Spontaneous order in the formation of non-territorial political jurisdictions

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Abstract

This paper seeks to extend existing theories of spontaneous order in politics to a new theory of spontaneous order in jurisdictions. Under certain conditions the various kinds of jurisdictional changes—citizen mobility and migration, but also external and internal re-bordering, and secession and integration—constitute spontaneous orders. Personal secession and non-territorial governance are parsed as potential mechanisms of jurisdictional change, and some implications of technological change are discussed. Following the knowledge problem critique of attempts to replicate market allocations with central planning, rational constructivist planning of jurisdictional orders succumbs to 'the knowledge problem of the nation-state.' Spontaneously ordered political jurisdictions are the general solution to the knowledge problem of the nation-state. I argue that when citizens seek out each other to form political jurisdictions irrespective of location, the jurisdictional order in the resulting non-territorial polycentric democracy is a spontaneous order and potentially curative of the knowledge problem of the nation-state.

Keywords: spontaneous order, knowledge problem, political coordination, democracy, nation-state, jurisdiction.

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1. Introduction: The knowledge problem of the nation-state

Citizens, as consumers of political goods, face a cost-benefit calculus associated with the decision to stay in a particular jurisdiction—a state, whether a nation-state or a regional state—or whether to exit to one with a better ratio of benefits to costs. In this way, Charles Tiebout (1956) argued that if different states made different competitive offerings of local public goods, and people were free to move between states in the direction of their preferences and willingness to pay, the result would be an efficient allocation of policies and people over jurisdictions. The significance of the Tiebout sorting model is usually presented as a non-political solution to the free-riding problem, but at a deeper level it highlighted a basic symmetry between the redrawing of political maps—whether by war and conquest, by negotiation and purchase, or by secession or integration—and the movement of people. If people could move, states didn't have to. The Tiebout model was expressed as 'voting with one's feet' but it is equally valid to think of this as 'shopping for public goods'. What we are interested in here is how the jurisdictional shape of states can be understood as a spontaneous order outcome of this process at the level of personal secession and group formation.

Which is to say that there are two limitations on the Tiebout model: (1) the spatial map of jurisdictions is in an important sense both given and arbitrary; and (2) the resulting constellations of citizens as groupings, which is an emergent property of the Tiebout sorting, takes place primarily over individuals selecting bundles of public goods (and, importantly, not bundles of other citizens). Both of these are problematic in real economies in real political systems. First, political choices are always bundled with economic choices (Tiebout's original model assumed this complexity away by making all income a rent), and often the economic choices will be primary. Second, citizens do seek to agglomerate with specific other citizens (usually homophilic affinity groups) and so choose groups as much as they choose local public goods.

The upshot is that a territorially focused analysis, whether moving people or redrawing boundaries, forecloses on a broad class of non-territorial solutions in which people seek out other people to form club-like associations to furnish public goods (or externalities) among

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each other. The resulting jurisdictions are an emergent property of the process of group discovery and formation, and are thus a spontaneous order. Or, perhaps more accurately, under certain conditions the various kinds of jurisdictional changes—citizen mobility and migration, but also external and internal re-bordering, and secession and integration—constitute their own spontaneous orders. Jurisdictional spontaneous orders emerge and evolve in an orderly yet unplanned way due to shared rules of procedure, simplified feedback mechanisms, freedom of entry and exit, and equality of status among participants. Like other *cosmos*, jurisdictional spontaneous orders are complex discovery procedures that coordinate the distributed knowledge of participants.

This chapter seeks to extend existing theories of spontaneous order in politics to a new theory of spontaneous order in jurisdictions. In particular, we focus on the theories of 'democracy as a spontaneous order' (diZerega 1989), 'the higher-level spontaneous order of polycentric democracy' (Andersson 2012), and 'states as polycentric orders' (Eusepi & Wagner 2011). The new theory of 'spontaneous order in the formation of jurisdictions' will then be outlined and personal secession and non-territorial governance will be parsed through the framework as potential mechanisms of jurisdictional change. Finally, we discuss some implications of technological change for the theory of jurisdiction formation, and the larger 'problem of the nation-state.' The upshot is a new line on non-territorial federalism as a form of polycentric democracy, model of competitive governance, and solution to the problem of nation-state incongruity and relocation.

We argue that this matters because on a deeper level this is about the interplay between spontaneous order and rational constructivism, with the arena not markets versus state, but nations versus state. The problem of the nation-state is how to design a jurisdictional order and assign political authority so as to discover a harmonious allocation of nations, states, and nation-states. This is most often confronted ('solved') with rational constructivist planning, and what is a weak correcting force of controlled migration. This portends to a variant of Thomas Duncan and Christopher Coyne's (2015a,b) argument about foreign intervention and the limits of human reason and planning—however applied to the carving out of international (and sub-national) borders, not the political actions that occur within them. And much like the knowledge problem critique of attempts to

replicate market allocations with central planning, rational constructivist planning of jurisdictional orders succumbs to what we call 'the knowledge problem of the nation-state.'

Speculatively, we suggest that technological advances, particularly in cryptography and blockchain-based applications, may have tipped the balance in favour of spontaneous order in the formation of jurisdictions. This would greatly benefit citizens of would-be nations that have been suppressed by the homogenising forces of 'the hyphen' (Antonsich 2009) and harmed by the failures of planning. Increasingly, networked individuals have the capacity to create institutions parallel to the nation-state and to exit to them. This provides a more potent correcting force to the mislaid designs of jurisdictional planners, and potentially abets a 'more spontaneous' jurisdictional order.

The question of jurisdictional order is basically about the formation of political groups or what John Hartley and Jason Potts (2014) call *demes*. A deme is a culture-made group or association forming a 'we-community,' which can then proceed to decision-making, action and enterprise. Part of the logic of allowing citizens to sort non-territorially into demes is that the cost of public goods decreases with social distance: in essence, you don't free ride on 'your people.' Of course, individuals can also move across group boundaries with more-or-less ease, depending on prevailing group rules, higher-level constitutional rules, and associated mobility (and transaction) costs. We will propose the concept of a 'constellaxy' as the analytic conception of a spontaneous demic order.

We proceed as follows. In section 2 we review the current theories of spontaneous order in politics, and show that a non-territorial model is an extension of these. We then present a new theory of spontaneous jurisdictional change in terms of personal secession and non-territorial governance in section 3 and examine the (cryptographic) technologies behind such *de facto* jurisdictional change as non-territorial personal secession in section 4. We conclude in sections 5 and 6 by showing how spontaneously ordered non-territorial political jurisdictions—the constellaxy—solve the knowledge problem for the state.

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2. Current theories of spontaneous order in politics

Already there are three established theories of more-or-less consciously planned or spontaneous orders in politics: (1) Gus diZerega on 'democracy as a spontaneous order' (1989; 1994; 2000); (2) David Emanuel Andersson on 'the higher-level spontaneous order of polycentric democracy' (Andersson 2012; Andersson & Taylor 2012); and (3) Richard E. Wagner on 'states as polycentric orders' (Martin & Wagner 2009; Eusepi & Wagner 2011). We compare and contrast these theories, and include our own, as below:

diZerega: monocentric democracy + civil society ⇔ *spontaneous political order*

Andersson: polycentric democracy + citizen mobility = jurisdictional change ⇔ *spontaneous political order*

Wagner: polycentric state organisation + competitive political enterprise ⇔ *spontaneous political order*

MacDonald: polycentric democracy + **boundary** *mobility = jurisdictional change* ⇔ *spontaneous political order*

diZerega makes a similar distinction between 'state' and 'democracy' to that of F.A. Hayek between 'economy' and 'catallaxy.' He argues that democracy, properly understood, is a spontaneous order that cultivates a civil society freely pursuing diverse and disparate goals; whereas the state is an organisation of domination aimed at or biased towards the specific goals of those in power. We characterise diZerega's theory of democracy as a spontaneous order as an 'ideal theory'—in reality, democracies are not as neat and tidy as this. Democracy as we know it is plagued by special interests, various inequities, and are generally unresponsive, so does not liken to the ideal theory of democracy as a spontaneous order. Of course diZerega himself makes this point—that democracies are only spontaneous orders when they are being procedurally democratic and not behaving like states—and we agree that this work is an ideal stepping stone on the way to an analysis of polities with less-than-pure spontaneous ordering processes.

While diZerega's theory of democracy as a spontaneous order has been worked out within a monocentric polity, Andersson extends the analysis to a polycentric setting (i.e., local government, economic clubs, federalism, international migration, etc.). He argues that democracy in fact comprises of *two* spontaneous orders; the lower-level order that diZerega describes and the higher-level order in which citizens signal dissatisfaction (or assent) of political conditions by relocating between jurisdictions. We also agree with the classification of democracy as comprising of two spontaneous orders, but we argue that this is limited or incomplete in a certain sense. That is, there are two means of jurisdictional change via exit in polycentric democracies: (1) citizen mobility and (2) boundary mobility. The ways in which citizens move within a polycentric democracy and policies change in response is indeed a spontaneous order—but the ways in which *boundaries* move within a polycentric democracy and policies change is a complementary process of jurisdictional ordering. Together citizen and boundary mobility contribute to the jurisdictional order, and under certain conditions, form a higher-level spontaneous order of polycentric democracy.

Both Andersson's and Wagner's work builds on the core concept of polycentricity that was central throughout the career of Vincent Ostrom, and first developed in a classic article in the *American Political Science Review* in 1961, co-authored with Charles Tiebout and Robert Warren:

> *"Polycentric" connotes many centers of decision-making which are formally independent of each other.... To the extent that they take each other into account in competitive relationships, enter into various contractual and cooperative undertakings or have recourse to central mechanisms to resolve conflicts, the various political jurisdictions in a metropolitan area may function in a coherent manner with consistent and predictable patterns of interacting behavior (Ostrom, Tiebout & Warren 1961: 831).*

Polycentric governance entails a complex combination of multiple levels and diverse types of organisations drawn from the public, private, and voluntary sectors with overlapping realms of responsibility and functional responsibilities. When it comes to their

theories of spontaneous political orders, Andersson's work can be categorised as focusing on polycentricity *among* states (i.e., local governments, regional states, etc.), while Wagner's work focuses on polycentricity *within* a singular state (i.e., public enterprises, bureaucracies, etc.)

In a sense, Wagner's theory of states as polycentric orders also intertwines both diZerega and Andersson: he argues that states are orders and not organisations (*contra* diZerega), and even monocentric states are in fact polycentric orders in and of themselves (*contra* Andersson). That is, the state is an arena of interaction—not an organisation but an arena hosting many distinct organisations—like market activity, state activity emerges out of entrepreneurial action (i.e., say between political factions, special interests, etc.), and is therefore spontaneously ordered and not planned. This point is indeed significant, and we incorporate it into our analysis: even when initiated from within the state, jurisdictional processes (like population transfer or rebordering) resemble market processes in that they operate through knowledge that is distributed among participants, and jurisdictional outcomes are products of spontaneous ordering that emerges through competitive interaction among political enterprises.

3. New theory of spontaneous order in jurisdictions

We develop a new theory of spontaneous political order by combining the approaches of diZerega, Andersson and Wagner and extending them to jurisdictional boundary dynamics. Like these three approaches, we too describe political-jurisdictional change as a process that falls somewhere along the spectrum of consciously-planned-to-spontaneous orders. Our focus, however, is not on policy or citizen mobility, but boundary mobility. Like diZerega, we believe jurisdictional change can come about as the result of the democratic process and emanate from civil society; like Andersson, we believe that pressures from citizen mobility contributes to such change; and like Wagner, we believe that the process can even emanate from a competitive process of political entrepreneurship within the state. We should clarify that our approach explicitly seeks to *extend* the above three, not supplant them: whether

boundary change catalyses from civil society or from within the state, it, too, is a higher-level spontaneous order of polycentric democracy. But instead of policy and jurisdictional change being linked solely to citizen mobility across pre-existing boundaries, the spontaneous order is also stimulated by *boundary mobility*: external and internal rebordering, and secession and integration.

Democratic politics is not just a process of deciding how to do things or what things to do, but also a process of deciding to whom those things apply, i.e., group/polity boundary formation. The spontaneous order of group/polity boundaries is an important part of the democratic process, and should therefore form part of any theory of 'democracy as spontaneous order.' However, it is thus far underappreciated and underexplored—in particular, while exit via citizen mobility is recognised, exit via boundary mobility is overlooked.

Of the two dynamic mechanisms of jurisdictional ordering—people moving, or boundaries moving—the boundary mobility side of jurisdictional change (to move borders or secede) typically requires collective action and cannot be achieved unilaterally or without some sort of collective legitimation, such as citizen (demos) assent; it therefore often falls into the domain of democratic decision-making. In other cases, boundary change has been the result of political machinations within and between state actors, and falls into the domain of elite competition within a polycentric state organisation. In addition, there is a third theory of how boundary change processes operate: increasingly the catalyst for such change is spontaneously arisen, networked individuals.

That is, boundary change (rebordering or secession) can happen in three ways: (1) the political elite can instantiate the change (i.e., as consciously planned *or* emergent/spontaneous order); (2) the citizenry-at-large can use democratic means (i.e., referenda, elections); or (3) individual citizens can *personally* secede. These correspond to three ways that citizen mobility can affect jurisdictional change: (1) the elite can plan and execute population transfers; (2) the demos can decide on population transfers; or (3) individual citizens can personally move. Moreover, we can position each mode of jurisdictional ordering along a spectrum from consciously planned to spontaneous.

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As a cursory reading, we suggest that from (1) to (3) jurisdictional change becomes 'more spontaneous' and that this applies for both citizen mobility and boundary mobility (see FIG 1 below).
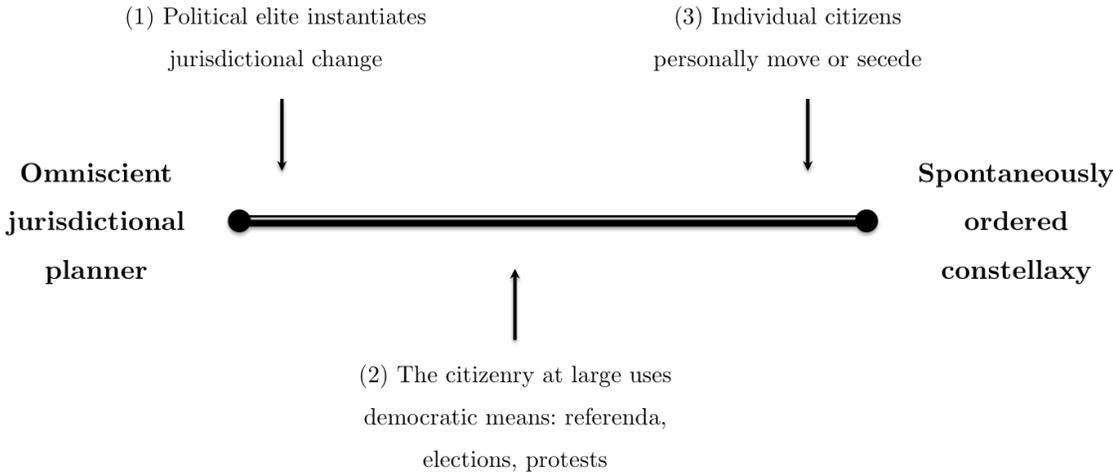

FIG 1 Spectrum of jurisdictional orders

Jurisdictional change emanating from the state is closest to the rational constructivist end of the spectrum, depending on the conditions of political entrepreneurial competition within the state organisation: a more highly concentrated arena of interaction (e.g. dictatorial decision making) is more monocentric, while a more competitive arena (e.g. many competing factions and interests) is more polycentric and tends towards jurisdictional outcomes that are products of spontaneous ordering. Consider an internal rebordering between multiple ethno-linguistic regions in a multinational state: contrast a strong unitary power that deigns the specifics of the boundary change to the uncertainty, conflict, and bargaining over a negotiated outcome between affected communities. The second scenario can perhaps be labelled 'more spontaneous' than the first, and we might expect relatively more dispersed knowledge to be incorporated into the final boundary change.

Next, jurisdictional change emanating from civil society or democratic assent is likely further along the spectrum towards spontaneous jurisdictional order. When political rules are procedurally democratic and not biased towards specific individuals or groups, and the

citizenry-at-large uses democratic means such as referenda, elections, or protest movements to affect change (rebordering or population transfers), jurisdictional outcomes will be the products of spontaneous ordering, in the same way as described by diZerega. Returning to the case of boundary change between ethno-linguistic regions, potentially the entirety of all affected communities could be included in the decision making process (i.e., a referendum), which is certainly 'more spontaneous' than competitive machinations between political representatives within the arena of the state.

Finally, we submit that the 'most spontaneous' of the modes of jurisdictional ordering is when individual citizens personally move between or secede from jurisdictions. Andersson (2012) argues that polycentric democracy works more effectively than monocentric democracy because signalling of citizen preferences is stronger. In a monocentric democracy the systemic resource (i.e., the signal that individuals look to for coordinating plans) is votes, but this is rather vague, bundled, and undifferentiated. Because citizens cannot exit, the systemic constraint is not particularly tight: change only occurs periodically (at elections) and policies are not particular responsive to citizen preferences (typically pitched at the median voter). In contrast, the systemic resource in a polycentric democracy is the *voters themselves* a well as their movable assets: mobility differentials are the signal. So the systemic constraint is much tighter in a polycentric democracy since citizens have exit options and political units face competition from each other.

We argue that personal secession and personal mobility are comparable forms of jurisdictional change. The easier it is for citizens to move between jurisdictions, the more spontaneously ordered is the resulting jurisdictional order. Consequently, boundary mobility should have the same effect as citizen mobility: the easier it is to reborder or secede from jurisdictions, the more spontaneously ordered is the resulting jurisdictional order. Personal secession is a comparable form of exit to personal mobility, and tightens the systemic constraints in a polycentric democracy—making it a more effective and 'more spontaneous' mode of boundary change than those derived from collective action.

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As you move along the spectrum from left to right personal exit becomes easier, and jurisdictional ordering becomes more fluid. It's easier to exit if you don't have to move; and ease of exit correlates to the quality of the signals that agents look for in a polycentric democracy. Essentially, it is the ease of exit that tightens the systemic constraint—and therefore promotes responsiveness and effectiveness—for a political-jurisdictional order. This is a function of the costs and benefits of exit: costs are lower when exit-related transaction costs and opportunity costs are lower and benefits are higher when the number of viable exit options is large (or new options can be created). Opportunity costs of exit basically refer to jurisdiction-specific attachments, like agglomeration economies (both social and economic), that must be forfeited when a citizen moves between jurisdictions. These are the spillovers that citizens reap by collocating and intermingling together, conferring externalities upon each other; they are typically higher with closer proximity (Marshall 1920) and with greater diversity (Jacobs 1961).

Personal secession would therefore appear to outperform *personal mobility* on both of these scores: citizens are able to move to a new jurisdiction without having to move location (hence they retain benefits of collocation and intermingling) and in theory they can even create a new jurisdiction of their own if they find no better exit options among pre-existing jurisdictions. For this reason we tentatively suggest that personal secession is the 'most spontaneous' of spontaneous jurisdictional orders.

4. Non-territorial personal secession: Can it work in practice?

To summarise so far, personal secession ends up being equivalent to non-territorial governance. Specifically, personal secession is a mechanism and catalyst for spontaneous jurisdictional ordering. Moreover, it is the 'most spontaneous' of boundary mobility mechanisms—comparable to and possibly exceeding jurisdictional ordering via citizen mobility.

This notion of personal secession might seem crazy in practice—and it is currently illegal in most (but not all) constitutions. So what would it actually mean for there to be a legal institutionalised right of individuals (or groups, or institutions) to exit from larger political jurisdictions without having to change location? Personal secession is defined by a right of each person to choose a jurisdiction (or none at all) without territorial bounds. It goes as far as the concept of secession can possibly go: to the individual, and not necessarily in association with a collective (although that is always a possibility). This would present a stark alternative to the nation-states of today: hundreds or even thousands of autonomous, networked, or loosely confederated individuals and communities. The spontaneous dynamic of continual secession and reintegration of citizens and jurisdictions would be a natural evolutionary feature of all political entities.

It must be admitted that an institutionalised right to personally secede would be extremely difficult to implement, at least in the pure form of allowing each and every citizen to completely exit their jurisdiction at will. This doesn't disqualify the principle altogether, but does raise further questions. Can the right of personal secession be qualified? Perhaps along lines of citizen identity, giving certain minorities the right to self-govern? Might there be conditions on the right to exit around the minimum size of a seceding group? Or the actions will they be allowed to undertake when they have exited? Further questions present themselves on appreciation of the vast number of possible exit options the stem from *partial* exit. That is, individuals and groups might exit in only one or few of the complete suite of government functions. This is precisely how the non-territorial 'national-cultural autonomy' model of ethno-linguistic conflict management is understood: minorities are given self-governing capabilities over a subset of government responsibilities, typically relating to cultural practices.

However, a different approach can be found in technology oriented solutions by *technologically enabled secessionists*—also known a cryptosecessionists (who are in turn also known as cryptoanarchists)—which is a *de facto* rather than *de jure* mechanism of jurisdictional change.

The logic of this plays out as follows. Personal secession is akin to non-territorial secession. Cryptographic technologies facilitate non-territorial, personal secession. Moreover, this process of *de facto* jurisdictional change contributes to spontaneous jurisdictional ordering in non-territorial polycentric democracies. Technology, in particular cryptography, facilitates personal secession as it empowers individuals to evade state monitoring and charges. This is a sort of piecemeal exit from incumbent institutions and policies.

But there is a further, somewhat unanticipated implication of this: *networked* individuals have the option to *create parallel institutions* and exit to them if need be—rather than exit in isolation, move to other jurisdictions in a polycentric democracy, or stay in place to reform incumbent institutions.

Cryptoanarchist technologies including bitcoin, blockchain, etc. currently empower individuals to 'economically secede' from incumbent states—future developments might enable full 'personal secession.' Cryptoanarchism is consequently an emerging form of personal secession and *de facto* non-territorial governance; however there are other forms of *de facto* jurisdiction, e.g. the shadow economy and *Systeme D* (Soto 1989; Schneider & Enste 2013); agorism and counter-economics (Konkin, Conger & Seely 2006); and *parallel poleis* in civil society (Benda et. al 1988; Lagos, Coopman & Tomhave 2014).

Technologically enabled secessionists are perhaps early adopters in the diffusion of a larger political innovation—they fashion *de facto* non-territorial governance, but as trends converge additional mechanisms of (possibly even *de jure*) non-territorial governance may become available. Citizens that use technology (or otherwise) to disappear (secede, exit) are engaging in a bottom-up process of political-jurisdictional change: 'spontaneous personal secession.' The upshot is that if technologies are making non-territorial governance increasingly more feasible, then the spontaneous order of polycentric democracy will become 'more spontaneous' and we less have to rely on rational constructivist to solve the knowledge problem of jurisdictional design.

5. Spontaneous order and knowledge problems of nation-states

The central implication of technologically enabled, non-territorial personal secession is that spontaneously ordered non-territorial political jurisdictions solve the 'knowledge problem of the nation-state.' This leads us to now consider what this means for the future of the nation-state.

The theory of spontaneous order in the formation of jurisdictions applies at all levels of jurisdiction—such as local Tiebout sorting and internal rebordering between political sub-units—but especially to nation/state incongruities, i.e., matching maps to peoples (e.g. rebordering), matching peoples to maps (e.g. ethnic cleansing), or proposed non-territorial responses to diversity (e.g. national-cultural autonomy).

Historically, people form an idea of the area that they live in: its extension and its boundaries. Groups that settle in a given area for a long period of time develop concepts of common identity and of a 'homeland.' Prior to the advent of the territorially monopolistic nation-state, the boundaries of political groups (e.g. tribes) were mostly determined by nature and features of the landscape, and territorial borders remained flexible. Boundaries between what the groups saw as their homelands were not yet borders in the sense that commerce, culture or language were not restricted by the boundaries. Feudal structures emerged, with flexible, ever-changing boundaries and overlapping assemblages of power. In some times and places monarchies and multi-ethnic empires arose, but they too had constantly changing borders and many different languages and constituent ethnic and religious communities (e.g. Roman Empire, Austro-Hungarian Empire, Ottoman Empire, British Empire).

With the appearance of the nation-state came a highly developed monopoly on political authority and relative ossification of political boundaries (outside of international conflicts). The nation-state sought to monopolise all social processes: diversity and plurality were to be homogenised, an approach that led into assimilation at best and ethnic cleansing and genocide at worst. The homogeneous national society is an artificial construct, a product of rational constructivism *par excellence.* The limits of human reason

and planning apply here as they apply elsewhere. Much like the knowledge problem critique of attempts to replicate market allocations with central planning, rational constructivist planning of jurisdictional orders succumbs to what we call 'the knowledge problem of the nation-state.'

The task of the jurisdictional designer is analogous to that of the central planner charged with determining the welfare maximising allocation of resources in an economy. Beginning in the 1920s it was Ludwig von Mises and Friedrich Hayek who were the primary opponents of market socialist economic planning. The socialist calculation debate was carried out between Austrian economists Mises and Hayek and neoclassical and Marxist economists Oskar Lange, Abba Lerner, and Fred Taylor. The position of Mises and Hayek was to highlight the economic calculation problem: economic planning was no substitute for market allocation of resources due to the absence of the price mechanism. That is, "rational economic activity is impossible in a socialist commonwealth" (Mises 1990: 33) because the information provided by market prices is lacking in a system of bureaucratic or technocratic allocation (Mises 1920, 1990; Hayek 1935; Buchanan 1982). Designing a continuously optimal jurisdictional order is well beyond the bounds of human cognition and machine computational abilities.

Similar critiques can be mounted against the hypothesis that a welfare maximising jurisdictional design (i.e., an allocation of policies and people to jurisdictions) can be planned for by solving the system of interjurisdictional externality optimality conditions. Just as an economy cannot be seen as a set of equations, neither can the jurisdictional design of a polity be reduced to rational construction: it is impossible to calculate an optimal solution of jurisdictional allocations. The system of equations would require too much information, information that is inherently dispersed throughout the polity. While admittedly we have seen how citizen mobility and differential taxes can act as a price-like mechanism in a territorially decentralised system of jurisdictions, which might suggest an information signalling role, we have also seen how there are inherent limitations to this process in comparison to non-territorial governance. A crucial condition for economic calculation is the existence of genuine entrepreneurship and market rivalry; and this

condition is lacking when the jurisdictional contours of the polity have been predetermined by a jurisdictional planner.

Vincent Ostrom presaged: "the great multitudes of operational choices that become available when people can relate to one another through diverse institutional arrangements" (Ostrom 1988: 184). The standard approach jurisdictional planning does not take the computational limitations induced by the combinatorial nature of the problem into account (MacDonald 2015b). Moreover, a plan that is ignorant to the multitudinous space of possibilities is likely to the detriment of citizen-choosers. If we were to proceed from a true appreciation of the overwhelming size and complexity of the jurisdictional design space, we would have profoundly less optimism in our ability to rationally construct an optimal jurisdictional architecture. As James M. Buchanan and Viktor Vanberg argued, we need "conditions for learning and adaptation at all levels at which we engage in problem solving, including the level at which we choose the constitutional framework for all other efforts" (Buchanan & Vanberg 2002: 128-129). This is an invocation for a framework that is capable of generating experimentation and institutional diversity from within; that is, for non-territorial polycentric democracy and political entrepreneurship.

The 'problem of the nation-state' is how to design a jurisdictional order and assign political authority so as to discover a harmonious allocation of nations, states, and nation-states. It is the result of rational constructivist jurisdictional design, albeit with a weak spontaneous correcting force of controlled migration. This portends to a variant of Thomas Duncan and Christopher Coyne's (2015) argument about foreign intervention and the limits of human reason and planning and Christopher Coyne and Abigail Hall's (2014) robust political economy critique of empire. However, applied to the carving out of international (and sub-national) borders, not the political actions that occur within them. And much like the knowledge problem critique of attempts to replicate market allocations with central planning, rational constructivist planning of jurisdictional orders succumbs to what we call 'the knowledge problem of the nation-state.' Spontaneously ordered political jurisdictions in a non-territorial polycentric democracy is the solution we propose. In the first instance, it is better to have a system that generates jurisdictional rules from within, i.e., constitutionally permit non-territorial secession and enable political entrepreneurship.

In the absence of this, cryptoanarchist technologies enable a sort of *de facto* mechanism for non-territorial secession and governance.

We can reinterpret many episodes from history—how things worked, but also failures and grievances—in light of the theory of spontaneous jurisdictional ordering. A cursory reading might suggest that in an ideal world, the optimally efficient allocation of states, nations, and nation-states—whether territorial or non-territorial, disjoint or overlapping— would emerge spontaneously from whatever initial allocation of political authority. The ever-presence of ethnic conflict and political struggle throughout history would suggest otherwise.

More sagaciously, the central claim made here is simply that the problem of the nation-state *can* be explicated within the spontaneous jurisdictions framework: as the combined expression of non-optimal allocations of political rights (potentially due to a rational constructivist design) and 'insufficiently spontaneous' correcting forces. If ideal conditions were met then a political-jurisdictional system would indeed move toward the optimal allocation of jurisdictions and political authority—of nations, states, and nation-states— but such a highly stylised fiction can only ever be a stepping stone on the way to an analysis of a polity with less-than-pure spontaneous jurisdictional ordering processes.

6. Toward a more harmonious nation-state

Language, culture, civil society, and other 'demic orders' (Hartley & Potts 2014) are largely spontaneously ordered. The nation-state as we know it is not. Sometimes these are complementary relations; other times they are in conflict. Non-territorial polycentric democracy as animated by crypto-secession is a spontaneous order, and therefore potentially in harmony with other demic orders. The benefit of this is that in principle this leads to less political conflict. We should look to the model of non-territorial polycentric democracy if we wish to stimulate spontaneous ordering of jurisdictional space and a more harmonious alignment of demic orders. In fact, we go further to suggest that this is

precisely why technologically enabled cryptosecession threatens to outcompete current modes of jurisdictional change: *de facto* jurisdictions form around networks of individuals (i.e. social media demes) rather than forcing latent demes to conform to pre-existing jurisdictional structures.

The upshot is a more dynamic and entrepreneurial solution to the knowledge problem of the nation-state. In this sense, political-jurisdictional entrepreneurs (who seek new boundaries, or seek non-territorial realignment) and citizens (who personally move and secede) provide a correcting force to an initially sub-optimal rational constructivist jurisdictional design. Citizens attempt to organically grow their own demes, but are frustrated by the pre-existing top-down plan imposed on them. Interestingly, diZerega (2003) identified how an established jurisdictional order comes into conflict with would-be emergent, spontaneous orders from below—and even went so far as to advocate a non-territorial response:

> *Forest Trusts free protection of some public values from traditional political forms rendered less competent through globalization, market values, and complexity. They demonstrate that* political democracy need not be confined solely to geographical boundaries when such boundaries undermine the vitality and value of the democratic process. *As such, they broaden the horizon of democratic possibilities and create new spheres of active and responsible citizenship. They seek to make the fluidity and openness of democratic political boundaries sources of strength rather than weakness (diZerega 2003: 176, emphasis is my own).*

While he never took his analysis further, diZerega's development of what constitutes a spontaneous democratic order and his recognition of the conflict between presumptive territoriality and would-be 'non-territorial publics' gives us a basis to make sense of how these two threads are related to each other. That is, (1) jurisdictional orders can be more-or-less spontaneous, and (2) they should be just so as to complement any demic orders they entangle or govern. The upshot is that the spontaneous order of non-territorial polycentric democracy is capable of adapting to the increasingly complex, intermingled, and multidimensional compound of publics that prevail today. We contend that many

more areas of governance (in addition to the given example of forest trusts) should be constituted as non-territorial publics.

The literature about non-territorial, national-cultural autonomy (Nimni 2004; 2007; 2015) can be reviewed through this lens of conflict and complement between the order of the nation-state (hitherto consciously-planned, top-down, imposed) and various other demic orders. The central theme here is to highlight the inherent dilemma generated in the tension between political (or ethno-linguistic) geography (i.e., the patterns of settlement and dispersal of co-existing groups) and political economy (i.e., jurisdictional order). Ethno-linguistic groups vary in the extent to which they are territorially concentrated, and therefore in the degree to which self-governing jurisdictional arrangements for them should be territorial or non-territorial. The implications of political (ethno-linguistic) geography for conflict resolution are well known and correspond to the three modes of jurisdictional ordering discussed earlier; either: (1) grant autonomy on a territorial basis; (2) population transfers to accommodate groups to existing political structures; or (3) non-territorial autonomy.

Consider (1) matching maps to people: redrawing state structures to match political or ethnic diversity, e.g. breaking multinational empires into national components. Quite often this proves a superficially attractive option. However, reminiscent of the knowledge problem, attempts to resolve problems of multinational states by managing their decomposition into a set of new, territorially defined, uninational states only gives rise to more problems; typically multiplying the initial problem by reproducing diversity in the constituent states, only with different dominant groups. For one, this is because group boundary lines can be uncertain at the individual level: people may belong to not only one but several groups, or none at all. Secondly, group identity does not always unambiguously prefigure political preferences or to which state an individuals wishes to join.

Nevertheless, 'matching maps to people' was the dominant principle of the twentieth century, with plans to create new states that would match the boundaries of existing nations or communities, e.g. Eastern Europe and the Balkans. It proved impossible to draw lines on the map in such a way that no new minorities were created; the new states

were each profoundly politically and ethnically divided. Of course, similar problems have been faced elsewise and elsewhere, and the creation of new states and the partition of existing states (e.g. regionalisation or federalisation) are enduring challenges. From the 'knowledge problem of the nation-state' perspective, there should be nothing surprising about this: planners do not have the requisite knowledge to make such calculations, particularly when they foreclose on the possibility of non-territorial solutions.

Next, consider (2) matching people to maps: instead of redrawing the map of state structures to reflect existing political-ethno-linguistic realities, reshaping the existing realities on the ground to conform to a new political-jurisdictional map, e.g. transferring populations between regions to execute a given jurisdictional plan. Population transfers are a much more brutal option than simply recarving boundaries to reflect existing patterns of political or ethnic geography (and allowing people to sort themselves). Profoundly harmful human consequences have followed from attempts to match people to borders, rather than seeking to match borders to people: large scale population displacement and expulsions of peoples from their homelands (also known as 'ethnic cleansing'). This approach surrenders any pretence of trying to solve the knowledge problem of the nation-state by using the dispersed knowledge and preferences of the population, or to find arrangements vaguely in the interests of all citizens. In a certain morose sense, however, it does illustrate the appalling failures of 'planning.'

Finally, consider (3) abandoning maps: neither redrawing the map of state structures nor reshaping political-ethno-linguistic geographies, but allowing sub-state structures to emerge from and coalesce around existing constellations of people, whether on a territorial or non-territorial basis. Groups commonly lack clearly defined territorial boundaries, so that any attempt to specify them as so will be not only administratively (and epistemically) demanding but likely also politically controversial—under such conditions non-territorial governance may have a role to play. It is the interplay between political (or ethno-linguistic) geography at different scales that indicates the desirability and practicability of territorial versus non-territorial governance. The composition (i.e., homogeneity or heterogeneity) of political units at higher-level scales (e.g. countries,

provinces) and lower-level scales (e.g. cantons, municipalities) demarcate the possible approaches:

(1) when spatial *segregation* is almost complete (e.g. high-level units are homogeneous and hence within each of these, low-level units are also homogenous) then territorial governance is probable;

(2) when spatial *intermingling* is almost complete (e.g. high-level units are heterogeneous and so are low-level units) then governance will need to be non-territorial;

(3) when there is spatial *ghettoisation* (e.g. high-level units are heterogeneous but low-level units are homogeneous) then territorial governance is conceivable but will need to be non-contiguous, non-compact, and perforated; and

(4) it is unclear that homogenous high-level units and heterogeneous low-level units is a coherent combination.

So we have a spectrum of political (or ethno-linguistic) geographies: at one end is *complete segregation* into compact territories, where all units are homogeneous (no members of other groups) and inclusive (all members of own group); at the other end is *complete intermingling* over the entire territory, where groups are identically distributed over geographic space; and in-between are varying gradations of *ghettoisation*, where no groups have complete compact territories of their own at the national or regional level but groups are variously segregated at local levels, producing a checkered patchwork effect. To put it simply, the question is what kind of patchwork quilt does the political geography resemble: are there few, large, disjoint pieces; are there many, small, checkered pieces; or are there such a great many, smaller-still, pieces so tightly inter-stitched so that no clear pattern can be discerned? The models of governance and jurisdictional orders that are implied by these patterns are clear enough: complete segregation lends itself to territorial polycentric democracy (e.g. federalism as in Andersson 2012); complete intermingling lends itself to non-territorial polycentric democracy (e.g. panarchism as in Tucker & de Bellis 2015); and, depending on the scale and degree of local segregation, ghettoisation might befit either a territorial approach (albeit lacking of complete compactness, homogeneity, and inclusiveness) or a non-territorial solution (albeit with some territorial complement at the local level).

So the prospect of non-territorial polycentric democracy depends on the extent to which the political geography (distribution of groups) within a given polity conforms to these patterns—what are the patterns like today? With the fast pace of international migration political, cultural, and ethno-linguistic diversity is increasingly becoming the norm in many societies. The heterogeneity of modern societies increasingly highlights the inadequacy of the nation-state to effectively deal with diversity: to manage potentials for conflict and seize opportunities for shared prosperity. Certainly in consideration of high-level political units (e.g. countries, provinces) heterogeneity has deepened, and notwithstanding a predilection for groups to cluster together in localities, it appears that even in low-level political units (e.g. cantons, municipalities) compactness, homogeneity, and inclusiveness is a thing of the past. That is to say, societies have left the segregated extreme of the political geography spectrum and are moving through gradations of ghettoisation and intermingling.

This is not simply an arbitrary or chance outcome but is occurring for good reason, as the cost-benefit ratio of intermingled diversity outstrips that of segregated conformity. Essentially, what is desirable is deep heterogeneity (intermingling) in economies and civil societies and deep homogeneity (sorting) in polities. Intermingling promotes heterogeneity in economic and social interaction, which stimulates gains-from-exchange and produces potentials for knowledge spillovers, innovation, and market and social entrepreneurial discovery. Sorting promotes homogeneity in political interaction, which stimulates gains-from-coordination and reduces potentials for redistributive externalities, exploitation, and political entrepreneurial predation.

We therefore argue that signalling and networking are key to group formation, and designate the groupish jurisdictional order that emerges a 'constellaxy'—a neologism combining 'catallaxy' and 'constellation.' Of course catallaxy is the term that Hayek gave for the study of the perfect free market order; similarly 'constellaxy' is the term we give to the perfect free jurisdictional order, as above, in which the tension between homogenous sorting and heterogenous agglomerations is balanced. A constellaxy is the order brought about by the mutual adjustment of many individual *citizens* in a *demic order* (MacDonald 2015a). Jurisdictional *constellactics* is the study of such an order and aims to provide a

more accurate and inclusive description of the social-political phenomena of jurisdiction formation and dynamics—given that participants are subject to shared rules of procedure, can parse simplified feedback mechanisms, and have status equality and freedom of entry and exit in pursuing their diverse ends. However, the process of jurisdiction formation and the ensuing dynamics are not always quite so; and we can therefore sketch out a spectrum of jurisdictional orders that are more-or-less spontaneously ordered or consciously planned.

Existing jurisdictional orders are not yet perfect constellaxies. It is the forced folding of the political onto the social and economic that necessitates a compromise between intermingling and sorting that currently limits that potential. More accurately, it is the assumption that political jurisdictions must be territorial. Non-territorial polycentric democracy cultivates both intermingled civil society and economy and sorted polity: groups are overlapping and self-governing. Moreover, cryptosecession—the harbinger of non-territorial polycentric democracy—promotes both intermingling and sorting by subverting the conflict between the nation-state and other demic orders. It entails the creation of *de facto* jurisdictions formed around networks of individuals (i.e., social media demes) rather than forcing latent demes to conform to pre-existing jurisdictional structures. We should fear not the spectre of cryptoanarchy, for it heralds spontaneous order in politics and spontaneous order in jurisdictions, and the answer to the knowledge problem of the nation-state.

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