

of the borderlands and the center. They make places, foster patterns of development, and fix landscapes. Borders impel states to create institutions for their shared control. However much the center focuses on identity and holds a neighboring state in contempt, the state's agents at the border will enter into complex interrelationships with their counterparts to control that place. For example, at the border between India and Pakistan, every evening in the towns of Wagah and Attari, a complex binational ritual around the closing of the border gates involves guards from both sides. Hence, even in those most contested and conflictive borders marked by identity politics, there are always cooperative binational institutions and interactions that we can only see from the perspective of place. This approach is the basis of an alternative model for territorial politics.

The Watershed Model of Territory and Borders

In *On Borders* I aim to shift the discussion about borders away from the question of identity, or *who*. Instead, I suggest, we should focus on asking about place, or *where*. I construct a normative theory of borders, territories, and special political obligations, grounding them in place rather than identity. Special political obligations arise from the way we relate to each other and the places we are in, so the theory focuses on those relations and on particular patterns of resource use—particularly water. It uses watersheds as models to understand how place-based obligations become social and political duties. As an alternative to how the identity approach sees special political obligations and participation in terms of whether a person shares an identity, I offer a place-sensitive theory of special political obligations. As an alternative to the Desert Island Model of territory, I present the Watershed Model.

Watersheds, drainage basins, or catchment areas are a geographical feature that can serve as metaphors for territorial politics, a clear alternative to the desert island. In a watershed, water—rainfall, snowmelt, filtered water—flows from ridges toward creeks, streams, and rivers; eventually, that water drains into lakes, reservoirs, and the ocean. Watersheds are composed of landforms, vegetation, animals, and their habitats (including people, their infrastructure, and their settlements). They create unique obligations among those within the watershed, and these in turn establish unique collectives. Unlike desert islands, however, watersheds are connected and interdependent. Since

water flows and circulates, it is hard to determine exclusive ownership of watersheds.

The Watershed Model of territory and borders uses a place-based approach to territorial politics to offer a theory of ideal borders, which does not rely on identity to demarcate jurisdictions. Instead, local institutions of resource use and cooperation are the ground of territorial rights. These institutions can be used to draw borders between localities. Ideally, these localities could come together to constitute wider regions and even states. Country borders could then be conceived as coming from the ground up.

This model contrasts with the traditional theories of territorial rights, which rely on the Desert Island Model. On the latter account, territorial rights are claimed by existing states and their institutions (which claim a collective right to occupy a distinct area), or by individuals who claim to have original (or natural) rights of property and occupation. The Watershed Model, instead, constructs territories from below. This, however, does not imply that peoples or individuals have a pre-political private right to land, nor that they have established institutions of cooperation even before there are legal institutions in a particular place (or before there are stakes around a particular area). Yet the political institutions that define boundaries in this account are not created by states or by private property markets. Instead, the institutions are communal: the model draws inspiration from those institutions that manage common resources without the intervention of either markets or states. Taking a cue from the empirical literature on the management of common pool resources and polycentric governance (which focuses on the communal management of water, communal forests, and fisheries [Ostrom 2010]), here I see places as the site of cooperative ventures, which depend on the concrete configurations of people and resources in a given place.

In the Watershed Model, those present in a certain area determine the precise location of local jurisdictional borders by following patterns of resource use. Water management is a proxy for these patterns; thus, we can use water and the watershed's limits to model territories and borders. The way locales manage water in the watershed serves for delineating borders. Ideally, borders could follow a literal watershed, but here we use the watershed as a model and a metaphor for a set of values and an orientation to border management and control that takes seriously our relations to ecosystems and special obligations tied to places. In sum, I model territories on river basins that determine the limits of institutions of resource use, and often also the limits of political spaces.

The Watershed Model to borders could be seen as an ecological revival of the old idea of “natural boundaries,” which since antiquity used mountains, rivers, and deserts to determine the limits of political areas. This is true in some respects: the model takes seriously geography and natural relations to help us make decisions about how we circulate, how we plan cities, and how we think of private, public, and sacred spaces. More broadly, the metaphor allows us to think of place-based normative standards for how to set and govern borders. However, the similarities are limited: the Watershed Model does not assume that nature creates distinct countries, that a people or a nation *owns* a territory, or that land *belongs* to a people; rather, it sees territory emerging from located socio-natural relations, obligations, and institutions. These relations become the center of governance in localities, which may come together and scaffold up to constitute territories, public spaces, and perhaps even social collectives based on presence. These collectives are not grounded in identity or lifelong commitments; they depend on participation in networks of coordinated action that respect place-specific duties and are associated with institutional urban design and rural management. These place-specific collectives often overlap and crosscut nations, national borders, and cultural communities.

Here, then, we see the borders of states as watersheds instead of shores. A Desert Island Model of territory imagines the edges of civic space as the pristine shores of the island and civic space as neat dry land (“bound and circumscribed in the fancy,” as Hume put it). Yet in fact, as in a watershed, spaces are muddy and jurisdictions often intersect and overlap. The soil is mixed with moisture, and territories bleed into one another. Agriculture, commerce, industry, and migration mix the land and water further; all these forces connect the territories that political jurisdictions designed following the Desert Island Model seek to keep distinct. Like a ridge that marks the drainage trajectory in a river basin, here the border determines relations and connects jurisdictions, rather than distinctly framing the edges of dry land. Instead of the native/alien divide pushed by the Desert Island Model, in the Watershed Model the distinction between the inside and the outside comes from differences in the type of relations and institutions that obtain on each side. Instead of identity and property, here presence and participation in systems involving geology and biota determine the relevant political bonds. In the Watershed Model, countries are connected and interdependent; their rights of border control do not derive from the internal legitimacy of jurisdiction but rather from the international system of states. In sum, the

Watershed Model of borders provides an alternative to the Desert Island Model that does not require giving up all the benefits of liberal democratic territorial jurisdictions, while allowing for mobility and radically rethinking the terms of political exclusion.

Plan of the Book

Unlike most political theorists today, I argue in this book that we need not use the boundaries of belonging and membership to demarcate borders. Instead, we should think of borders, territories, and inclusion in terms of place. This perspective may seem strange at first, but it is not such a great departure from common conceptual practices. People often think of political spaces as the *homeland* or *property* of an identity group. When they do so, they are thinking in terms of the Desert Island Model. But, just as frequently, they do the opposite: they think of identities in terms of places, as when they distinguish *farmers* from *urbanites*. In *On Borders* I argue that there is wisdom in the latter sort of thinking that invites us to envision territories not in terms of *whom* they belong to but rather in terms of *where* they are.

In the book's first part, I offer a critical view, describing the Desert Island Model and showing the problems in the theories of territorial rights and borders that depend on it. In Chapter 2, I describe the model from a historical perspective, focusing on views of territory in the work of Vitoria, Locke, and Kant and also showing how committed current theories are to this view. The identity approach produces descriptive and explanatory arguments that lead to a strong normative commitment to identity and property-like entitlements as the basis of territorial rights. Like Hume's account of the desert island, identity-based theories must rely on an image of the political geographical unit as naturally given. Yet distinct areas and distinctly located cultural groups do not simply appear in nature. This creates practical and logical problems that I describe and explore in Chapters 3 and 4. In this critical Part I, I also highlight how existing theories rely on nature in different ways. Early modern theories of state legitimacy used natural law to justify private property and territorial entitlements; nineteenth- and twentieth-century theories of territorial rights relied on natural borders and the natural boundaries of nations and peoples to establish states on the map (Chapter 5). An alternative approach is to think of nature as the biosphere and social-ecological systems. This is the approach that I follow in Part II.

Objects of the Right

A good starting point for analyzing the right into its main elements is to examine its objects: To what kind of actions or objects does the asserted right pertain? The main activities that are the objects of the right are positional and administrative tasks (Prescott 1987). Positional tasks aim at keeping the border where it should be, as determined by prior treaties and conventions. Such tasks include the practices of allocating, delimiting, and demarcating the border, both legally and on the ground. This requires agreements among diplomatic counterparts, as well as the technical aspects of surveying and mapmaking. Administrative tasks include a right to police the legal border, to let people pass or keep them from doing so, and to control and tax what comes in and out of the country.

Other actions to which the state claims a right when it controls borders include the right to police the state's perimeter. They also include the right to control land on the edges of the territory (which may require the requisition of private property), overrule local law to have a unified foreign policy across the country, and enter into relations with contiguous (foreign) states regarding the management of border relations. The right to border control includes the right to waive or transfer the country's privileges regarding border control—see the case of Schengen or that of the UN Blue Helmets described in Section 9.1.

Proper Site

Notice that the state has a right to perform these tasks *at the border*. The close connection between immigration enforcement and border control makes it easy to blur a crucial distinction, which in turn gives false views about the proper site of border control rights. We must distinguish between border control and statewide policies of population control, immigration, and taxation. When an immigration officer detains a person in the interior of the country—that is, away from the border—she is enforcing the state's immigration or population policy, which pertains to the state's wider jurisdiction over persons. The right to control borders, in contrast, should only be exercised at the edges of the territory. The fact that immigration control and taxation are so salient at the border should not distract from the fact that the state's physical borders are not the same as the boundaries of the community. The

state's borders are primarily territorial, while the community's boundaries are primarily civic and cultural. This distinction is politically and philosophically important because the practices require different justifications and challenge legitimacy in different ways (Ochoa Espejo 2014; Näsström 2007). The distinction is also administratively important—in the United States, for example, the agency in charge of policing the border (U.S. Border Patrol [USBP]) is not the same as the one that enforces immigration (Immigration and Customs Enforcement [ICE]).

The proper site of the right of border control, then, is at the physical edges of territory. This can be difficult because borders proper (jurisdictional divides) are lines on a map, but for all practical purposes borders are wide geographical areas. To police and control a borderline, people need to be deployed; thus, a state also needs physical infrastructure, like vehicles and sentry boxes, access roads, support buildings, and so on. The border itself is a crisp line established by law, but borders, as governing institutions, consist of practices and infrastructure that extend far beyond the line (Gavrilis 2008). Border institutions, in turn, have cultural effects. In these wider areas near territorial boundaries, local and national governments interact, creating institutions that shape societies and influence the culture of the borderlands. However, this philosophical distinction between a crisp legal border and a harder-to-define boundary zone (Casey 2011) should not distract us from a separate legal distinction: border control does not immediately justify immigration control or national security. Even though border control may require cooperation with police in wider jurisdictional zones, states should not claim border control rights in non-border sites.

At present, many countries police interior areas as an instance of border control. For example, a person coming from Guatemala into Mexico would cross the river that marks the limit between the two countries and may not have to show her papers or subject her luggage to searches, but she would find a military checkpoint and a border inspection area in Comitán de Domínguez, about thirty miles away from the actual border. This is also clear at airports, which are often far from the physical edges of territory, but where governments claim special rights to detain and search in the name of border control. Edward Casey has argued that conceptual slippage often occurs with the effects of border widening and policing in non-border sites (Casey 2011). In this case, I hold, the slippage is the result of a *totum pro parte* metonymy: speaking about “the border” when meaning “immigration control,” which surreptitiously introduces other aspects of border control into

discussions about immigration, including positional and other tasks of national security. The slippage eventually conflates all aspects of border control within laws, policies, and institutions and eventually blurs state functions and legal rights. The slippage occurs in the case of immigration checkpoints extending into the jurisdictional interior; it is even clearer still at international airports. Airports are first ports of entry into a country; some of the functions of border control do need to be found there. However, the fact that one would encounter immigration controls at the airport when flying from any country in the world does not turn the airport into a border. The existence of air travel does not make a country an aerial neighbor of all others. Given that there is no international agreement on the precise limits of the vertical extent of state territory (de Oliveira Bittencourt Neto 2015), airports could be seen as either the first control check after entry into a country's airspace (equivalent to checkpoints in the interior) or as the actual border (if entering from outer space). However, any aircraft must enter airspace before landing, so the metaphor for space territory is still a vertical projection of the two-dimensional map, and the airport is a proxy for the border rather than the border itself.

The rights of border control, as I argue in Section 9.4, are mainly territorial and positional. The fact that an airport may be the first place where immigration and taxation controls can be exercised after entering a territory does not alter the proper site of the right.

Scope and Institutions

I noted earlier that the right of border control included the power to establish relations with authorities abroad. This is not identical to the right to conduct a unified foreign policy or to be recognized by international organizations; it also involves the right to participate in complex transnational institutions of border management that exist on the ground. Many of these tasks involve relations with neighboring countries and other foreign institutions: for example, border governance routinely requires joint policing and cooperation for resource management and control. These exchanges often create practices or patterns of behavior that over time become unofficial and official institutions (Sahlins 1989; Gavrilis 2008; Paasi 1999). All these institutions involve physical practices at the border; some also give rise to physical markers and buildings. The more visible markers are walls, fences, and other