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978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)

I

Introduction

So the king said, “Bring me a sword,” and they brought a sword before the king. The king said, “Divide the living boy in two; then give half to the one, and half to the other.” But the woman whose son was alive said to the king – because compassion for her son burned within her – “Please, my lord, give her the living boy; certainly do not kill him!” The other said, “It shall be neither mine nor yours; divide it.” Then the king responded: “Give the first woman the living boy; do not kill him. She is his mother.”

Solomon’s Wisdom in Judgment, 1 Kings 3:24–28.

Indivisible territory is all too frequent in international politics.¹ Jerusalem’s significance as indivisible territory can hardly be overstated; it is perhaps the quintessential example of indivisible conflict. For thousands of years, men have battled over the right to rule the Holy City. In contemporary politics, Jerusalem’s indivisibility continues to undermine prospects for an Israeli-Palestinian peace. Although many Israelis “insist that a united Jerusalem will be the eternal capital of the Jewish state,” Palestinian officials contend that any deal that fails to include sovereignty over Al-Aqsa Mosque and the Dome of the Rock is “an unacceptable compromise . . . [that] will make their blood boil.”² With such

¹ On indivisibility and war, see Fearon 1995, 389–90; Hassner 2003; Hensel and Mitchell 2005; Newman 1999, 16; Pillar 1983; Powell 2006; Toft 2002, 2003; Walter 2000; Vazquez 1993, 77–78. On indivisibility and negotiations, see Elster 1989, 67–78; Coleman 1990; Friedman and Savage 1948; Hirschman 1994; Kniss 1996; Marshall 1984; Ng 1965.

² Gerald Butt, “Jerusalem: Eternal, Intractable,” BBC News, September 28, 2000. Available at http://news.bbc.co.uk/1/hi/in_depth/middle-east/2000/mideast_peace_process/626139.stm. Accessed September 1, 2005.

2 *Indivisible Territory and the Politics of Legitimacy*

irreconcilable claims to the Holy City, there can be no doubt that Jerusalem is indivisible, that any agreement acceptable to one side would be unacceptable to the other.³

In East Asia, the confrontation over Taiwan provides another example of indivisible territory. After the nationalist Kuomintang (KMT) lost to Mao's Communist forces in 1949, the KMT fled to Taiwan, denounced the Chinese government as illegitimate, and claimed mainland China as its own. Over time, some Taiwanese officials have argued that Taiwan should abandon its claim to China and instead pursue an independent sovereign state, a position that directly contrasts with China's position that there is only "one China," of which Taiwan is an integral, inalienable part.⁴ The costs of this indivisible conflict could be severe. As one Chinese official argued in 2002, "Taiwan choosing independence is tantamount to choosing war."⁵

As Sumit Ganguly writes, "few conflicts in the post-World War II era, with the possible exception of the Arab-Israeli dispute, have proved as intractable" as Kashmir.⁶ In 1947, on the heels of their partition and independence, India and Pakistan fought their first war over Kashmir. They would fight again in 1965 and 1999 and have faced countless crises over the rule of this territory. As in Jerusalem and Taiwan, claims to Kashmir appear absolutely irreconcilable. Pakistan argues that Kashmir's majority Muslim population means the territory rightly belongs within its borders (or at least, that the Kashmiris have a right to secede from India's rule). Indian officials believe that allowing Kashmir significant autonomy would undermine not only their rule but India's identity as a multiethnic, multireligious democracy.⁷ This continued inability to compromise over Kashmir has increased tensions between these nuclear powers, and made Kashmir, in President Bill Clinton's words, "the most dangerous place on earth."⁸

Until very recently, the conflict over Northern Ireland appeared indivisible.⁹ In 1921, after a bloody war, British and Irish officials

³ On Jerusalem's indivisibility, see Albin 1993; Hassner 2003.
⁴ On the conflict over Taiwan and the "One China" policy, see Christensen 1996; Nathan 1996. As Ross argues, however, Taiwan's rejection of the One China policy is tied to domestic politics, and there are signs that the independence movement is weakening. See Ross 2006.
⁵ "Taiwan Cancels War Games," BBC News, August 7, 2002. <http://news.bbc.co.uk/2/low/asia-pacific/2177581.stm>. Accessed August 15, 2008.
⁶ Ganguly 2001, 1.
⁷ Ibid. See also Bose 1999.
⁸ Quoted in Ganguly 2001, 1.
⁹ See, e.g., Bew 2007.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)*Introduction*

3

partitioned the country, creating Northern Ireland out of six of Ulster's nine counties. The partition did little to quell the violence. Throughout the twentieth century, Northern Ireland's Nationalists and Republicans continued to claim that Northern Ireland was an integral part of the Irish nation. Northern Ireland's Unionists uniformly dismissed this position – Northern Ireland would, in their view, remain a part of the United Kingdom, in union with the British and not subject to Irish sovereignty.

In each of these cases, indivisibility is a central element of violent conflict. In many of these cases, the very presence of indivisible territory has led to negotiation failure.¹⁰ So intractable are these conflicts that their indivisibility appears natural, an inevitable result of clashing identities and attachments to the land. As the site of competing national and religious claims, it may seem little wonder that Jerusalem, Northern Ireland, Kashmir, and Taiwan are indivisible; how could it be any other way? But the irony is that as intractable as indivisible conflict may seem, it is strangely malleable. Territory that appears divisible in one time period can prove indivisible in another, and vice versa. Jerusalem was not always treated as indivisible. Although Israeli politicians pledge to maintain Jerusalem as the eternal and undivided capital of Israel, earlier leaders were willing to divide the Holy City. Conflict over Ireland too became indivisible – unable to be ruled by both the British and Irish – only in the twentieth century.

If indivisibility is not a constant, if a territory's indivisibility is malleable, then this raises a serious puzzle: How is it that territory becomes indivisible? Under what conditions are actors unable to divide territory through partition, shared sovereignty, compensation, or other mechanisms of division? Given the significance of indivisible territory, the lack of attention devoted to this question is surprising. Although economists theorize how indivisibility affects bargaining, their arguments address indivisibility primarily as a distribution problem. They assume that an issue is indivisible and address how equitable distribution might be achieved using mechanisms such as lottery, auction, and compensation. Although this is an important puzzle, it leaves unanswered why disputes that in theory have room for compromise – and in practice often do – become indivisible, all-or-nothing games. Explanations of indivisibility are also underdeveloped in international relations theory. With rare exceptions, most models of conflict treat contested issues as comparable to currency – perfectly divisible, allowing for a broad range of settlements.¹¹

¹⁰ Hirschman 1994; Albin 1993, 8; Newman 1999, 16; Pillar 1983, 24.

¹¹ E.g., Fearon 1995; Sebenius 1983; Putnam 1988.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)

This book attempts to fill this theoretical gap. My central argument is that indivisible territory is a social construct. Far from being inevitable or inherent to territory, indivisibility is a contingent outcome, one that is very much the product of human action. When bargaining over territory, politicians engage in a contentious legitimization process. In making their claims to territory, actors use rationales that explain why their territorial demands are legitimate. As elites attempt to outbid each other they are likely to turn to rhetoric – what I call “legitimation strategies” – that will give them an advantage over their opponent. Politicians use rhetoric that will build support at home or coerce their opponent into accepting their demands. In most cases, these politicians are not trying to instigate violent, intractable conflict – they are simply using whatever legitimization strategies help them further their own political interests.

But once used, legitimization strategies have unintended consequences. Most notably, a politician’s choice of rhetoric can lead to lock-in effects. By resonating with some actors and not others, legitimization strategies can trap actors into bargaining positions where they are unable to recognize the legitimacy of their opponent’s demands. When this happens, actors come to negotiations with incompatible claims, constructing the territory as indivisible. Viewed in this way indivisibility is tragic, but hardly inevitable. How actors choose to legitimate their interests can either create or destroy the possibility of dividing territory.

This book develops this argument in detail, explaining why it is politicians choose certain rhetoric, and how it is that “mere talk” can have such pernicious effects. This chapter will lay out the basics. In the next section, I explain the significance of territorial conflict in world politics. Following this discussion, I turn to definitions of indivisibility, arguing that treating indivisibility as a social fact – neither an objective nor subjective quality of territory – is particularly useful when studying territorial conflict. The chapter concludes with an overview of the existing literature on indivisible territory and summarizes the book’s argument.

TERRITORY IN INTERNATIONAL RELATIONS

Territory is not alone in its indivisibility; issue indivisibility pervades social and political life. The Thirty Years War was driven by the indivisibility of religion; neither Protestants nor Catholics were willing to abandon claims to religious authority, even at the cost of destroying a chance at compromise.¹² Similarly, the Franco-Prussian War erupted,

¹² Nexon 2009.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)*Introduction*

5

in part, over the Hohenzollern succession and the indivisibility of the Spanish throne. In the domestic sphere, debates over ethnic politics and abortion threaten the delicate balance between compromise and contestation that underpins liberal democracies.¹³ Divorcing couples know all too well the indivisibility of a child, and even the most well-intentioned of family members might find themselves in an all-or-nothing conflict over the distribution of a family heirloom.¹⁴

Although all of these issues are significant, territory is of singular importance in international politics. As John Vasquez has argued, territorial issues “have persistently dominated war for almost 350 years,” and can be linked to 65 percent of international warfare.¹⁵ Scholars argue that governments involved in an interstate war are less likely to compromise over territory than they are any other issue.¹⁶ In civil wars, Barbara Walter contends that between 1940 and 1996, “governments were less likely to negotiate with rebels fighting for territorial independence or autonomy than with rebels fighting toward any other goal.”¹⁷

Territory is also an interesting object of study because its negotiability varies across time and space. Actors appear more willing to negotiate over some territory and not others – even territory of comparable economic value.¹⁸ Maria-Thérèse was willing to concede territory in the Low Countries to appease Frederick the Great; her stance on Silesia proved far less malleable. The United States was not committed to “54°40′ or fight,” but was less flexible in California and Texas. Historically, territory’s negotiability has changed over time, with borders less fixed in the eighteenth century than in the present day. And even the same territory can change in its negotiability. As Ron Hassner argues, some territorial disputes have become more intractable over time.¹⁹

All of this raises two questions: Why do actors fail to settle territorial disputes? Why are actors willing to negotiate at one point in time, but not negotiate at another? War after all is an exceedingly costly outcome, one that any rational decision-maker should seek to avoid. To answer this puzzle, some theorists look to rational mechanisms in the

¹³ Hirschman 1994, 213.

¹⁴ See Elster 1989 on issues of child custody and indivisibility. The classic example of the distribution problem – where a number of indivisible objects are to be assigned to a set of individuals – is an inheritance settlement. See Samuelson 1980.

¹⁵ Vasquez 1993, 129. See also Diehl 1999; Goertz and Diehl 1992; Luard 1986; Kocs 1995.

¹⁶ Luard 1986.

¹⁷ Walter 2000, 1. See also Luard 1986; Holsti 1991.

¹⁸ Murphy 1990, 538.

¹⁹ Hassner 2007.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)6 *Indivisible Territory and the Politics of Legitimacy*

bargaining process, arguing that the anarchic constraints easily account for bargaining failure.²⁰ Others argue more irrational factors – misperceptions, identity, or emotions – are more likely to account for territorial conflict.

But the idea that some territory is simply indivisible – that there are issues where a division of the issue acceptable to one of the antagonists is unacceptable to the other – has not received much attention. It may be that indivisible territory is perceived as a rare phenomenon, too infrequent to theorize. As James Fearon argues “most issues states negotiate over are quite complex . . . and allow many possible settlements.”²¹ Yet even if rare, indivisibility is significant. Indivisibility may not always lead to war, but it is one causal pathway to violent conflict. In the two cases studied in this book – Ulster and Jerusalem – thousands have died in the past fifty years alone. For policy makers, indivisible territory in these cases – or in Kosovo, Taiwan, and Kashmir – stand in the way of enduring peace. Infrequency does not mean insignificance. Explaining how territories become indivisible is a critical puzzle for studies of war and peace.

OUR MONEY AND OUR CHILDREN: DEFINING
INDIVISIBLE ISSUES

What does it mean to say that territory is indivisible? I define an issue as indivisible if actors represent the issue (such as territory) in ways that eliminate any possible division, and thus reduce the bargaining range to zero. In technical terms, indivisibility describes a situation in which actors represent the value of the issue as discontinuous, defined only for the values of (0,1). More informally, we can say an issue is indivisible when any division of the issue acceptable to one of the antagonists is unacceptable to the other. Under these conditions, actors are locked into single, incompatible claims, effectively constituting the issue as indivisible.

Although the definition here is not novel, it departs from other definitions of indivisibility in at least three ways. First, indivisibility is not limited to the physical attributes of an issue. Some scholars describe indivisible issues as those that “cannot be split (physically) and/or allocated (easily, widely) among parties, at least not without losing much of [its]

²⁰ Fearon 1995; Powell 2006.

²¹ Fearon 1995, 389.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)*Introduction*

7

intrinsic value or utility.”²² Houses and children are good examples of physically indivisible issues – we cannot divide these issues without losing their essential value.

This definition of indivisibility may be intuitive, but it is deeply problematic – it conflates an issue’s divisibility with its capacity to be physically partitioned. Often the physical indivisibility of an issue is beside the point. Territory is physically divisible – Kashmir, Ireland, and Kosovo can be infinitely divided – but this does not prevent actors from treating territory as indivisible in practice. And territory that is partitioned may not actually be divisible – it may not have resulted from a negotiated settlement. For example, as discussed in Chapter 4, the partition of Ireland did not make the Ulster question any less indivisible. Furthermore, emphasizing physical partition obscures the ways we divide the most physically indivisible of issues in everyday life. We do not need to literally slice an object in half to divide it; we can also divide that issue by sharing ownership or trading off possession. In this manner, even children can be divided without Solomon’s sword; divorced parents frequently divide children through time, using joint custody.²³ Similarly, economists argue lotteries can effectively divide indivisible issues, and social scientists have long noted that monetary compensation or even leasing can give a divisible value to an otherwise indivisible issue.²⁴

Second, indivisibility cannot be equated with bargaining failure or war.²⁵ Indivisibility is not a root cause of war. Certainly other mechanisms – commitment problems, domestic politics, or misperception, for example – can lead to bargaining failure and violent conflict.²⁶ Moreover, even if territory is indivisible, war and bargaining failure might be avoided if one opponent possesses overwhelming force and can compel a settlement, or if the costs of war are too high.

Third, I define indivisibility as a social fact. Indivisibility is a construction, it is neither an objective, inherent property of territory, nor subjective and reducible to individual consciousness.²⁷ Treating indivisibility as a social fact distinguishes it from theorists who study indivisibility as a

²² Albin 1993, 43. See also Galvin and Lockhart 1990.

²³ Time is not always divisible. Elster 1989, 70. C.f. Toft 2006.

²⁴ Elster 1989, 36–103. On leasing, see James Ron and Alexander Cooley, “A Lease Could Break the Palestine-Israel Deadlock,” *Boston Globe*, July 7, 2000, A23.

²⁵ Walter and Toft equate indivisibility with intractable territorial conflict. See Walter 2000; Toft 2002, 2003. For this critique, see Powell 2006.

²⁶ See Fearon 1995; and Jervis 1979.

²⁷ See Durkheim 1982, 52; and Searle 1995.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)8 *Indivisible Territory and the Politics of Legitimacy*

subjective phenomenon, as how an individual or group perceives an issue. For example, Ian Lustick's examination of imperial retraction explores how leaders come to perceive the periphery as an indivisible component of the state. Similarly, Hassner views indivisibility as a subjective belief, determined by the sacred history of the territory.²⁸

Although beliefs are significant, when studying bargaining failure it is more useful to define indivisibility as social, not perceptual. What we are interested in is not whether one side viewed an issue as indivisible, but whether all of the actors reject mechanisms of division. A return to the child custody example is illustrative. Most divorcing parents view their children as indivisible beings, but this does not mean child custody disputes will necessarily become indivisible. The indivisibility of the child in the parents' minds and the indivisibility of the child during bargaining may be two different things. To capture the latter, we need a concept that sees indivisibility as a relational value, captured here as a discontinuous bargaining set among actors. By this definition, an indivisible value is social, a product of actors' relative claims and not a perception.

But indivisibility is not objective either; it is a constructed phenomenon, defined by actors' representations. Indivisibility is malleable. Although Kosovo may have appeared indivisible in 1998, for instance, this was not the case in 1989. This malleability has led some to conclude that indivisibility is not a real characteristic. If everything can be divided in theory, and if an indivisible issue can be shown to have at one point been divisible, then it is not a real phenomenon. In a sense these theorists are correct. Indivisibility is not "real" if by real we mean objective or inherent. But things need not be objective to have a concrete social presence. Money is not objectively real – a \$100 bill is just a piece of paper, without any inherent, objective meaning. But this does not mean that money only exists in people's heads. It is a social fact. In the same way, a territory's indivisibility is a social fact, one that has a real existence. Yes, we divide children through the mechanism of time, but not every parent sees that as an acceptable settlement. Territory, ideally, is divisible, but claims to Jerusalem, Kashmir, and Alsace-Lorraine appear irreconcilable both to observers and antagonists. Rather than dismiss the problem of indivisibility, we should ask how actors come to treat issues as if they are indivisible. The puzzle, in essence, is one of construction: How do actors come to represent territory in ways that its indivisibility becomes a social fact?

²⁸ See Lustick 1993a; and Hassner 2003.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)*Introduction*

9

INDIVISIBLE TERRITORY: THE STATE OF THE FIELD

Although indivisibility has remained largely understudied, there is recent scholarship – particularly in the literature on ethnic and religious conflict – that considers why some territory seems nonnegotiable. The literature falls into two broad categories. Rationalist approaches to conflict argue indivisibility results from dynamics within the bargaining process.²⁹ At the most basic level, rational choice approaches assume that human behavior is grounded in interests. The key actors in these conflicts are societies' political elites, who balance their pursuit of security abroad with their desire to hold power at home. Ideally these actors would avoid bargaining failure and the costly outcome of war. In practice, however, structural constraints undermine the negotiation process and lead to indivisible territory.

A second approach posits that it is not interests but identities that provoke violence. This constructivist school argues that identities are not inherent, but rather socially constructed. There are two ways in which identities are constructed. First, the boundaries between actors are more fluid than the language of ancient hatreds would suggest. However natural the division between Serb and Croat, British and Irish might seem they are actually the outcome of identifiable historical processes.³⁰ Second, the content of identities is a construct as well. Groups develop histories, narratives – a myth-symbol complex, in Anthony Smith's terms – that define the characteristic of ethnic groups, how their members should behave . . . and who their enemies are.³¹ How boundaries are drawn and the content of identities affect the possibility of violence. If boundaries harden between groups – if there are clear impermeable boundaries between societies – violence may be more likely.³² Similarly, as Stuart Kaufman and others have argued, a myth-symbol complex that incorporates narratives of fear and enmity between groups can provoke ethnic violence – the rhetoric of historical hatreds between Serbs and Croats, or between Hutus and Tutsis in Rwanda are extreme examples.³³

Each of these general approaches to conflict has something to say about indivisible territory. Strategic interests and identity both play a

²⁹ Fearon 1995; Powell 2006; Walter 2000.

³⁰ On the social construction of ethnic boundaries see Sahlin 1989; Brubaker 1996; Tilly 2005; Smith 2004.

³¹ Smith 1986, 1999; Kaufman 2001, 2006.

³² See Varshney 2001.

³³ Kaufman 2001, 2006.

Cambridge University Press

978-0-521-43985-5 - Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland

Stacie E. Goddard

Excerpt

[More information](#)

large role in creating indivisible territory. However, both theories also struggle to explain the key puzzle of how is it that the same territory might be divisible at one point in time and indivisible in another. It is this question of transformation that will be central to the theory developed in this book.

Rationalist Theories: Indivisibility as Chimera in International Politics

Many theories of indivisibility begin with the assumption that issues are, for the most part, divisible. There is nothing inherent in the nature of disputed issues that accounts for indivisibility.³⁴ The task for the theorist thus becomes explaining why issues might appear indivisible. Why is it that disputes that actors could settle in theory are in reality irresolvable? To answer this question, rationalist theorists largely discount the idea that a conflict over an issue is really indivisible. It is not the case that actors cannot find a settlement; rather, mechanisms within the bargaining process keep actors from adopting a clear compromise, leading to negotiation failure.

Rationalists blame two mechanisms for making issues look as if they were indivisible: the commitment problem and precedent setting. First, theorists such as Fearon and Robert Powell argue that although issues could be indivisible, in international politics commitment problems provoke bargaining failures. Theoretically politicians recognize that a bargain exists that both sides would prefer to war – the issue, then, is not really indivisible. However, these “mutually preferable bargains are unattainable because one or more states would have an incentive to renege on the terms.”³⁵ Fearing the consequences of future defection from any agreement, actors opt for war in the present over a peaceful settlement.

For instance, Fearon ascribes the indivisibility of the Krajina to the commitment problem. It was not that the Serbo-Croatian War “was made inevitable by deep and wide nationalist passions crossed with conflicting territorial claims.”³⁶ Rather, without benefit of an outside authority, there was nothing credible the Croats could have done “to commit themselves not to pursue policies detrimental to Serb welfare and security in the future, after the Croatian state had grown stronger. Faced with this prospect, it could make sense for even nonextremist Serbs to try to fight

³⁴ Fearon 1995, 389.

³⁵ Ibid., 38; Powell 2006.

³⁶ Fearon 1998, 115.