An ontological analysis of states: Organizations vs. legal persons

Edward Heath Robinson *

Department of Geography, University at Buffalo – The State University of New York, Buffalo, NY, USA

Abstract. The purpose of this paper is to argue states are not organizations, but rather the objective legal persons of international law. The ontological similarities and differences between states and organizations are examined, but, by drawing upon literature in political geography and international law, ultimately shows that states cannot be organizations based in large part on the fact that states can survive the destruction of their organizational structures. Bottazzi and Ferrario's DOLCE-based ontology of organizations is of specific interest because it provides "The State of Italy" as an example of an organization that fits their ontological structure. This claim is evaluated and challenged. It is argued that while a state's government may be an organization, the state must be an entity independent from its government or broader socio-political and economic structure. It is argued that when a certain set of conditions is satisfied, a new non-physical legal person is brought into being that is independent of any existing entity. Finally, placement of the state as a legal person within the DOLCE ontology is considered, especially with the inclusion of Bottazzi and Ferrario's ontology of organizations.

Keywords: State, organization, political geography, international law, DOLCE

1. Introduction

Winston Churchill once boasted that he had created Transjordan with a stroke of a pen on a Sunday afternoon in Cairo (Collins & Lapierre, 1972). This makes an interesting footnote in the history of the Middle East, but it also raises ontological questions about the kinds of entities studied by political geographers. This question was succinctly put by Smith (1995, p. 475) when he asked, "What sorts of entities are these, which can be brought into being simply by drawing lines on maps?".

It has been suggested in the geopolitical, anthropological, and ontological literature that states are organizations. Geography, and especially political geography, has not yet developed a standard ontology about the entities in its domain. However, if states are organizations, then an ontology of organizations might serve as a foundation for an ontology of the state and possibly a broader geopolitical ontology. The purpose of this paper is to investigate whether or not states are organizations. Ultimately, it argues that states are not organizations but rather the objective legal persons of international law, a non-physical geopolitical entity that is independent of any organizational structures. This paper will rely upon the preliminary ontology of organizations put forward by Bottazzi & Ferrario (2009) for its understanding of what organizations are and how they are constructed. Their paper is also especially relevant to this investigation because they use "The State of Italy" as an example of an organization that fits their proposed ontology. This claim is evaluated and challenged.

---

*Address for correspondence: E.H. Robinson, Department of Geography, University at Buffalo – The State University of New York, 105 Wilkeson Quad, Buffalo, NY 14226, USA. Tel.: +1 716 645 2722; Fax: +1 716 645 2329; E-mail: ehr@buffalo.edu.

2. The term "State"

Even though states are central subject matter in political geography, geographers have not examined their ontological status in detail. One possible reason is that states are part of social reality, sometimes considered more difficult ontologically than objects in physical reality (Searle, 1995). Another obstacle is the widely different definitions for "state" political geographers have written. These definitions differ greatly about what kind of entity a state is, a crucially important distinction in an ontological study of statehood. For example, some political geographers have defined the state to be a physical location (Dear, 2000), an organization (Short, 1993), a legal entity (Paddison, 1983), a government (Agnew, 1998), a set of institutions (Flint, 2009), as well as complex blends of the above. In fact, with the wide variety of definitions given for the state, one might wonder if the entity referenced by the term "state" is so complex that it will elude satisfactory definition. The position taken here is that while states and the relationships they have with other entities is complex, many of the definitions of the state actually describe different components necessary to bring about the existence of a state, rather than defining the state itself.

Although political geographers have written about the complexity of states, they have not explicitly discussed the ambiguity of the term's referent. This presents another obstacle to defining "state". This ambiguity has, however, been briefly recognized in ontology and knowledge engineering. For example, when developing the SmartWeb Integrated Ontology, Oberle et al. (2007) noted that some geographic terms, such as "Country", "City" and "State" can have two meanings. Sometimes the terms refer to non-physical geopolitical objects. At other times, they refer to physical places. Guarino & Welty (2004) made a similar distinction when they wrote that in order to understand how Prussia can no longer be a country and yet still exist, it is necessary to distinguish between "Prussia" the physical location and "Prussia" the non-physical political or social entity.

Once this distinction is made, and the intended meaning of "state" in the sense of a physical place is considered, definitions of the state as an area, such as "an area of land (or land and water) with relatively well-defined, internationally recognized, political boundaries" (Dear, 2000, p. 788, parenthetical in original) seem reasonable. However, this definition is less satisfactory for the meaning implied by statements such as "the United Kingdom declared war on Germany". This statement uses the non-physical geopolitical object meaning of the term, since physical locations and areas cannot declare war.[1] In this sense of the term, definitions from other political geographers seem more appropriate, such as Muir & Paddison's (1981, p. 155) definition of the state as "a legal and political organization by which citizens living within a defined jurisdiction are governed and controlled".

Of course, this is not to deny that these legal and political organizations have a relationship with certain areas. They certainly do, and this is even suggested in Muir and Paddison's definition which includes a reference to "a defined jurisdiction". Fortunately, most ontologies allow for a more expressive set of relations that entities may have with one another, rather than restricting the state to being the physical location. This paper takes the position that while the physical location may be the territory of a state, it is not the state itself. Rather, this paper is concerned with the ontological status of the state as a "non-physical geopolitical entity".

---

[1]It does, however, raise the question as to how non-physical geopolitical entities can declare war, wage war, or otherwise take action in the world. That question is left to future investigation on the agentivity of social entities, an important, but unresolved issue.

Definitions from some geographers are very compatible with the state being something other than a physical location. In fact, the non-physical aspect of the state is spoken to directly by Radcliffe-Brown (1955[1940], p. xxii) who wrote the state is:

> . . . usually represented as being an entity over and above the human individuals who make up society, having as one of its attributes something called "sovereignty", and sometimes spoken of as having will (law being defined as the will of the State) or as issuing commands. The State in this sense does not exist in the phenomenal world; it is a fiction of the philosophers. What does exist is an organization, i.e. a collection of individual humans.

Regardless of Radcliffe-Brown's position on the fictions of philosophers, both he and Muir and Paddison use the word "organization" in their understanding of the state and they are not alone. Muir (1975, p. 91) writes that a state is, "a particular form of organisation of people and territory". Both Short (1993, p. 91) and Paasi (1996, p. 39) define the state as "a political organization covering a particular territory". Similarly, Knight (1999, p. 255) says the state is "a sovereign, independent, self-governing territorial organization". Flint & Taylor (2007, p. 136) observe that, "At the simplest level, the state is defined by its possession of sovereignty. This distinguishes it from all other forms of human organizations".

Since political geographers have largely not been engaged in the discussion about the ontological standing of geopolitical entities, many of the details and nuances of statehood salient to political geography have not been addressed. There exists no complete ontology for the geospatial domain, nor a standardized methodology for ontology derivation within the geographic community (Cai, 2007). At least one author cites complexity as one of the major obstacles to the development of a geographic ontology (Cai, 2007), and a number of research projects have dealt with the complexities of geographic categories (Smith & Mark, 1998; Mark et al., 1999, 2001; Smith & Mark, 2001, 2003), although largely within the domain of physical geography. The ontology of organizations has received some attention from the ontological engineering perspective, and if states are indeed a kind of organization, an ontology of states and other geopolitical entities could be constructed by drawing upon that research. If this is the case, there might be more known about the ontology of states than is generally accepted.

Organizations have been studied ontologically in Tuomela (2002), Dietz & Habing (2004), Boella & Torre (2006) and Bottazzi & Ferrario (2009). For the purpose of this research, however, Bottazzi and Ferrario's article is of special interest since it provides a detailed (although preliminary) ontology of organizations as an extension of the DOLCE ontology, and they use "The State of Italy" as an example of an organization that fits their ontological structure.

3. States and the ontology of organizations

Bottazzi & Ferrario (2009, p. 228) write that organizations are "complex social entities that are created and sustained by human agents" and more specifically, "an organization is a complex entity linked to a group of people that are thus able to constitute and regulate complex activities that otherwise could not be accomplished by noncoordinated individuals". They pose a series of ontological questions that can be asked about organizations, including:

> How are organizations born?
> What kind of relation does it entertain with its founders?
> Can organizations be considered agents of some kind?
> How can organizations act in the world?
> Are organizations responsible for their actions?

What kind of relation holds between an organization and its members?

Do organizations keep their identity through time and changes? If so, how?

At least a *prima facia* review of the above suggests the questions Bottazzi and Ferrario ask about organizations can also be asked about states with little or no alteration of form. This might be because states are organizations.

Bottazzi and Ferrario take certain philosophical stances on important questions related to organizations that would become encoded into an ontology of statehood if their ontology of organizations was used as a foundation for an ontology of states. They point out that organizations can have other organizations as members, such as The State of Italy (one organization) being a member of the United Nations (an organization of organizations). They consider organizations to be a different kind of entity than social groups. They follow Gilbert (1989, p. 204) who writes a social group is "a set of people who are conscious they are linked by a certain special tie". They contrast this with an organization in which knowledge is heterogeneously distributed and members can be unaware of the link between them and the organization. States seem to possess this heterogeneous distribution of knowledge as well. For example, when a child is born, he or she may be a citizen of a particular state, but he or she will be unaware of that membership until later in life.

Whether or not organizations are agents is an important question to ask of organizations in general, but also very important for states. On one hand, organizations can be attributed personalities and identities and are able to take action, but Bottazzi & Ferrario (2009, p. 228) seize upon the "peculiar" nature in which organizations act, "namely through the actions of some agents who, in virtue of the roles they play, are delegated to act on their behalf" to bring into question whether or not the organization itself is actually agentive. States can be thought of as having identities and performing actions, such as the United Kingdom declaring war on Germany, but they also seem to act in Bottazzi and Ferrario's peculiar way. Did the United Kingdom, an agentive entity itself, declare war on Germany or did a physical agentive individual playing a role that is authorized to declare war on behalf of the United Kingdom declare war on Germany?

Bottazzi & Ferrario (2009, p. 228) write that "every act which is indirectly performed by an organization must be institutional". That is, that action must be institutionalized in the organization. This does seem to apply to the state. In 1938 there were only certain actions Neville Chamberlin could undertake on behalf of the United Kingdom because those actions are institutionalized in the role of "Prime Minister of the United Kingdom" which he was playing. Research is ongoing in the ontological literature concerning the agentivity question, but its current ambiguity need not necessarily be an obstacle to adopting an ontology of organizations as a foundational ontology of the state if it is warranted.

The question as to whether or not organizations change their identities through time as also extremely salient to the study of states. Bottazzi & Ferrario (2009) take the position that organizations preserve their identities even though the people playing roles within the organization may change. Organizations even survive some roles being added and others eliminated. Likewise this appears to be a feature of states. The people playing the roles in the state of France were completely different one hundred years ago, roles have been added and other eliminated, and yet the state of France has retained its existence and identity despite those changes. The continuity of states is also an important part of international law and will be discussed further below.

Thus, by a brief comparison, states and organizations do appear to have a number of similarities. However, can a state satisfy the more stringent criteria Bottazzi and Ferrario provide in order for an entity to be an organization?

4. Identifying the description of a state

According to Bottazzi and Ferrario's ontology, all organizations must have a description. If states are organizations, then it follows that they too must have a description. What are possible candidates for the description of a state? Churchill's boast and Smith's question immediately come to mind. Could a description of a state be its boundary demarcation on a map?

Bottazzi & Ferrario (2009, p. 227) write, "descriptions are always encoded in at least one physical support; they begin to exist when they are first encoded and continue to exist until the last physical support in which they are encoded is destroyed". A map is a physical support, whether it is a hard copy paper map or a soft copy digital map stored on a computer hard-drive. Smith's question regarding what kinds of entities can be created by drawing lines on maps is incomplete. It seems not everyone can create states by drawing lines on maps. Many lines are drawn on maps that never produce states, from children's scribbles with crayons, to sophisticated demarcation by academics of potential states (like Kurdistan) that do not result in the creation of a state. At best only certain people, at certain times, in certain contexts, manage to create states by drawing lines on maps.

Bottazzi and Ferrario comment on this subject as well. Simply having the description, or the lines drawn on the map, is not sufficient. There must be a certain relationship between the description and organization, or in this case the map and the state. Bottazzi and Ferrario call this relation validity. They write, "a description is valid when a particular social event occurs. This social event (take, for instance, a poll, some official publication, a promise and so on) creates a social commitment among the agents related to the organization" (Bottazzi & Ferrario, 2009, p. 230). Now, more specifically, it can be said that only certain people, who are playing certain roles which authorize them to create states, who draw lines on maps at social events which makes the map a valid description for the newly created state, can create a state. Winston Churchill may have been just such an individual playing just such a role, and his lunch in Cairo may have been just such a social event.

However, a map with lines drawn on it does not seem to satisfy Bottazzi and Ferrario's definition of what an organization's description should be. According to them, the organization's description is "required to specify what the organization is, from its general purposes (making money or the revolution, for instance) to its concepts and roles (president, CEO, comrade, etc.), and to the deontic and technical norms that the players of roles defined in it must follow" (Bottazzi & Ferrario, 2009, p. 230). Churchill's map delimiting the boundary of Transjordan did not describe the general purpose of Transjordan, nor its concepts, roles, constitutive, deontic or technical norms.

A state's constitution is far closer to the kind of description that Bottazzi and Ferrario were writing about. In fact, the description they write is valid for The State of Italy is the Italian Constitution. They make no mention of a map of Italy. They explain Italian Constitution is a description of the Italian State, an organization, and among the articles composing the constitution, one of them describes the role of the Italian President (Bottazzi & Ferrario, 2009). But this brings up a very important ontological distinction to make. Does the Italian constitution, the Jordanian constitution, and constitutions more generally describe states, or do they describe their *governments*? Of course, this question presupposes that states and their governments are different entities. If this is the case, how can the state be distinguished from its government? Is their an argument that a state and its government are the same entity?

5. States and governments

Political geographers do not often address the relationship constitutions have with either states or governments, but there are several complications that arise which deserve ontological investigation. Firstly, not all states have constitutions in the traditional sense. Some have unwritten or uncodified constitutions. This means there is no single document one could identify as being "the constitution" of the state, instead, the state's "political rules derive from many different sources – some written and some not, some with the force of law and some not" (Grant, 2003, p. 38). The United Kingdom's constitution is a classic example of this situation. Unwritten or uncodified constitutions do not necessarily have to present a problem for the ontological description of a state, so long as the understanding of a valid description is sufficiently broad to allow for more than the traditional formal document to suffice. It is also important that the understanding of the state's description (if one is required) should not necessarily require any written document, unless it is correct that only societies which have developed writing can form states. The understanding of a state's description may need to be broad enough to include such things as oral traditions.

Another important issue is the suspension of constitutions. When a constitution is suspended, it would seem that, by definition, it has been declared no longer valid for an indefinite amount of time. Yet, this does not seem to disrupt the continuity of the state. The State of Pakistan did endure President Pervez Musharraf's suspension of the Pakistani constitution. If an organization requires a valid description, and a state requires a valid constitution, what is its ontological status when that constitution is suspended? Perhaps an organization needs a valid description to come into existence, but not to continue to exist once created. Alternatively, perhaps President Pervez Musharraf substituted another description of the State of Pakistan for the Pakistani constitution. What exactly happens in these situations, and how such a suspension of a description can be authorized deserves further consideration in future work.

However, leaving aside the complexities of constitutions, it seems to be less controversial to say a government is a kind of organization. If the state is distinguished from the government, exactly what kind of entity a state is comes back into question. Is there just one organization, and it is both the state and the government? Are there two organizations, one being the state and the other the government? Is the state a larger organization, of which the government is only a part? Or, are states not organizations after all?

Bottazzi and Ferrario only mention the government when they write about representative members of organizations. They write that there is a chain of representation, whereby one entity represents another in taking an action. For example, Berlusconi, by virtue of playing the role of Italian Prime Minister, can act on behalf of the Italian government, which acts on behalf of the Italian State (Bottazzi & Ferrario, 2009). They use the same relation between the state and the government as between the president and the government, implying that they both may be organizations, although they do not mention the valid description of the government in their text.

At least according to one political geographer, the question of whether or not constitutions describe states or governments is not relevant because he does not distinguish between the two. John Agnew (1998, p. 129) defines the state to be "the government of a bounded territory which claims common political and legal authority and a monopoly of legitimate force and other sovereign powers throughout its jurisdiction". This definition dispenses with any potentially complex relationship that "state" and "government" might have, and instead makes a state a particular kind of government.

However, Agnew's definition of the state being the government is a minority position in political geography. Far more commonly, political geographers write that governments are "part" or otherwise a

component of states in some way, but not the state itself. For example, see Denis (1938), Goblet (1955), Douglas (1997), de Blij & Muller (2004), Glassner & Fahrer (2004). Geographers Flint & Taylor (2007, p. 137) specifically write that the distinction between states and governments is an essential one to make:

> . . . government can be interpreted as the major agent of the state and exists to carry out the day-to-day business of the state. Governments are short-term mechanisms for administering the long-term purposes of the state. Hence every state is served by a continuous succession of governments. But governments only represent the state; they can not replace it. A government is not a sovereign body: opposition to the government is a vital activity at the very heart of liberal democracy; opposition to the state is treason.

The distinction between state and government is also an important part of international law. Crawford (2006) in his treatise on the creation of states in international law argues against conflating the state and the government. He explains that some elements of international law are dependent upon this distinction. He writes:

> . . . international law does distinguish between change of State personality and change of the government of the State. There is a strong presumption that the State continues to exist, with its rights and obligations, despite revolutionary changes in government, or despite a period in which there is no, or no effective, government. Belligerent occupation does not affect the continuity of the State, even where there exists no government claiming to represent the occupied State. The legal position of governments-in-exile is dependent on the distinction between government and state (Crawford, 2006, p. 34).

Crawford goes on to explain that the continuity of the state despite discontinuity in government is an aspect of international law that has been applied consistently, even in situations of socialist revolutions, which at times had been argued to not only cause a change of government, but a discontinuity in the existence of the state. For instance, the Russian Soviet Federative Socialist Republic and later Soviet Union, was a continuation of Imperial Russia in spite of the October Revolution, and The People's Republic of China is continuous with its predecessor. This may be an argument against basing an ontology of statehood on Bottazzi and Ferrario's ontology of organizations. If valid constitutional descriptions may come and go, potentially *all* the roles of the state can be abolished and *all* the people can be removed, but the state entity endures those changes.

6. The state as a socio-political and economic structure

In contrast to narrowing the state to the government, another option is to broaden the state to encompass not only the government but also the socio-political and economic organizational structure in which the government is involved (and according to some theories, playing a central role). This makes the state an organization that the government is only part of. Theorizing on these socio-political or socio-economic structures is fairly common, even within political geography. For example, rather than producing a single "theory of the state", the subject is often broken down in to a multitude of smaller "theories of states" such as the (or a) theory of the capitalist state, socialist state, communist state, Marxist state and so forth (Flint & Taylor, 2007).

Rather than illustrate the commonalities between states and how they operate, these theories are instructive of all the ways socio-political and socio-economic systems can differ and yet nonetheless a

state can still exist. There is no requirement for states to have a capitalist, communist, socialist, mixed or any other kind of socio-economic system. Different economic systems can be combined with different political systems. States can have democratic governments, or monarchical governments and those can range from harsh absolute monarchies to weak symbolic ones. States can be run by dictators or they can be republics. Statehood does not require separation of church and state. A theocratic government (of any religion) does not prevent the creation of a state.

The large number of possible combinations of different socio-economic structures and socio-political structures provides plenty of material to theorize about, such as how different combinations function, how they should function, or which functions best, but the fact remains that although socio-economic and socio-political structures can vary widely, their character or composition has no bearing on whether or not a state exists. The socio-economic structure can be changed or replaced (even suddenly and violently in the case of a socialist revolution) and the state will continue to exist.

An important problem with conflating the state with its government and socio-political or socio-economic organizational structures is that the state can survive their destruction. The state can continue without any of these structures for an indefinite period of time. Then, new structures can be put in place without disrupting the existence or continuity of the state. For instance, at time t_1, a state can have a certain political and socio-economic structure. At time t_2 the state might be invaded by a foreign power. Its internal organizational structures may be destroyed (its government disbanded, the former government officials killed, its constitution nullified, its social and economic structure destroyed and/or reorganized at the conquerer's direction, its people forcefully moved to other locations, and its territory annexed into that of the conquerers), and yet the state is not necessarily extinguished. In fact it can survive just such a situation for an indefinite period of time, especially while a war is actively being fought or the final resolution of conflict is still pending (Crawford, 2006).

Furthermore, some invasions and occupations which destroy, replace or change governments and internal socio-economic structures are conducted in such way that the state is preserved. The American invasions of Afghanistan and Iraq did not bring the State of Afghanistan or the State or Iraq to an end. Neither were new states created. Both states maintained their existence and identity throughout. In evidence, neither was required to submit new membership requests to the United Nations. This is because it was not the Taliban's regime or any internal socio-economic structure they had in place that held membership in the United Nations, but rather the State of Afghanistan. Likewise it was not Saddam Hussein's government that held a seat at the United Nations, but rather the State of Iraq.

It seems it was not the case that the non-physical geopolitical entity of the State of Afghanistan was extinguished by the invasion, and then later a new one created. If it had, the new entity would not have been bound by any treaties to which the previous entity had been bound. The new entity would have had to be admitted to the United Nations. Instead of positing the destruction of the State of Afghanistan and the creation of a new one, there seems to be a strong presumption that the State of Afghanistan today is the same entity that existed prior to the 2001 invasion.

The situation is likewise with Iraq. The State of Iraq was not Saddam Hussein's regime or any internal socio-economic structure he had in place. In evidence, the State of Iraq had been under international sanctions prior to the 2003 US invasion. After the invasion, the Security Council of the United Nations lifted these sanctions. Had the sanctions been against Saddam Hussein's regime and not the state, there would have been no reason to lift them, since that regime (the entity bound by them) was abolished. Likewise, had the State of Iraq come to an end, and a new one created, there would have been no reason to lift the sanctions since they would have applied to the abolished state and not to the newly created one. Thus, it seems invasions can be conducted in a way as to either try to abolish the invaded state, or in

a way such that the state's continued existence is not in doubt. The US invasions of Iraq and Afghanistan were apparently invasions of the latter type, whereas the Iraqi invasion of Kuwait in 1990 seemed to have been conducted in such a way that, had it been successful, would have resulted in the destruction of the State of Kuwait.

However, even faced with an invasion and occupation that is being conducted in such a way as to attempt to abolish the non-physical entity of the state, the state can continue to exist for an indefinite amount of time. This is especially the case if at time t_3, the conquers are thrown out (perhaps by the armed forces of other states), a new government created with new people playing new governmental roles, a new constitution enacted, and a new socio-economic structure put in place (none of which need be necessarily like the internal structures that had existed prior to the invasion). All of this can take place and yet the state endures the changes and continues throughout. The state need not reapply for its position in the United Nations, resign or re-ratify treaties, or reestablish its rights and obligations in the international community. The state entity has continued without disruption.

This situation presents a problem for any position in which the state is the government, its socio-political or socio-economic structures, a property of those structures, or an entity dependent upon them. If the state is any of these it would seem to have to be able to survive its own destruction. A solution to this problem is to recognize the state is a non-physical entity independent from any of these organizational structures. This independent entity is created when a certain set of conditions is met. A legal person is exactly this kind of entity.

7. The state as a legal person

Crawford (2006, pp. 28–30) writes that states are legal persons, where legal personality is defined as the "capacity to be the bearer of rights and duties under international law", and moreover, are international legal persons in a "general" and "objective" way. The "general" and "objective" adjectives are used to contrast the legal personality of states with the legal personality of other entities that have legal personality in specific or subjective ways. Crawford (2006, p. 28) writes that "in an era of human rights, investment protection and international criminal law, everyone is at some level 'the bearer of rights and duties' under international law". In spite of this there remains a distinction between states, which have their legal personality in an objective way, and other entities which states have allowed to have legal personality through treaties, or by being considered a state by other states for specific situations or circumstances. If states are actually legal persons independent of any kind of internal organizational structure it may have, a number of the issues that arise when the state is considered to be the organizational structure can be resolved.

According to Wendt (2004, p. 294) there are three different types of persons: psychological persons that "possess certain mental or cognitive abilities", legal persons that "have rights and obligations in a community of law" (a definition of legal personality very similar to that given by Crawford) and moral persons that "are accountable for actions under a moral code". Wendt also writes that persons can either be constituted from the inside, in which their internal structures and processes grant them personhood, or from the outside, in which it is social recognition that makes an entity a person (Wendt, 2004). In the article, Wendt argues that states are psychological persons that are constituted from the inside. A different position is taken here: states are legal persons that are constituted from the outside. Wendt (2004) writes that all that matters for externally constituted persons is the social convention concerning whether or not an entity is considered a person in its society. However, rather than being considered by the social

conventions of the society to be a person, it is asserted here that, more specifically, externally constituted persons are created according to the conventions of a particular legal system. Societies can recognize multiple legal systems. These legal systems might all recognize different persons (for instance, a single society may recognize a civil legal system, a criminal legal system, and an international legal system and each may be concerned with different legal persons).

Naffine (2003) describes three ways in which legal persons can exist. States exist in what Naffine calls the P1 sense. According to the definition of legal person in the P1 sense, legal personality "is nothing more than the formal capacity to bear a legal right and so participate in legal relations. It is not a moral term. It does not depend on metaphysical claims about what it is to be a person" (Naffine, 2003, p. 350). There is nothing "as if" or fictional about the legal personality of the state in international law. This is in accordance with Wendt (2004, p. 293) who writes, "Note that even though social recognition is conventional, the result is not merely an "as if" person. If Jane is considered a person by her society, then she really is a person in that society, with all its material consequences". In keeping with the specification to Wendt's formulation concerning societies and legal systems, this statement can be reformulated as follows: Even though legal recognition is conventional, the result is not merely an "as if" person. If France is considered a legal person according to international law, then France really is a legal person in that legal system, with all its material consequences. According to the theory put forward here, states are legal persons in international law. Governments are organizations. With this distinction, one can possibly dispense with the need for a state to have a valid description, and allow a state to survive changes of government, constitution and other internal structural components.

Returning to the objective nature of the state's legal personality, it is important to note the way in which international law recognizes states as legal persons. It is true that the creation of legal persons is a matter of social (especially legal) convention, but this is not done in a subjective way. Wendt (2004, p. 294) writes, "Law and morality being social conventions, it seems clear that legal and moral persons are constituted entirely by social recognition. Societies may impose internal tests on these categories, but what those tests are is socially defined". Here again, more specifically, the society imposes the test for statehood through the legal system of international law. It is not left to the subjective judgement of judges or even other states (a point which will be returned to later) as to whether or not a state as a legal person of international law exists, rather there are objective criteria for its creation. International law seems to have just such a test that Wendt is describing.

8. The objective creation of states as a geographic object

Thomasson (2001) provides two ways by which human geographic objects, such as states, can come into being: direct creation by token or direct creation by type.[2] With direct creation by token the entity "is established and maintained directly by its being collectively believed or accepted to be the case, such as that facts exist if and only if it is collectively believed to exist (accepted as existing, etc.)" (Thomasson, 2001, p. 151, parenthetical in original). Interestingly, one example given by Thomasson of creation by this type is "that x is a nation". No further elaboration is provided, and given the general ambiguity of the term "nation" (often used as a synonym for "country" or "state" in causal conversation, but generally meaning a group of people with unifying cultural characteristics in political geography) it is difficult to know exactly how Thomasson intends the example to be taken. However, if the intention is for "nation"

---

[2]Thomasson also shows geographic objects can be created in an indirect fashion, but this is for objects such as population densities or the distribution of people identifying with a certain religion in an area, not for geopolitical objects like states.

to be used as a synonym for state, their creation by token should be rejected because the creation of a state by token (i.e., creation just because the state has been accepted as existing by others, especially other states) would provide the state with only a subjective existence. This is the constitutive position with regard to recognition in geopolitics and international law. The argument against the constitutive is outlined in the following section of this paper.

With direct creation by type, principles must be in place that stipulate conditions for objects of a particular kind to come into being, specifically, "it is necessarily the case that something is of kind K if and only if there is collective acceptance of a set of conditions C stipulating conditions for something to count as (a) K, and that thing meets all of those conditions" (Thomasson, 2001, p. 152). This kind of object creation seems better able to account for the way that states as objective legal persons of international law are brought into being. This allows the existence of the state to be asserted independently of the beliefs of others.

The criteria for this set of conditions C that brings a state into existence have been considered most famously in international law with the Montevideo Convention (see Bevans (1969)) which reads "The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states". Other criteria that have been argued to belong to the set of conditions C necessary to bring about the existence of a state include legal independence, independence in fact, sovereignty, permanence or expectation of permanence, a willingness to observe international law, civilization, and/or recognition by other states (Crawford, 2006). The purpose of this paper is not to establish the set of conditions C necessary for the creation of a state (although the criterion of recognition has important ramifications on the objective existence of the state and is considered in the following section). It is possible to admit that the set of conditions C necessary for the creation of a state can be vague or ambiguous at times while still asserting the existence of the set of conditions. It can also be pointed out that in the vast majority of cases, it is not in doubt whether the entities in question fulfill the criteria for statehood. It is only in a comparatively small number of cases where it is unclear whether or not the criteria have been met.

Thomasson makes a very important distinction in her paper on geographic objects. When discussing the set of conditions C, she specifically distinguishes between the situations where a set of conditions C causes an entity to "count as" a K, and when there are only verbal stipulations required for something to be called a K. She writes, "We do collectively accept certain conditions as sufficient for something to be called a "ewe", for example, but the kind ewe is not a constructed social kind, since it is not necessary, for something to be a ewe, that anyone accept any sufficient conditions for being a ewe" (Thomasson, 2001, p. 158). The position being taken in this paper with regard to states is a strong one. It is not that when the set of conditions C for statehood is met, some existing entity or combination of entities is then merely *classified* as a state, but rather when the set of conditions C is fulfilled a new non-physical entity is created – an objective legal person of international law. That new entity is the state.

9. The recognition as a criterion for statehood

Whether or not recognition by existing states is required in order to bring a new state into being has been a long-running debate in international politics. This debate need not be completely reargued here, but a review of several key points is salient. According to one school of thought, called the constitutive theory, it is recognition by other states that brings a new state into existence for the first time. This is in contrast with the declaratory theory, which holds that recognition by other states is independent of the

state's existence. The constitutive position raises some questions. If all states require recognition from existing states in order to come into being, how was the first state created? If all the states in the world were to merge together at some point in the future, how could this new entity become a state since there would be no other state to recognize it? How many states are required to recognize a new entity as a state before it becomes one? If the quantity of states that recognize a new state is not important, what about their influence? Would the recognition of the United States and the Soviet Union have been sufficient during the Cold War?

Crawford (2006) has three major arguments against the constitutive position. First, it reduces international law in this matter to a system of cataloging and registering the assent or dissent of states instead of being a system whereby disputes can be objectively resolved. This is not the way international law works on other issues (for example, it is not left to the recognition of states as to whether a particular instance of a use of force is legal or illegal) so allowing statehood to be determined by a subjective criterion would be an anomaly in the system. Second, if new states are brought into existence by the recognition of other states, it is difficult to think of a situation where an act of recognition could be illegal, and especially invalid or void. In practice however, certain acts of recognition have been accepted as void. If there can be invalid acts of recognition, then "the test for statehood must be extrinsic to the act of recognition. And that is the denial of the constitutive position" (Crawford, 2006, p. 21). Third, the constitutive theory does not grant any state absolute existence, but rather only existence relative to other states. No state could assert its rights based on its independent existence, but rather only because it subjectively exists in the opinion of other states. In this situation an entity unrecognized as a state would never be able to legally protest the annexation of its territory, for example, because it would not have absolute existence to be able to do so. Rather it only has a potential relative existence which can denied (and perhaps denied expressly for the purpose of "legally" annexing its territory).

For these reasons and others, the constitutive position is not commonly defended in modern geopolitical scholarship. Instead it is generally accepted that states have existence independent of recognition by other states, even though recognition of new states by other states may have political consequences. This is the declaratory position and it is adopted here. This is in keeping with the assertion that states are objective legal persons under international law, and their existence is not dependent on the subjective recognition of others. This also contrasts the state with other subjective legal persons which states have chosen to recognize among themselves, such as through treaties, for certain purposes. The set of conditions C necessary to bring about the existence of a new state should therefore not include the recognition of other states.

10. The placement of the state within DOLCE ontology

Bottazzi and Ferrario's preliminary ontology of organizations is based on the Descriptive Ontology for Linguistic and Cognitive Engineering or DOLCE. Conveniently, this ontology already has a category for legal persons, "Social Agent", which is a subclass of "Agentive Social Object". The DOLCE Wonderweb Deliverable D18 (Masolo et al., 2003) indicates that "a (legal) person" and "a contractant" are examples of the category "Social Agent". If states are legal persons and Bottazzi and Ferrario's ontology of organizations is otherwise followed, Fig. 1 diagrams a potential relationship between governments, states and geographic areas according to the DOLCE is-a hierarchy. However, such an arrangement may be problematic on several levels. For one, adopting this schema brings back into question whether or not social entities are agentive.
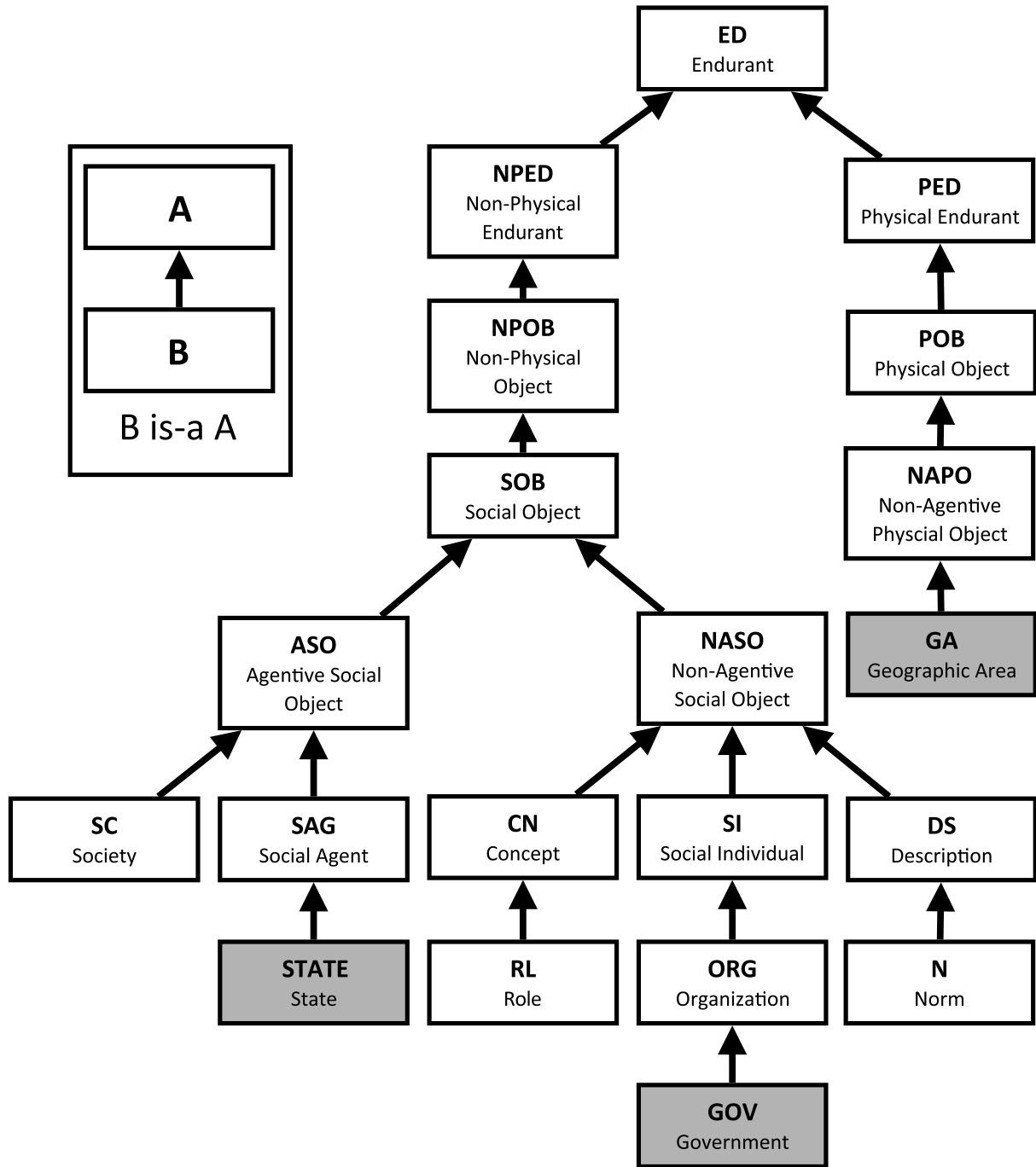
Fig. 1. Possible DOLCE-based relationship between states, governments and organizations, based on the D18 Wonderweb deliverable and Bottazzi and Ferrario's ontology of organizations.

The placement of states in the category "Social Agent" would mean that states, as legal persons, are agentive entities. As outlined above, Bottazzi and Ferrario questioned whether or not organizations should be considered agentive and argue that they may not be. If their reasoning is followed, and organizations (and thereby governments) are denied agentivity, it would be odd to grant agentivity to the legal person, since it is a more abstract entity than the government. In order to better address this issue, DOLCE's purpose can be referenced. The D18 document specifically states DOLCE is not intended as a universal ontology, has a cognitive bias, and is a descriptive ontology, meaning it:

> aims at capturing the ontological stands that shape natural language and human cognition. It is based on the assumption that the *surface structure* of natural language and the so-called commonsense have ontological relevance. As a consequence, the categories refer to cognitive artifacts more or less depending on human perception, cultural imprints and social conventions (emphasis in original) (Masolo et al., 2003, p. 7).

If the surface structure of natural language is intended to have ontological relevance in DOLCE, then philosophical discussion of whether or not organizations, legal persons, and other social objects are "really" agentive is not necessarily relevant. In the context of the DOLCE ontology, it is enough that the surface structure of natural language implies that they are ("The United States implemented a naval blockade of Cuba". "Japan destroyed most the US Pacific Fleet with the attack on Pearl Harbor"). Likewise, there is natural language surface structure evidence to consider moving the governments of states (and even organizations more generally) to the agentive category as well ("The German government condemned the attacks in Iraq", "The Chinese government moved to suppress news reports coming out of Tibet"). Since Bottazzi and Ferrario did not rule out the possibility that organizations themselves are agentive, their ontology could likely be restructured to account for agentivity in the descriptive nature of language. However, restructuring it might "hide" the behind-the-scenes activities of institutionalized actions taken by physical agents on behalf of organizations that Bottazzi and Ferrario tried to recognize ontologically. It seems that in the context of the DOLCE ontology, states as legal persons and governments as organizations would need to be considered agentive.

WonderWeb Deliverable D18 notes that "a contractant" is also an example of the "Social Agent" category. However, being a contractant could be better understood as a role that can be played by other entities. In Bottazzi and Ferrario's ontology of organizations, a role is a "Non-Agentive Social Object". If their ontology of organizations were included in a geopolitical ontology of states (perhaps to describe their governments) the relationship between entities such as "contractant", "Social Agent" and "Role" would need to be clarified. For example, when negotiating treaties and other agreements where obligations are defined among states, a state can "be" a contractant. In this situation it may be more satisfactory for "contractant" to be a "Role" that a (agentive) state can play, rather than a "Social Agent" itself.

In addition to "Social Agent", DOLCE includes a second child category of "Agentive Social Object". This category is "Society", and seems to further confuse the situation of entity classification. WonderWeb Deliverable D18 lists Fiat, Apple and the Bank of Italy as examples of entities in the category "Society". The distinction being drawn between "Social Agent" and "Society" is not clear. Fiat, Apple and the Bank of Italy are all legal persons, and would thus seem to be candidates for classification under "Social Agent", but are not listed as such. This raises the possibility that entities such as The United Kingdom or Spain, though legal persons, were intended to be classified under "Society" as well. In an ontology that includes a category "Organization", Fiat, Apple and the Bank of Italy, would seem to be potential members of that category as well. An ontological distinction may need to be made between Fiat, Apple and the Bank of Italy the legal personalities, the management, and the broader company organization as

a whole. The same or a similar distinction may exist between states as legal persons, the government of the state, and the broader group of people as a whole. It should be noted that neither "Social Agents" or "Societies" are mentioned in Bottazzi and Ferrario's paper on the ontology of organizations. Making such distinctions, however, may be beyond the ability of DOLCE given its basic assumptions about the ontological relevance of natural language. A more philosophically analytic approach may need to be taken to accurately represent the geopolitical domain in an ontology.

This brief attempt to place states, legal persons and non-agentive organizations into the DOLCE ontology highlights incompatibilities and peculiarities that seem to arise from the different assumptions each has started with. DOLCE begins with the assumption that natural language has ontological relevance. If in natural language one says an organization is capable of taking actions, then DOLCE intends to represent the organization as an agentive entity. Likewise with legal persons, natural language suggests they are agentive and accordingly they are agentive entities in DOLCE. Problems with this approach begin to occur when the way in which some entities are agentive is considered in more detail, and also when multiple entities (the state, the government and individual agents playing social roles) might all have a claim to being the agent of some action through the structure of natural language. The foundational assumptions some ontologies make in this matter may make them more or less suitable for an ontology of the state or broader geopolitical ontology, especially at the level of granularity at which one wants to model the geopolitical domain, especially in the area of agentivity. Determining the appropriate level of granularity required to accurately represent the geopolitical domain without excessive complexity for the task to which the ontology might be put is left to future research on the subject.

11. Conclusions

This investigation has considered whether or not the state is an organization. It has argued the state is not an organization (whether narrowly interpreted as the government or more broadly interpreted to be the government and the socio-economic structure in which it operates) primarily because of the need to distinguish between the government and the state. The state can survive the destruction of its organizational structures and must therefore be an entity that is independent of them. It has been advanced that states are the objective legal persons of international law. When a set of conditions C is met (which does not include the recognition of other states), a new non-physical entity is brought into existence, and that entity is the state.

This investigation has considered the state in the context of modern international law. A historical investigation could be undertaken in future research to determine how and when the legal person came into existence and whether or not the argument advanced in this paper also applies to historic situations. Additionally, a reexamination of Wendt's argument for the state as an internally constituted psychological person may also be useful. The state as a legal person in international law may be incapable with having an internally constituted psychological personality since the legal person may be atomic and have no internal structure. Whether or not these two views can be reconciled, and if so how, may warrant further investigation. Of course, even as an atomic legal person the state would still have a multitude of relationships with other entities, such as governments, laws, heads of state, heads of government, ambassadors, other states, its territory and many others. These relationships should all be considered in future work. This investigation has not considered whether or not states are moral persons. Whether or not the state itself is responsible for its actions (or actions taken on its behalf, depending on one's ontological view of agentivity of legal persons and organizations) is important to investigate.

Finally, the placement of the legal person of the state in the DOLCE ontology was also considered. A number of discrepancies were found with regard to whether or not legal persons and organizations are agentive due to some basic assumptions about the ontological relevance of natural language and conflicting assumptions made about the agentivity of organizations. Issues surrounding the agentivity of organizations (and therefore governments) and other social entities (such as legal personalities) remains an open question. Distinguishing between the legal personality of the state, the government and the broader organization of people may be difficult in DOLCE and may require additional research, either to revise and extend DOLCE or to evaluate the suitability of other ontologies to accurately model the geopolitical domain.

Regardless of whether or not states are organizations, a geopolitical ontology would still greatly benefit from a deeper ontological understanding of organizations. The domain of geopolitics considers a large number of entities that are likely organizations (from universals such as governments, armies, navies, terrorist networks, to particulars such as the United Nations and The North Atlantic Treaty Organization). Hopefully further research into that subject will provide more insight into states and other geopolitical entities.

Acknowledgements

References

Agnew, J. (1998). *Geopolitics: Re-visioning World Politics*. New York: Routledge.

Bevans, C.I. (ed.) (1969). Rights and duties of states. In *Treaties and Other International Agreements of the United States of America*, Vol. 3 (pp. 145–151). Washington, DC: Government Printing Office.

Boella, G. & van der Torre, L. (2006). *A Foundational Ontology of Organizations and Roles*. Lecture Notes in Computer Science (Vol. 4327, pp. 78–88). Berlin/Heidelberg: Springer-Verlag.

Bottazzi, E. & Ferrario, R. (2006). Preliminaries to a DOLCE ontology of organizations. *International Journal of Business Process Integration and Management*, *1*(3), 64–74.

Bottazzi, E. & Ferrario, R. (2009). Preliminaries to a DOLCE ontology of organizations. *International Journal of Business Process Integration and Management, Special Issue on Vocabularies, Ontologies and Business Rules for Enterprise Modeling*, *4*(4), 225–238.

Brumfiel, E.M. (1983). Aztec state making: ecology, structure, and the origin of the state. *American Anthropologist*, *85*(2), 261–284.

Cai, G. (2007). Contextualization of geospatial database semantics for human–GIS interaction. *Geoinformatica*, *11*, 217–237.

Collins, L. & Lapierre, D. (1972). *O Jerusalem!* New York: Simon & Schuster.

Crawford, J.R. (2006). *The Creation of States in International Law*. Oxford: Oxford University Press.

de Blij, H.J. & Muller, P.O. (2004). *Geography*. Hoboken: Wiley.

Dear, M. (2000). State. In R.J. Johnston, D. Gregory, G. Pratt & M. Watts (eds), *The Dictionary of Human Geography*. Malden: Blackwell Publishing.

Denis, P. (1938). International aspects of state intervention in economic life. In C.C. Colby (ed.), *Geographic Aspects of International Relations* (pp. 43–96). Chicago: The University of Chicago Press.

Dietz, J.L.G. & Habing, N. (2004). A meta ontology for organizations. In *On the Move to Meaningful Internet Systems 2004: OTM 2004 Workshops*. Berlin/Heidelberg: Springer-Verlag.

Douglas, N. (1997). State-formation, nation-building and plural societies. In R.D. Dikshit (ed.), *Development in Political Geography*. Thousand Oaks: Sage Publications.

Flannery, K.V. (1972). The cultural evolution of civilizations. *Annual Review of Ecology and Systematics*, *3*, 399–426.

Flint, C. (2009). State. In D. Gregory, R. Johnston, G. Pratt, M.J. Watts & S. Whatmore (eds), *The Dictionary of Human Geography*, 5th edn (pp. 722–724). Malden: Blackwell Publishing.

Flint, C. & Taylor, P. (2007). *Political Geography: World-Economy, Nation-State and Locality*. London: Prentice Hall.

Gilbert, M. (1989). *On Social Facts*. New York: Routledge.

Glassner, M. & Fahrer, C. (2004). *Political Geography*. Hoboken: Wiley.

Goblet, Y.M. (1955). *Political Geography and the World Map*. London: George Phillips.

Grant, M. (2003). *Key Ideas in Politics*. Cheltenham: Nelson Thornes.

Guarino, N. & Welty, C. (2004). An overview of OntoClean. In S. Staab & R. Studer (eds), *The Handbook of Ontologies* (pp. 151–172). Berlin: Springer-Verlag.

Knight, D.B. (1999). People together, yet apart: rethinking territory, sovereignty, and identities. In G.J. Demko & W.B. Wood (eds), *Reordering the World: Geopolitical Perspectives on the 21st Century* (pp. 209–226). Boulder: Westview Press.

Mark, D.M., Skupin, A. et al. (2001). Features, objects, and other things: ontological distinctions in the geographic domain. In D.R. Montello (ed.), *COSIT 2001*, Lecture Notes in Computer Science (Vol. 1329, pp. 489–502). Berlin/Heidelberg: Springer-Verlag.

Mark, D.M., Smith, B. et al. (1999). Ontology and Geographic Objects: An empirical study of cognitive categorization. In C. Freksa & D.M. Mark (eds), *COSIT'99*, Lecture Notes in Computer Science (pp. 283–298). Berlin/Heidelberg: Springer-Verlag.

Masolo, C., Borgo, S. et al. (2003). WonderWeb Deliverable D18: Ontology Library. Trento, Italy: Laboratory for Applied Ontology – ISTC-CNR.

Muir, R. (1975). *Modern Political Geography*. New York: Wiley.

Muir, R. & Paddison, R. (1981). *Politics, Geography and Behavior*. London: Methuen & Company.

Naffine, N. (2003). Who are law's persons? From Cheshire cats to responsible subjects. *The Modern Law Review*, *66*(3), 346–367.

Oberle, D., Ankolekar, A. et al. (2007). DOLCE ergo SUMO: On foundational and domain models in the SmartWeb Integrated Ontology (SWIntO). *Web Semantics: Science, Services and Agents on the World Wide Web*, *5*(3), 156–174.

Paasi, A. (1996). *Territories, Boundaries and Consciousness*. New York: Wiley.

Paddison, R. (1983). *The Fragmented State: The Political Geography of Power*. Oxford: Basil Blackwell Publisher.

Radcliffe-Brown, A.R. (1955[1940]). Preface. In M. Fortes & E.E. Evans-Prichard (eds), *African Political Systems*. New York: Knopf.

Runciman, W.G. (1982). Origins of states: the case of archaic Greece. *Comparative Studies in Society and History*, *24*(3), 351–377.

Searle, J. (1995). *The Construction of Social Reality*. New York: The Free Press.

Seymour-Smith, C. (1986). *Dictionary of Anthropology*. Boston: Hall & Company.

Short, J.R. (1993). *An Introduction to Political Geography*. New York: Routledge.

Smith, B. (1995). On drawing lines on a map. In A.U. Frank, W. Kuhn & D.M. Mark (eds), *Spatial Information Theory: Proceedings of COSIT'95* (pp. 475–484). Berlin: Springer-Verlag.

Smith, B. & Mark, D. (2001). Geographical categories: an ontological investigation. *International Journal of Geographical Information Science*, *15*(7), 591–612.

Smith, B. & Mark, D.M. (1998). Ontology and geographic kinds. In *International Symposium on Spatial Data Handling*, Vancouver, Canada.

Smith, B. & Mark, D.M. (2003). Do mountains exist? Toward an ontology of landforms. *Environment and Planning B: Planning and Design*, *30*(3), 411–427.

Thomasson, A.L. (2001). Geographic objects and the science of geography. *Topoi*, *20*, 149–159.

Tuomela, R. (2002). *The Philosophy of Social Practices*. Cambridge: Cambridge University Press.

Wendt, A. (2004). The state as person in international theory. *Review of International Studies*, *30*, 289–316.