorial forms of autonomy. Since the autonomy is largely non-territorial, it would also be a model that would allow the climate exiles to be relocated amongst the existing population. As with territorial autonomy, it would allow the climate exiles to enjoy the goods that come from living in a larger country. The disadvantages of non-territorial autonomy is that it does not allow for a great deal of territorial collective self-determination. Without control over where and how the population lives, non-territorial autonomy might be insufficient for them to actually have meaningful collective self-determination.

D. Full territorial rights

Another claim the climate exiles could have is to be given land that they can have full territorial rights over. Since the climate exiles lose their territory, it can be argued the only sufficient compensation would be to allow them to resettle in a new area over which they can have territorial rights. The advantage of such a solution is that it would be the model that would allow the climate exiles full collective self-determination with all territorial rights. The climate exiles would not have to integrate into a larger political project or society, they would be allowed to essentially relocate the whole population and state to new territory that they would then be in charge of. The disadvantages of such a solution are firstly the high cost on the 'donor' country which would be giving away some of their land. This can be a high cost in multiple regards. The land might be economically valuable for instance if it is rich in natural resources, if it is militarily strategic, or if they have built important infrastructure there. The land might be of special cultural importance for the people giving away the land. For the individuals living on the land that is given away, they would either find themselves in a completely different country, essentially feeling like strangers in their own homes, or having to move to avoid this. If they have any immovable private property in the area, they might have to give this away too, and be in need of financial compensation. These individuals would be the ones paying the highest cost for helping the climate exiles and could potentially be said to be displaced.

We have now looked at different claims climate exiles could make with regards to how their collective self-determination could be sustained. We have seen that all of the models come with their own advantages and disadvantages, but before presenting which model I think should be preferred, we should have a look at some other considerations that should be taken into account in such a decision.

3.5 Appropriate land and located cultures

As we have already seen, land is a special type of good. It is different than for instance money, where it does not matter whether you get a particular 1 euro coin over another. But land is different than money since the particular land we are attached to matters to us and different land affects humans differently since they allow for different ways of life. The place the climate exiles are relocated in should as far as possible allow them to continue living the way they do. If they are relocated in an area that is very different, this will likely be a hindrance to their collective self-determination and will lead to a cultural loss since they will have to adapt a new way of life.

These difficulties related to collective relocation is something Miller and Straehle (2024) explore in their paper on cultural vulnerability in the face of climate change. They focus on the relationship between culture and territory, especially on cultural losses that can occur when a group is relocated collectively. Miller and Straehle makes a distinction between “strongly-located” and “weakly-located” cultures. For both types of cultures, the culture is linked to a physical space and they both have homelands that are important to the culture. But strongly-located cultures are more connected to their place such that “specific features of that land have intrinsic cultural significance” and “the land is an integral part of the way its members understand and identify themselves in the world” (Miller & Straehle, 2024, pp. 3-4). In contrast, weakly-located cultures are less connected to their place. The place is still important and will matter to them, but it is not as integral to the culture. Meaning that a relocation far away from their homelands would not mean a severe cultural loss to the cultural group (Miller & Straehle, 2024, p. 4). Miller and Straehle argue that “those most vulnerable to the physical effects of climate change are also likely to have strongly-located cultural roots” (Miller & Straehle, 2024, p. 5). They also present John Campbell’s analysis of the total cultural, social, environmental, and economic cost of relocation of Pacific islanders. According to his model, the cost rises the further away the people must relocate. Miller and

Straehle use Campbell's analysis to present three different cases of relocation. In the first example, the islanders relocate a short distance on the same island they currently live. In the second, they relocate to different islands, but within the same national boundaries. In the third, the relocation is in a completely new country. When they are relocated on the same island, they kept their traditional land and they could to a large extent keep their identity and traditions (Miller & Straehle, 2024, p. 8). But they still had to leave their homes and the place many had lived all their lives, which was something especially the older individuals suffered a cultural loss from (Miller & Straehle, 2024, pp. 8-9). In the second case where they relocated to different islands but within the same country, there were bigger cultural losses partly because of the physical differences between the islands. The physical differences meant the relocated people had to change their everyday lives, since the physical feature of the new islands required the houses to be built differently and further away from the sea, which in turn affected how they could socialise, sleep, and made fishing harder for the relocated people (Miller & Straehle, 2024, p. 11). But something which made the integration of the relocated people with the already established community easier was that they both had traditional kinship ties (Miller & Straehle, 2024, p. 12). The third case is even more complicated. Without delving too deep into the details, what we can take from the case is that the relocated people had a particular relationship to their land that was more than just important for their collective identity. Landholding was also important for who was part of the community and their position within the community (Miller & Straehle, 2024, pp. 12-13). When they were relocated, there were attempts to accommodate both groups. A compromise was reached, but this was considered unfair by members of the relocated group because the distribution of land was being based on the size of the family rather than what land they previously held (Miller & Straehle, 2024, p. 14). All of these difficulties relating to relocation should be taken into account when discussing how and where to relocate a group that needs it. The case of climate exiles I am discussing is pretty much the same as the cases Miller and Straehle discuss, even though they do not mention Tuvalu. But without going into the specifics about how strongly located the Tuvaluan culture is, I will assume that it is on the more strongly located end of the spectrum. This will mean that the climate exiles in my example are likely to suffer a larger cultural loss than if their culture was more weakly located. This gives us a further reason for favouring a model that will allow them more collective self-determination since their loss will be greater than it would be for a weakly located culture.

Miller and Straehle argue that the land in which climate exiles are relocated in should fit them as a people, both in terms of allowing for the same way of life but also in size. This is quite similar to the two criteria Dietrich and Wündisch (2015) present to guide a decision on what land climate exiles should be given. These are the “cultural identity condition” and “appropriate size condition”. The cultural identity condition is a requirement regarding what kind of life the new compensatory territory allows (Dietrich & Wündisch, 2015, pp. 95-96). As we have already seen described by Miller and Straehle, land that is very different can lead to a larger cultural loss than land that is similar. Tuvaluans live on islands with an equatorial climate with a wet season and a dry season. So, moving to for instance northern Norway would be a big change for the Tuvaluans and considering it probably will not allow them to continue most of their ways of life, this would probably disqualify it from being a suitable place for them to resettle in. The land would not be a fitting compensation and not help them sustain collective self-determination. There are other places that are more similar to their current territory that is more likely to fulfil the cultural identity condition. Another island states would arguably be a better option, but even this would not necessarily be a perfect match as we have seen presented by Miller and Straehle. But whether a certain piece of land fulfils this criterion will have to be made in collaboration with the climate exiles since they are after all the ones who are being helped, and what we are trying to sustain is their collective self-determination. An issue that might arise if the climate exiles will move to another islands is that the islands will be too small. If a small island is already populated, there might not be enough room for a whole people to share the island. This is where the appropriate size condition becomes necessary.

The appropriate size condition is to some degree an extension of the cultural identity condition in that it requires that the compensatory territory to be of appropriate size for the climate exiles. At the minimum it must of course be big enough to fit the climate exiles, but it must also be the right size for the way of life they live. Different ways of life require different sized territories (Dietrich & Wündisch, 2015, p. 96). A compensatory territory does not have to include features that the lost territory had but that were of no cultural value. So, if the lost territory included a massive mountain that nobody used or had any special attachments to, the compensatory territory can be smaller than the lost territory. But if the lost territory included for instance a large grassy field used for some cultural ceremony, the compensational territory would ideally have this as well. This condition requires that the land must fit both the climate exiles and the current population.

These guidelines will be an aid in finding land that the climate exiles could move to. Since we are not living in a perfect world, it is not likely that the climate exiles will find a piece of land that will be a perfect match for them and fulfil both the cultural identity condition and the appropriate size condition. But the conditions can be used to find the best suitable land of what is available.

3.6 The preferable model

I do not think there is one model that is the obvious best contender since all of the models come with potentially big costs, either for the climate exiles or the people that help them. But I think the solution that seems most appropriate is a form of power sharing. The reasons for this are: (1) the moral value of collective self-determination and remedial responsibility makes some meaningful collective self-determination a reasonable claim; (2) the model can be tailored to the specific circumstances; (3) the model seems plausible.

Firstly, the importance of collective self-determination and the remedial responsibility the excessive emitters bears are so great that I think climate exiles have a reasonable claim to have some degree of collective self-determination sustained. Climate exiles have a strong enough claim to demand some form of collective self-determination. I think the collective self-determination they potentially could gain from a digital state would be insufficient. They would be able to control what would become ocean territories, enjoy income from for instance fishing, and perhaps be a player on the international stage. But they would not have any real control over their new place of residence, which is an integral part of collective self-determination. So, I think climate exiles have a stronger claim than to the collective self-determination a digital state could provide. I also argue that it is possible to settle the climate exiles in a larger country which would fit the climate exiles in terms of culture and size, and where the climate exiles could be granted different forms of internal collective self-determination which would not be a particularly high cost for the host country. Giving the climate exiles full territorial rights would provide the climate exiles with the most amount of collective self-determination they can have in another place than their homelands. Meaning that the only two models that would provide climate exiles with the amount of collective self-determination they have a reasonable claim to would be internal power sharing and full territorial rights.

Secondly, as we have seen, there are many ways in which a power sharing structure can be designed. Depending on different specifics like the difference in size between the host country and the climate exiles, what power sharing structures the host country might already have, and whether the climate exiles should be resettled in an own region or throughout the population, there is a form of power sharing structure that could work for both parties. Meaning that the model can be tailored to the specific case and could therefore work for a wide range of climate exiles and host countries. In the case of the climate exiles being given full territorial rights over some land, this is a less flexible model since it would necessarily involve the donor country giving up their territorial rights to that land. One could tailor the solution in terms of different ways to draw the new borders and what one could offer the individuals and communities already living in on the land that would be given away, but to a much lesser extent than with a power sharing structure. An additional difficulty with the rigidity of the full territorial rights model is that the land being given away would have to strike a difficult balance between being good enough for the climate exiles to live on and be collectively self-determining, but at the same time not that important for the host country such that they could give it away. In the power sharing model, the cost of letting the climate exiles settle on even important land would be a lot lower since the land is not being given away.

Lastly, out of the models that will provide climate exiles with an acceptable degree of collective self-determination, the power sharing model is the most feasible solution. A digital state might be the easiest solution to implement since the servers of such a digital state could be located anywhere on earth and the existence of such a digital state would not require the host country to give up any kind of sovereignty or power. The only potential cost that the host country or the nations with a remedial responsibility might bear for supporting such a digital state might be financing the servers and employees maintaining the digital state. But as we have seen, a digital state cannot provide climate exiles the collective self-determination they have a reasonable claim to. If we then compare the power sharing model and full territorial rights, I think there are strong reasons for believing that the power sharing model is a lot more feasible than giving climate exiles their own territory. Internal power sharing is something which has a long history and is currently in use in a lot of different successful countries. The powers being given to the climate exiles in a power sharing arrangement would be over matters that primarily concerns the climate exiles themselves. Depending on the specific circumstances, power sharing could impact the existing population to different degrees. But as

we have already seen, the model can be tailored to such circumstances. In comparison, there are strong reasons for believing that getting a state to voluntarily give up parts of their territory will be a way harder task. The costs on the donor country and its citizens will almost certainly be higher than in a power sharing arrangement because it could mean the loss of land that is valuable financially, militarily, and culturally. As discussed, the individuals and communities that inhabit the area given away will be the once facing the highest costs and will be forced to choose between living on the territory of a new country or moving just to stay within the territory of their country. It is not uncommon for countries to have a clause in their constitution that the territory is undividable, exactly because of the importance of territory. Meaning that there are strong reasons for believing that the power sharing model is a lot more feasible than the full territorial rights model.

Out of the models that could provide the climate exiles with an acceptable degree of collective self-determination, the power sharing model seems to be the most feasible model. Even though a form of power sharing would not be perfect, I think it is the best available solution both for climate exiles and the people with the remedial responsibility.

Conclusion

Climate change and rising sea levels will likely submerge entire countries like Tuvalu, forcing the inhabitants to relocate to survive. These people, referred to as “climate exiles”, face a unique situation. The main research question of this thesis is whether climate exiles should have the same rights as refugees. While granting climate exiles the same rights as refugees might seem like the obvious solution, I argue that it falls short. Rather, they should have a right to sustained collective self-determination.

In Chapter 1 we saw that climate exiles could fit with David Miller’s wider definition of refugeehood. Refugees have a right to short-term protection and long-term solutions to ensure their survival, the protection of their human rights, and the opportunity to live normal lives. Even though granting climate exiles the same rights as refugees would provide them critical support, it would fall short. Because treating them as refugees would mean helping them as individuals, potentially leading to the dissolution of their communities. They are in a different normative situation from refugees because they are necessarily collectively displaced, and

they can likely never return to their homelands. To see the significance of these differences, and the loss of their territory, we move to theories of territory in Chapter 2.

Chapter 2 explores various theories of territorial rights to highlight the importance of territory for individual and collective identity and autonomy. Losing territory profoundly impacts all aspects of life for climate exiles. The most significant loss will be the loss of collective self-determination.

Chapter 3 argue that collective self-determination is morally valuable and can be considered a human right. Nations that have emitted excessive amounts of greenhouse gasses, or profited off such emissions, are outcome responsible for making them into climate exiles. This outcome responsibility grounds a stronger remedial responsibility towards climate exiles. This being a duty to help them sustain their collective self-determination. I discuss various claims climate exiles could make and corresponding models regarding their collective self-determination in a new place. Despite the disadvantages, what I take to be the best model for ensuring their continued collective self-determination is a form of power sharing within a larger political project. When deciding on institutional designs, considerations should be made regarding how strongly located the culture of the climate exiles are. The land they are relocated in must be the appropriate size and allow them to live as similarly as they did in their homelands.

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