

# The Emergence of Borders: Moral Questions Mapped Out

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In this paper, we examine the extent to which the concept of emergence can be applied to questions about the nature and moral justification of territorial borders. Although the term is used with many different senses in philosophy, the concept of “weak emergence”—advocated by, for example, Sawyer (2002, 2005) and Bedau (1997)—is especially applicable, since it forces a distinction between prediction and explanation that connects with several issues in the discussion of territory. In particular, we argue, weak emergentism about borders allows us to distinguish between (a) using a theory of territory to say where a border *should* be drawn, and (b) looking at an existing border and saying whether or not it is *justified* (Miller, 2012; Nine, 2012; Stilz, 2011). Many authors conflate these two factors, or identify them by claiming that having one without the other is in some sense incoherent. But on our account—given the concept of emergence—one might unproblematically be able to have (b) without (a); at the very least, the distinction between these two issues is much more significant than has often been recognised, and more importantly gives us some reason to prefer “statist” as opposed to “cultural” theories of territorial borders. We conclude with some further reflections on related matters concerning, firstly, the apparent causal powers of borders, and secondly, the different ways in which borders are physically implemented (e.g., land vs. water).

*Keywords:* emergence, explanation, prediction, borders, statism, cultural nationalism, territorial rights

## Introduction

The concept of emergence has a rich and detailed philosophical history; the 20th century saw something of a rise and fall in its popularity, but the last couple of decades have seen resurgent interest in defining the concept in general, and applying it to specific cases in particular (see McLaughlin, 1992). Whilst the concept has been most popular in philosophy of mind and philosophy of science, it has been applied in fields as diverse as physics, chemistry, biology, psychology, AI and sociology. This paper aims to extend that application even further, by considering the nature and moral justification of territorial borders from within what we will call an emergentist framework.

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For whilst the diverse applications of the concept of emergence have led to a proliferation of different definitions (surveyed in section 2), there are nonetheless some common features that make for a natural application to the explanation and justification of territorial borders. All conceptions of emergence are attempts to characterise a kind of hierarchical dependency relationship where—it is claimed—the “higher” level depends on, but cannot be reduced to, or predicted from, the “lower” level alone. Thus, three features of territorial borders seem to provide good *prima facie* reasons for discussing the matter in emergentist terms: (1) borders seem to depend on social, psychological, historical and geographical contingencies, but (2) once borders are drawn or formed, they may be discussed and contested in their own right, because (3) borders seem to exert a causal/functional influence on the very people and societies that determine them. Furthermore, the interactions between social, psychological and historical factors that give rise to borders are extremely subtle and complex. Thus, even if one had substantial information about those “lower level” factors, it would still be very difficult to predict (or stipulate) *a priori* where borders would (or should) be drawn. We argue, therefore, that the vocabulary of emergentism is ideal for a discussion of borders, and provides substantial insight into some of the central moral and political questions surrounding them.

We start by canvassing the major extant varieties of emergentism, and draw out one particular conception—“weak emergence”—that we argue is particularly useful for the discussion of territorial borders. We subsequently go on to examine the contrast between “statist” and “cultural” theories of borders. Putting these together, we note that the distinction between prediction and explanation in weak emergence maps onto a distinction—between using some theory of borders to say where they *should* be drawn in advance, and using some theory of borders to examine the justification of *existing* borders retroactively—in the discussion of borders. Accordingly, since we argue that borders may be regarded as weakly emergent features, this distinction may be invoked to defend “statist” theories against the charge that they are deficient in virtue of being too retrospective. Rather, the fact that statist theories can only evaluate the justification of existing territorial borders is exactly what one would expect, given their status as weakly emergent. We conclude with some further reflections on the causal powers of territorial borders, and the way in which territorial borders are physically implemented.

### Emergence: A Taxonomy

It’s sometimes said that the concept of emergence is an attempt to make philosophical sense of the old truism—often attributed to Aristotle—that in some cases, “the whole is greater than the sum of its parts.” In particular, the concept is often applied to examples where *wholes, systems, or higher levels* display properties that are not possessed by the parts or lower levels that make them up. Thus, we find informal characterisations referring to phenomena such as the “sponginess” of cake (entirely absent from eggs, flour, butter and sugar) or gridlock in a road network (not possessed by any *particular* car, intersection or set of traffic lights). There are various ways of metaphorically characteris-

ing this, but all display the same kind of tension (if you're a sceptic) or middle-ground (if you're an advocate) between two things being simultaneously very closely related or dependent, but also—in a sense—different or autonomous.

Moving away from particular cases in order to put things in more general terms, Mark Bedau (1997: 375–6) notes that there are thus

“. . . two admittedly vague but nevertheless useful hallmarks of emergent phenomena:

- (1) Emergent phenomena are somehow *constituted by*, and *generated from*, underlying processes,
- (2) Emergent phenomena are somehow *autonomous from* underlying processes.”

In contemporary discussions of emergence, the first of these hallmarks is usually construed as a kind of dependency claim, whilst the second is usually understood to entail (some kind of) unpredictability. But depending on how one construes the two instances of “somehow” in the above quotation, one can formulate a variety of different precise conceptions of emergence. In this section, we will very briefly canvas this taxonomy of different positions, before turning to the conception of emergence that seems most apt for characterising questions about borders.

The main distinction between different theories of emergence concerns whether they make ontological or epistemological claims, that is, whether emergence is best construed as a relationship between *things themselves* or as a relation between our ways of understanding, theorising or describing those things. Further, the kind of unpredictability displayed by emergent features may vary; a weaker version of the theory sees unpredictability as merely a practical matter (perhaps due to limitations of capacity or speed in our cognitive apparatus), whereas a stronger version of the theory supposes that there's some *in principle* unpredictability.

The basic idea behind ontological emergence is that in some cases, a system (or higher-level) possesses properties that are distinct from and irreducible to those of its parts (or the lower-level out of which it emerges), but it does so *only* in virtue of the parts (or lower-level) having a certain complex structure. Further, so the claim goes, these emergent features possess novel causal powers that are neither present in, nor reducible to, those of the lower level.

Such a set of claims is often attributed to a group of philosophers—around the beginning of the 20<sup>th</sup> century—that have come to be known as the “British Emergentists.” This group is usually taken to include John Stuart Mill, G. H. Lewes, C. L. Morgan, Samuel Alexander and C. D. Broad, although—as we will point out below—it may not be accurate to regard C. D. Broad as holding quite the same view as the others. Take, for example, the view expressed by C. L. Morgan in his (1923) book *Emergent Evolution*, which explicitly endorses both aspects of the ontological emergentist claim. First, he advances the claim about the novel causal powers of the emergent features, writing that, in cases of emergence: “When some new kind of relatedness is supervenient (say at the level of life), the

way in which the physical events which are involved run their course is different in virtue of its presence—different from what it would have been if life had been absent” (Morgan, 1923: 16). Secondly, in virtue of the novel causal powers possessed by emergents, he claims (p. 207) that: “There is increasing richness in *stuff* and in *substance* throughout the stages of evolutionary advance; there is redirection of the course of events at each level” (our emphasis).

Although similar claims have been made more recently (for example, by Roger Sperry (1986) with regard to the relationship between neurophysiology and psychology, and by Silberstein and McGeever (1999) with regard to the part-whole relationships in fundamental physics) it is fair to say that this conception has been widely rejected in the contemporary revival of emergentism. The ontological nature of the claim seems to reify the emergent features in a way that contemporary theorists find unacceptable. For example, List and Pettit (2011: 74) in their recent book that defends realism about group agency, nonetheless reject (this kind of) emergentism, because they see it as a “now discredited theory of what gives life to organic entities, according to which living entities do not live just by virtue of their chemical structure but rather by the presence of some *vis vitalis*, or ‘life force’”. The idea here is that, in reifying the emergent feature, ontological theories of emergence either dispense with, or render too loose, the dependency “hallmark” that Bedau mentioned above. Vital spirits, entelechies and Cartesian Souls might be novel higher-level features that are (somehow) autonomous and unpredictable with respect to lower-levels, but in virtue of being substances with new causal powers, it is obscure (not to mention metaphysically “spooky”) how they are constituted by or generated from the lower levels at all.

For these reasons, a more promising formulation of emergence—one that still seems to have some credibility in the contemporary discussion—expresses the concept in epistemic terms. According to this view, emergence concerns the relationship between *theories* or *descriptions* and especially highlights the difficulty—or impossibility—of deriving or deducing descriptions of the “higher levels” from descriptions of “lower levels.” According to this view, emergent properties are features of systems (or higher levels) that *cannot* be predicted from knowledge of the features of, and laws governing, the parts (or lower levels).

A particularly strong version of this claim is advanced by C.D. Broad in his (1925) book *Mind and Its Place in Nature*. On Broad’s view, emergent features are properties of wholes (or higher levels) that are dependent on and determined by the properties of the parts (or lower levels), but where “the characteristic behaviour of the whole *could* not, even in theory, be deduced from the most complete knowledge of the behaviour of its components taken separately or in other combinations” (Broad, 1925: 59). Broad explicates this notion of unpredictability-in-principle with reference to something like a “Laplacian Calculator,” or, as Broad puts it, a “Mathematical Archangel.” Concerning what Broad takes to be the emergent status of chemistry with respect to physics, he writes:

If the emergent theory of chemical compounds be true, a mathematical archangel, gifted with the further power of perceiving the microscopic structure of atoms as easily as we can perceive haystacks, could no more predict the behaviour of silver or of chlorine or of the properties of silver chloride without having observed samples of those substances than we can at present. And he could no more deduce the rest of the properties of a chemical element or compound from a selection of its properties than we can. (1925: 70–71)

On this view, then, the *a priori* prediction of the properties of a higher level on the basis of a complete knowledge of the properties of the lower level components is completely impossible. Any statement of the connection between levels would have to be an empirical discovery, and would not be susceptible to further explanation.

Note two things here. First, Broad's claim does not explicitly commit him to an ontological view of emergence; he does not claim that *substances* or *things* emerge, and he does not attribute novel causal powers to the emergent levels (it's for this reason that it may not be correct to describe him as a "British Emergentist" despite his being both British and an emergentist). More importantly, however, is that—even if his conception of emergence is coherent—it is an exceptionally strong claim, and commits him to a certain amount of mystery as a fundamental feature of both his theory, and the phenomena to which it applies. The "brute fact" inexplicability of emergent phenomena—if it is to be accepted with "natural piety" as Broad recommends—may simply be too strong an assertion to accept, and it's hard to see what evidence could justify it.

Accordingly, we finally turn to a weaker epistemological conception of emergence; one which strikes us as particularly appropriate to the discussion of territorial borders. It is this view that is advocated by Bedau (1997) himself, under the name of "weak emergence." According to this view, emergent phenomena are features of systems (or higher levels) that are constituted by or dependent on features of the parts (or lower levels), but practically unpredictable simply because of the complexity of interactions that bring them about. Interestingly enough, although Bedau develops the discussion of weak emergence in a discussion of the field of "artificial life," it is a strikingly similar concept to that discussed in the sociological domain by R. Keith Sawyer (2002, 2005) concerning the question of how group behaviour emerges out of the individuals that compose those groups.

Consider, for example, the group behaviour of a flock of birds, which tends to form a "V" shape behind a particular leader. We might describe this as a case of emergence, because the "V" shape does not result from one particular bird being explicitly selected as the "leader" with the other birds deliberately falling into formation behind it; there is neither a central executive group-level decision-making procedure, nor an individual-level explicit representation of the desired "V" shape and place within it. Rather, the "V" shape emerges from relatively simple interactions between the individuals; in effect, each bird's behaviour is a function of its position relative to its nearest neighbours (and this is likely to have evolved because it simultaneously maximises both energy efficiency and the field of vision; it has been adopted by military flight formations for good reason). Sawyer

(2002: 229) writes: “The ‘V’ shape is not planned or centrally determined; it emerges out of simple pair-interaction rules. The bird flock demonstrates one of the most striking features of emergent phenomena: higher-level regularities are often the result of quite simple rules and interactions at the lower level.”

First, note that this particular example sits well with the “hallmarks” of emergence that Bedau mentioned above; the group behaviour is entirely constituted by and generated from the behaviour of individual birds, and yet the distinctive “V” shape is also, in a sense, autonomous from the underlying processes (at least insofar as we may discuss the flock shape in its own right, without further reference to the individuals that compose it). Further, it’s reasonable to say that the flock shape is somewhat surprising; we wouldn’t have expected it to occur, given that the individual birds are not actively seeking or representing it.

Despite this apparent unpredictability, however, Sawyer points out that some emergence researchers in computer science—for example Reynolds (1987)—*have* successfully developed computer models of the lower-level rules of interaction. In the case of flocking behaviour, the “V” shape can be reproduced if individual birds follow simple rules that (i) maintain a suitable distance from the nearest neighbours, and (ii) maintain a speed and direction that is the average of the nearest neighbours. Computer simulations in which only the lower-level rules are explicitly programmed nonetheless *display* the higher-level regularity. Theorising this example, therefore, leaves us with a slightly peculiar tension; on the one hand the group- or higher-level behaviour is surprising or unexpected, but on the other hand, we can (albeit with some considerable effort) demonstrate how it arises from simple interactions at the lower-level.

Weak emergence embraces this tension as a central component of the theory. According to Bedau (1997: 378), a macro-state (or higher-level feature) of some system counts as weakly emergent if and only if it can be derived from that system’s microdynamic (i.e., the laws governing the lower level), *but only by simulation*. It is convenient—but nonetheless accurate—to describe weak emergence as a kind of “run it and see” approach. There may *be* lower-level regularities that determine the emergence of some higher-level feature, but the only way to figure out the latter is to let the system evolve to display it. To put this another way: there is no way to predict the emergent feature other than by *running* the system and allowing the emergence to occur. The emergence of the higher-level feature is unpredictable in advance of its occurrence, but after it has been observed, with some effort, we *may* be able to explain it retroactively.

Thus, the most important thing to note about this conception of emergence is that such an account forces a distinction between (a) predicting the emergent phenomenon in advance of its occurrence and (b) explaining the emergent phenomenon only *after* it has been observed. According to weak emergentism, (b) is possible, but (a) is not, at least in practice.

For one thing, even *drawing* this distinction adds a significant nuance to the discussion. Some influential theories of explanation deliberately conflate it with prediction; according to Hempel and Oppenheim’s (1948) influential “thesis of structural identity” the

ability to explain something *entails* the ability to predict it. But according to weak emergentism, since it's possible to explain something after the fact, without having the ability to predict it beforehand, the equation of explanation and prediction cannot be correct.

Further, this distinction between prediction and explanation is particularly important when it comes to the discussion of territorial borders since it is analogous to a distinction between (a) using some theory of territory to say, *a priori*, where a border *should* be drawn, and (b) looking at an existing border and saying, on the basis of some theory of territory, whether or not it is justified. If territorial borders count as weakly emergent features with respect to the lower-level conditions that generate them, then, according to the theory, we might be able to have (b) without (a).

More importantly, two competing accounts of territorial borders—"statist" views and "cultural" views—seem to embody this kind of dialectic. In the next section, then, we examine the contrast between these views in order that we may go on to use accounts of emergence to adjudicate between them.

### **Borders: The Moral Question**

Borders mark the domain of the state's territory. Within borders, a political power may exclusively legislate, adjudicate, and enforce rule of law (Buchanan, 2003: 233). In the contemporary configuration of states, territorial borders are one of the most significant factors in human life. Whether one enjoys basic freedoms, lives above a poverty line, or has access to basic medical care largely depends on *where* she lives and under which political authority.

A variety of questions probe the morality of territorial borders; yet, since the location of borders makes such an impact on human life, a fundamental question is: Where should borders be drawn? Assuming borders are justified in some form, one cannot ask if a border is legitimate without considering its location.

To justify the placement of borders, an inquiry can follow one of two broad approaches. First, one could take existing or historical borders as a starting point, and use their location to assess the ethical placement of borders. Alternatively, one could use something ethically "pure"—that is, not tainted by historical arbitrariness, such as cultural integrity or nationality—to determine where borders should be drawn. The former approach characterizes *statist* theories, and the latter approach, *cultural* theories. Generally speaking, to develop an account of appropriate borders, cultural theories draw on a deep historical connection between culture groups and places, and statist theories instead rely on accounts of legitimate statehood.

Allen Buchanan defends an influential version of a statist view. On his account, the locations of existing state borders are justified except in cases where one or more of the following conditions exist: (1) genocide or massive violations of the most basic individual human rights, (2) unjust annexation, as each being sufficient to generate a right to secede, or (3) the state's persistence in violations of intrastate autonomy agreements (Buchanan 2004: 351–352).

Buchanan's argument proceeds on the basis that a morally defensible international legal system is necessary to provide basic conditions of justice for persons globally. The proper goal of a system of international law is to support state agents in securing conditions of (at least) minimal justice. A just institutional order minimizes perverse incentives to destabilize legitimate governments by reducing the likelihood that militarized secessions will be recognized internationally (Buchanan, 2004: 370). Theories like Buchanan's justify territorial borders on the basis of their effectiveness in promoting moral values like justice (Nine, 2012; Stilz, 2011). On statist theories, the history of the border—how it came into being with its particular location—does not come into play in the arguments to justify the border. When history does play a role, such as in cases of unjust annexation, it is only as a reiteration of the basic theory. A group that previously held territory must justify their legitimate claim to territory on the same basis that states today base their claims. That is, a previous group must prove that their territorial borders housed minimally just political institutions and did not suffer from any of the three exceptional conditions that delegitimize territorial rights.

Criticisms of the statist's arguments accuse them of vicious circularity, that the location of territorial borders are justified only because, "that's where they are now." Rather than justifying the legitimacy of existing territorial claims, Buchanan's theory seems merely to endorse them. The statist theory seems to ignore what lies at the moral heart of border disputes; most border disputes tend to be about something more than a concern for the stability of international law. Instead, disputes usually reflect feelings of nationality, culture, and a deep connection to a particular place. Avery Kolers contends that territorial claims must include a prior account of *candidate legitimacy*: "The right to try to become recognitionally legitimate in a place" (Kolers, 2009: 44). To justify a territorial right, the agent with a claim to hold that right must be recognized. Groups must identify as moral claimants of territorial rights; these groups are often identified as nations or indigenous cultures. Further, a legitimate territorial claim should refer to a particular place, and this requires a prior account of a normative link between the candidate and the territory. Theories that justify territorial domains on the basis of the status of existing states cannot provide these prerequisite accounts. Rather, statist theories define the candidate and the relevant place by the status quo division of territory. No explanation is given, then, for why that state is the relevant candidate for evaluation, as opposed to other indigenous groups, for example. And no explanation is given for the attachment of the state to that particular place, except that it currently exists there.

Further, this circularity is said to be morally vicious because it gives in to—perhaps even endorses—historical wrongs. Most current and historical borders resulted from conquest, theft, and hubristic decisions of illegitimate governments. For example, the African continent was partitioned in the 19<sup>th</sup> century between European powers vying for control of the continent's natural wealth. The borders were drawn largely without reference to the landmarks, cultural, or political history of the Africans. Since then, these borders have been a major source of conflict and genocide. To take the actual location of



borders as a valid premise in an ethical argument seems to validate historical and ongoing injustice.

Cultural theories of territorial rights, by contrast, hypothesize the appropriate location of territorial claims through an evaluation of relevant group histories. Kolers advances one of the most sophisticated versions of a cultural view; on Kolers' account, territorial rights should be determined by, first, identifying relevant claimants, second, assessing the appropriate location of the claimant's territory, and third, evaluating the fitting size of the territory. A valid claimant under this theory is an "ethnogeographic community," a group of people who share "culturally specific conceptions of the land," and whose "land-use practices densely and pervasively interact" (Kolers 2009: 3–4). Determining the territory's location requires assessing where the ethnogeographic community has interacted with resources to create a space that is purposefully "internally diverse and distinct from other places," with the intention to continue interacting with resources in similar ways in perpetuity (p. 5). Similarly, the size of the territory is determined by comparing the community's cultural conceptions of the land to the land's actual use. If the area is not "full"—not being used in a way internally defined by the culture—then the community has only a tenuous claim to that area (p. 173).<sup>1</sup> Similarly, a territory should not be too small; it should be large enough to be resilient against normal, foreseeable crises, such as hurricanes and economic downturn. Thus on Kolers' theory, territorial borders should be drawn around "full" lands of ethnogeographic communities, containing sufficient social and material resources for resilience.

Nationalism presents a more familiar version of the cultural view. Nationalist theories of territorial rights have a similar historical form to Kolers' ethnogeographic theory, but under nationalist theories, the relevant claimants are nations. Nations are groups of people who hold similar cultural, historical, and political identities. A national territory includes those lands where the nation has a deep, formative historical connection. A cultural homeland can be an important source of identity and value formation in individuals, and, hence a people's connection bears significant moral weight. Because of the normative importance of maintaining a connection between the people and their cultural homeland, a nation claims a *prima facie* moral claim to its national territory (Meisels, 2003; Miller, 2012).

Cultural theories possess the virtue of avoiding the vicious circularity of statist theories. They ground the moral legitimacy of territorial borders in the moral value of our historical connections to place. Nations and ethnogeographic communities are mutually self-identifying groups of people that share certain characteristics. These characteristics include but are not limited to a shared public culture, a shared history, and a desire to be or to remain politically self-determining (Miller, 1995: 22–25). Using the concept of a culture to identify the uniqueness self-determining groups has certain benefits. First, many individuals care about and identify with cultures. From overwhelming allegiance individuals are motivated to perform both ordinary and extraordinary acts, like paying

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1. Kolers' view regarding the size of territories is laid out in detail in Kolers, 2012. His theory applied to competing claims to territory is defended in Chapter 6 of (Kolers, 2009).

taxes and going to war. Second, the language of culture and nationalism has given many minority groups a position from which they can fight for recognition against oppressive political institutions. Finally, these theories attempt to correct historical wrongs by drawing new borders around morally sanctioned territories—these theories avoid the circularity of assuming their conclusions as premises. Although these benefits (the benefits of group solidarity, relief from oppressive political institutions, and righting historical wrongs) are worth holding onto, they invite levelling criticisms.

First, endorsing cultural theories risks perverse incentives to incite war, genocide, and oppression. Most of the genocidal massacres in recent history have been executed in the name of nationalism. In the former Yugoslavia, the Serbs strongly identified their nationality with their territory. The non-Serbs were named the internal enemy and became the target of a horrific pattern of extermination and expulsion. Unfortunately this pattern has been repeated in places, infamously: Germany, Poland, Rwanda, and Cambodia.

Second, the problem with using a culture as a definition of a group that can claim territorial rights is that the culture's descriptive qualities do not align with the normative claim to *political* power. Typical descriptions of national culture—for example what distinguishes Palestinian from Israeli or Navajo from American—focus on the cultural characteristics of the groups, their current cultural practices and the historical understanding of the pedigree of the groups. By contrast, political descriptions focus on the group's political aspirations “to demand various forms of autonomy or self-government” (Kymlicka, 1995: 10). Culture is normatively significant because it plays a constitutive part in a person's individual identity, and a cultural community gives a person a sense of history and background identity against which individual choices can be made. If a person were to lose her culture, she would be either stuck in a cultural vacuum or forced to undergo a painful assimilation into a new culture (Kymlicka, 1995: 85–86; Taylor, 1994). Consequently, groups with these *cultural* features have normative significance and should be respected by political institutions. However, only focusing on cultural groups casts the net too wide. Religion, political ideology, professional ethos, and club ethos provide meaningful identities for some individuals, “and how well an individual fares will in some cases be more dependent upon the success of these identity-conferring groups than upon the flourishing of her nation” (Buchanan, 2003: 250). Consistency requires awarding normative significance to all of these cultural groups. Doing so, however, would sap the nation (or ethnogeography) of its unique content.

To avoid creating perverse incentives and to reclaim distinct political significance, the cultural group claiming political power over a territory must respect and accommodate a wide variety of cultural beliefs within its borders. However, this accommodation renders the cultural argument ineffective. Culture is neither sufficient nor necessary to ground a claim to self-determination in territory. To see why the cultural argument is not *sufficient*, look at the requirement that nations possessing a territory must treat members of other nations living within their borders fairly (Moore, 2001: 65; Gans, 2008: 56–60; Meisels, 2009). If nations did not treat members of other nations fairly, they would violate the universality of the principles underlying their territorial claims. Consequently, a

further essential condition for the territorially self-determining group is that it is capable of fair political institutions. A common cultural identity is not sufficient to ground self-determination rights, rather it is required that a people is capable of creating fair political institutions or be at risk of defeating its own principle.

Further, a common cultural identity is not *necessary* to ground self-determination rights. As already mentioned, often common cultural identities do not homogeneously exist within a contiguous territory. In these cases, multi-national groups come together to form a functioning polity. Examples include Canada, the United States, Belgium, and Norway. Fair political institutions can function without members sharing one common national cultural identity. The citizens of Belgium are comprised of different national groups, and yet the country is capable of fair political institutions. One could respond by saying that the people of Belgium or of Canada are united by a common national culture, but to express that members share a common cultural identity would stretch the concept of “cultural identity” so far as to rob it, and the smaller group’s cultural claims, of much of their content.

Given the difficulties facing cultural theories, it is worthwhile to reconsider the statist view. Recently developed statist theories avoid the circularity objection to Buchanan’s theory. Buchanan’s version of a statist justification of borders can be expressed as follows:

1. Territory X is defined by *status quo* borders.
2. State X’, shaped by Territory X, is a legitimate state. That is, it secures conditions of minimal justice for its members.
3. If a state is legitimate, then it has a moral claim to territorial rights as defined by *status quo* borders.
4. Given the above, State X’ has a moral claim to Territory X.

This section’s opening question was, “Where should borders be drawn?” Buchanan’s theory answers this question only in a circular way, in that it relies in Premise 1 on the *status quo* drawing of borders. Why should these borders be here? Buchanan answers: because they are here. What is missing is the link between borders and a separate moral explanation for why borders should be drawn in particular ways. Two recent theories fill that gap using neo-Lockean and Kantian analysis respectively. Under both theories, a particular territory is justified if the state within the territory secures conditions of justice for its members. In addition, each theory examines the moral conditions necessary to hold a territorial right. On the neo-Lockean theory, the collective capacity to establish justice within and over a territory gives rise to a right over that particular territory (Nine, 2008). This theory draws an analogy between the normative creation of territorial rights and the normative creation of property rights. In traditional Lockean theory, a farmer labouring on the land comes to have property rights over that particular piece of land. The property right is created because of the farmer’s value-producing interaction with the land. Similarly, the state that creates justice within and using the resources of a territory come to have territorial rights over that particular territory. The neo-Lockean theory

draws a connection between the location of borders and the creation of salient moral quality: justice. Likewise, the Kantian view connects borders to the preconditions for just relations. On Kantian views, only legitimate states can claim territory, because states are the only agents that can perform the primary function of territory, that is, enforcing the legitimate rule of law. Because legitimate states are morally justified, and because we have a duty to obey the laws of just states, then the territorial rights of legitimate states are also justified (Stilz, 2011). Each theory avoids the circularity of Buchanan's view by justifying the location of borders through their moral qualities, their authentic role in establishing justice for the people who live there.

Although these theories improve on Buchanan's view by demonstrating a response to the charge of circularity, statist theories still suffer from some deficiencies. In particular, the statist theory cannot provide an account of where borders *should* be alternatively located in advance of their being drawn. Rather, they can only evaluate the justification of *existing* borders. This feature prompts Margaret Moore to criticize the statist theory as:

. . . limited in its response to a number of questions or controversies raised by the claim to territory. It is not obvious how that view can respond to contested territory, as when two states claim rights over the same bit of territory. It is also not clear how the statist view responds to territory claimed but not yet part of a state, such as in the oceans or uninhabited lands. The statist argument is retrospective, in the sense that it justifies the state in exerting authority across a geographical domain but tends to do so once the state has exerted its authority, but not to do so in advance, when there might be rival claims to the same territory. This is another way of saying that [the statist] argument doesn't address a fairly fundamental element of any theory of territory, namely, it doesn't have a theory about which group, which right-holder, gets rights to which bits of territory. And if it can't do those two things, it doesn't seem well equipped to answer some of the central questions that arise in political life, connected to the idea of rights over territory. It tells us that states should have control, but doesn't tell us which state should have control nor where it should do so. (Moore, 2014a: 6; this argument is also contained in her forthcoming book: Moore, 2014b)

This failure of statist theories—the inability to say where borders *should* be drawn—parallels the failure or inability to *predict* what we described as “weakly emergent” features above. Instead, weakly emergent features can only be *explained* after they have emerged.

### **Borders as Weakly Emergent**

Now that we've examined both the concept of emergence, and the dispute between “statist” and “cultural” theories of territory, we are in a position to put the two together. It seems to us that the distinction between prediction and explanation that is required by weak emergentism lines up nicely with the distinction between (a) using some theory of territory to say where a border *should* be drawn, and (b) looking at an existing border and saying, on the basis of some theory of territory, whether or not it is justified. Both

weak emergentism, and statist theories of borders, say that we might be able to have (b) without (a). Accordingly, in this section, we'll start by outlining the reasons for regarding borders as weakly emergent features, and then we'll go on to show how this conception helps to answer the criticism from Moore—outlined at the end of the last section—that statist theories are too “retrospective.” Thus, weak emergentism about borders provides some support for the statist view.

Let us note, first of all, that borders seem to possess many of the features outlined by the theory of weak emergence. Recall that, according to this view, emergent features are those properties of systems that are constituted by or dependent upon features of the parts, but are practically unpredictable. This seems to be a correct characterisation of borders; they are constituted by and dependent on the psychological, legal and political factors that give rise to them, but given the complexity of interactions between these “lower level” features, the borders that emerge do so in ways that are often unpredictable. This can be seen in at least two ways. First, the territorial border is a political phenomenon. While the political event creating territorial borders may be connected with cultural or other historical elements, the border itself is determined by a political process and ratified in international law. This process involves a variety of unpredictable outcomes from negotiation, compromise, consideration of external pressures, and the current balance of political power, etc. The political nature of the border reflects the essence of the territorial right, that it is a right to political power. Thus, the nature of a border's creation fits with its primary function: both are political. A border's political creation comes about only after an historical process of emergence. Second, once the border is created, it seems to play a causal role in the development of morally relevant events. The creation of a national culture, for example, often forms around a people and a territory that already exists (Kollers, 2002: 36). The culture is influenced by the borders in ways that it is not influenced before the border comes into existence. Consequently, the effects of the borders seem to be distinct from the effects of the events that cause the borders to come into existence. The individual elements that make up the border do not appear to have the same causal capacities as a border itself, once it has emerged (although we shall have more to say about this in the concluding section).

In effect, we might say—in line with Bedau's definition of weak emergence—the only way to figure out *how* these psychological, legal and political features will give rise to a territorial border is to “run them and see.” Nonetheless, once a territorial border is in place—once it has in fact emerged—one might, with some effort, retrospectively pick out the factors that gave rise to it, in order to explain it after the fact; one might, for example, point to a particular clause in a treaty, and note how that was interpreted by a particular individual or group in order to provide a legal rationale for the placement of the border. Thus, like the “V” shape of a flock of birds, the border is practically unpredictable in advance, but retrospectively explainable in terms of the lower level features that give rise to it.

Note also, however, that this is very similar the claim made by statist theories of territory with regard to normative questions about them; one takes existing or historical

borders as a starting point, and only then assesses their ethical character or moral justification. One need not—or indeed, if the criticisms of cultural theories of borders outlined above are cogent, one *cannot*—start with some kind of “pure” ethical theory (with no consideration of historical factors) and use it to determine morally justified territorial borders *a priori*.

Of further note is that understanding borders as emergent helps to solidify previously discussed criticisms of cultural theories. Simply put, the borders of a cultural group never match the geographical borders of a political unit, and the (theoretical and practical) frustration that this misfit causes motivates oppression, genocide, and mass expulsion. State borders contain heterogeneous groups; no state contains only one culture. Drawing borders according to cultural principles, then, will continue to motivate members of the culture to expel or oppress non-members within the territory. The belief that “this land belongs to one culture” is impossible to implement in real geographical terms without illegitimate force and expulsion. The heterogeneity of geographical groups also belies the drawing of coherent borders. Even if cultural groups wanted to draw borders around their homelands, the final location of the territorial border must be a political decision, negotiated with or around non-members. The determined location is not predictable, even on a cultural theory, because of the emergent nature of political borders.

The inability—or better, *unwillingness*—of statist theories to specify where borders *should* be placed in advance of their being drawn was invoked by Margaret Moore as a criticism as mentioned above. Her claim was that this kind of “retrospective only” theory of territory fails to provide a fundamental part that would be expected of any theory. But if, as we have argued, borders are weakly emergent features, this inability is exactly what one would expect; given the nature of borders themselves, and the complexity of interactions that give rise to them, one simply cannot address the normative question in advance of seeing where the borders have actually been placed.

## Conclusion and Further Reflections

Our conclusion is thus two-fold. On the one hand, we have good reason to regard territorial borders as emergent features; more specifically, they are “weakly emergent” with respect to the psychological, legal and political factors that give rise to them, in the sense that although they are dependent on those factors, they cannot be predicted in advance of their emergence. At best, they can be retrospectively explained—or justified—by paying close attention to the circumstances of their origin. On the other hand, this conception provides a reason for preferring the “statist” conception of territorial borders, since it answers the criticism—by embracing it—that such accounts are too “retrospective.” In short, this retrospective character is a feature of the theory (not a deficit) and is precisely what one would expect, given the nature of borders as emergent features. We’d like to conclude by reflecting briefly on two further points concerning the apparent causal powers of borders, and the specific details regarding their physical implementation.

First, given what we said above about the way in which a border seems to constrain the events that occur within it, it might seem as if our position ought to be one of *ontological* emergence—the thesis that emergent features have novel irreducible causal powers. We do not think that our view is committed to this strong claim (indeed, if it *were*, that might constitute a *reductio ad absurdum* of our central thesis). Rather, we'd be inclined to say that, to the extent that borders appear to have causal powers, that's only insofar as they are perceived by individuals and respected by political and legal institutions. The causal powers of borders are only *apparent* and are in fact explicable in terms of (i.e., reducible to) the causal interactions of the lower level features that make them up.

Second, much more could be said about—and we have not touched upon—the questions of the precise way in which borders are actually physically implemented. And this is a question that calls out for further investigation. It seems, for example, that a territorial border that corresponded to a *geographical* feature—for example, a mountain range or a body of water such as a lake or a river—would be much more closely dependent on and determined by the *non-arbitrary* lower level features that constitute it. So, for example, there does seem to be a significant difference in character—purely in physical terms—between (a) the “border” between the island of Ireland and the island of Great Britain (insofar as each of these names a geographical land-mass) and (b) the border between Northern Ireland and the Republic of Ireland (insofar as each of these names a political state).

In such cases, it seems *prima facie* more straightforward to make predictions about the ways in which such borders will come into existence (and arguably, also, to answer questions about the moral justification *for* such territorial borders). These cases are less common than one may think. Oceans can readily separate Australia from Great Britain, because the immense geographical feature separating the two states voids the need for political negotiation over the location of borders. In contrast, mountain ranges and rivers, while easily identifiable markers, often unite rather than divide persons living on either side. Mountain communities can form solidarity over the need for common support and friendship during times of hardship. Similarly, communities on either side of a river depend on each other's good will and cooperation to successfully use the river and its resources.<sup>2</sup> In these cases, political consideration and negotiation remain an essential part of determining the location of the border, because it is not obvious if the border should divide these communities or unite them. Given these qualifications, we'd be inclined to say that in cases where borders *are* drawn on the basis of some easily identifiable geographical feature *alone*, such as an ocean, borders might well fail to count as emergent; emergence is, after all, a relational property, and in such cases, the features from which the border arose might well make them *entirely* predictable (and justifiable) *a priori* without have to retrospectively consider how the borders have in fact been drawn.

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2. Nine develops an account of territorial rights over rivers that effectually dissolves river borders. On her view, rivers should be areas of shared jurisdictions between states (Nine, 2014).

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## Эмерджентные границы: разметка моральных вопросов

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В этой статье мы исследуем, в какой степени понятие «эмерджентность» применимо к вопросу о природе территориальных границ и их морального обоснования. В философии это понятия употребляется во многих смыслах, и для ответа на наш вопрос особенно полезным оказывается понятие «слабой эмерджентности», предложенное, например, Сойером (2002, 2005) и Бедо (1997). Благодаря этому понятию, возможно ввести различие между предсказанием и объяснением, которое связано с несколькими проблемами в дискуссиях о территории. В частности, мы показываем как «слабая эмерджентность» в отношении границ позволяет нам отличать (а) использование теории территории, чтобы обозначить где *должна быть* проведена граница, от (б) рассмотрения существующих границ и вывода о том, *обоснованы* они или нет (Miller, 2012; Nine, 2012; Stilz, 2011). Многие авторы смешивают эти проблемы или формулируют их таким образом, что они в некотором смысле оказываются взаимосвязанными. Но в нашем случае с учетом понятие эмерджентности существующие границы и их моральные обоснования можно рассматривать без того, чтобы говорить о том, где должны быть проведены границы. В любом случае различие двух проблем более существенно, чем это обычно признается, и дает нам некоторые основания предпочитать «этактические», а не «культурные» теории территориальных границ. В завершении мы приводим рассуждения о сопутствующих проблемах: в первую очередь, о кажущемся

причиняющем воздействию границ, и во вторую очередь, о различных способах, которыми физически устанавливаются границы (например, земля и вода).

*Ключевые слова:* эмерджентность, объяснение, предсказание, границы, этатизм, культурный национализм, территориальные права