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Introduction

The collection of papers that are part of this special issue is the product of a workshop held in Genoa on the 12th and 13th of December 2022. The workshop – entitled *Territorial Rights and Rights to Movement and Subsistence* – was motivated by two fundamental reasons: firstly, to welcome scholars approaching the topic of territorial rights and rights to movement and subsistence from a philosophical, sociological, historical and legal angle; secondly, and probably most importantly, to develop a debate over the concrete and urgent public need for normative work aimed at providing states, local powers and organizations with theoretical tools to orient their immigration, climate and borders-control policies.¹

The idea of continuing the work undertaken during the workshop has to do with the second point just mentioned: if one of the aims of the conference was to take concrete action in producing updated normative material in the field of territorial rights, it seemed important to publish part of the outcomes of the workshop in order for these results to last longer and to be available to more readers.

For the workshop to embrace the topic of territorial rights from different angles, the following sub-topics were explicitly included within the conference's interests: territorial rights, displacement and climate-displacement, eviction, forced migration, territorial conflicts, refugee sta-

¹ We would like to take the opportunity of this publication to thank the keynote speakers of the conference, Sarah Fine and David Miller, who contributed exceptionally to the workshop, and all the chairs who helped in its full realisation.

tus, states' responsibilities, and immigration policies. An overview of the core issues identified and addressed during the workshop can be organized by dividing the main topics in three groups.

With respect to the first group – territorial rights and borders' control –, some of the questions that emerged as more urgent were connected to the need for a more gender-inclusive approach when dealing with the issue of territorial rights; to the problematic nature of boundaries in a world where communities are everyday more entangled; to the possibility of looking at the issue of borders control and freedom of movement from a different moral perspective; and to the possibility of expanding the scope of territorial rights to include non-human entities as potential rightsholders.

With respect to the second group – displacement, eviction, refugees protection and territorial conflicts – it is important to investigate the possibility of recognizing specific reparations for the harm of displacement suffered by indigenous groups or other minorities; the need to adopt a different perspective on the way in which the European states conceive of their responsibilities towards refugees; and the worry that the legal systems can sometimes protect from eviction only formally, but not *de facto*.

With respect to the third and final group – climate change, climate-refugees and states' responsibilities – the first pressing issue was trying to figure out how to reconcile the principle of states' absolute territorial sovereignty with their duties towards the environment and especially towards the climate refugees, and how to weight and address states' environmental responsibilities thank to a reconceptualization of the right to self-determination in eco-political terms.

This Special Issue mirrors the multidisciplinary approach of the workshop, as the three papers stand as representatives of, respectively, the first, second and third group of issues tackled during the conference.

In the first paper, "Border and Poor Migrant: An African Moral Philosophy View", Rudolph Nyamudo argues for the right of movement for the uneducated poor in a world where educational qualifications and economic capacity seem to be the only criteria to be allowed to move from one country to another. He uses the South Africa – Zimbabwe border as a case study. South Africa and Zimbabwe are neighbours, but due to strict border control – which is based on educational qualifications – poor mi-

grants from Zimbabwe find it hard to cross the South African border for a greener pasture. The author, therefore, employs ubuntu ethics to offer a solution to the problem of borders concerning poor migrants. The ubuntu ethics the author refers to is an African term that means “humanness” and connotes a person who demonstrates good moral behaviour in society. His idea of Ubuntu ethics entails sincere concern and friendliness towards other persons. In the context of the South Africa – Zimbabwe borders, he argues that living together in friendly relationships honours each other’s dignity. Using ubuntu ethics, he emphasizes that welcoming one’s neighbour and showing practical concern for their well-being is a fundamental value, that should be priced highly more than educational credentials. To keep impoverished migrants from being vulnerable, the author argues that we should eliminate regulations prioritizing the requirement of educational credentials on the border since such norms exclude people’s capacity to honour friendly relations in society. Instead of demanding educational credentials, he insists that host nations can use good conduct certificates to measure individuals’ viciousness and misbehaviour.

In the second paper, “Territorial Rights and Reparative Justice for Indigenous Displaced People”, Laura Santi Amantini argues that the forced displacement of indigenous peoples raises specific reparative justice claims. According to the author, forced displacement entails four kinds of harm such as loss of control over one’s bodily movement, loss of home environment, loss of social status, and damage to mental health. The author further argues that indigenous peoples lose their ancestral land and natural resources when they are displaced, and that this loss – suffered by indigenous peoples – may be irreproducible. For instance, symbolically laden sites (such as sacred lands) are not akin to fungible natural resources that materially equivalent ones could replace.

According to the author, indigenous peoples seem to have a more substantial interest in residing within their ancestral lands, using those specific natural resources, and accessing those specific symbolically laden sites. The author emphasises that they may have a particularly strong interest in being able to pursue plans within such lands. Therefore, the significance of the land they were displaced from is relevant when redressing indigenous displaced people. She argues that in repairing the harms and wrongs of the displacement of indigenous people, their ter-

territorial rights should be considered in the following three ways: firstly, land restitution and the restoration of access to symbolically relevant sites should be accompanied by the acknowledgment of the violation of the territorial rights of the group; secondly, there should be apologies and material compensation to the whole group; thirdly, there should be increased indigenous people's control over land and resources or increased voice in future negotiations involving using those lands and resources over which jurisdiction is shared with the state.

Finally, in the third paper, "Those Fleeing States Destroyed by Climate Change Are Convention Refugees", Heather Alexander and Jonathan Simon argue that people fleeing states affected by climate change should be recognised as refugees claiming asylum under the existing refugee's law. Their argument is supported by the "two-test approach", which consist in the interpretation of the criteria stated by the 1951 Convention broadening the possibility to get asylum to whom not able to return to their states and not just to whom fearing *persecution*. The Convention of Ginevra (1951) is firstly analysed with a focus on the literal meaning of the text, and then focusing on the claims and purposes of the paper's authors. They contend that the object and purpose of 1951 Convention is to offer international protection to people who lost national protection by restoring for them fundamental rights and freedoms, in the form of asylum. They develop a new argument appealing to the principle of "systematic integration" (article 31.3.C of the Vienna Convention on the Law of Treaties, VCLT), according to which when there is ambiguity in the interpretation of a treaty, this should be considered in the broader framework of international law, including custom, general principles and, if possible, other treaties. Indeed, the authors suggest that the application of the 1951 Convention to stateless persons who were former occupants of states now destroyed by climate change is appropriate. This proposal, according to the authors, would guarantee protection to all the stateless persons who find themselves out of their country of origin and are unable to return.