

A Mediterranean Biome Eco-State: Reorienting sovereignty in the Mediterranean Basin and its four global correlatives

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Abstract

The Mediterranean Basin is the largest of five regions around the world that constitute, in aggregate, the Mediterranean Woodlands, Forests, and Scrub Biome under a commonly-used global ecological classification system. All of these regions – the Mediterranean Basin itself as well as the similar ecological regions in California, Chile, South Africa, and Australia – face severe ecological degradation, largely because of agricultural practices. Traditional nation-states cannot address this ecological crisis adequately. A new form of political organization – an “Eco-State” – can and should be established for this purpose. Doing so will require a reorientation of the centuries-old notion of sovereignty, a reorientation that is already underway in some respects. The Mediterranean Biome Eco-State would build on this momentum. It would hold binding authority over all ecological and agricultural aspects of the territories falling within its boundaries, thus exercising a form of blended sovereignty that it

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would share with other authorities. This essay summarizes some key aspects of such a new Mediterranean Biome Eco-State.

Key words: Mediterranean, sovereignty, environment, agriculture, international law, eco-state

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A. Introduction

This essay builds on proposals I have made in two recent publications. One of those publications – an article on how to address the current ecological crisis in the Mediterranean Basin – explains the benefits to be achieved from establishing a new multilateral institution that I call the Corporate Trust for Agro-Ecological Integrity in the Mediterranean Basin (Head et al. 2017, 119-132). The other publication – a book on international law and what I refer to as “agroecological husbandry” – briefly discusses the notion of an “Eco-State” as a new form of policy-and-management entity designed to handle global issues of an ecological and an agricultural character (Head 2017, 373-374, 379-381). What I have *not* addressed in those earlier publications is specifically how the “Eco-State” idea would apply to the Mediterranean Basin and four other regions of the world that share the same ecological features that make the Mediterranean Basin so special.

That is the goal of this short essay. Without repeating the points made in the earlier two publications mentioned above, I provide in the following pages a brief account of a “Mediterranean Biome Eco-State” (hereinafter “MBES”). In keeping with the nature of an essay, and with the kind permission of the *Mediterranean Review* editors, I keep footnotes to a minimum.

I begin the essay with a definition of the Mediterranean Basin itself and a description of the other four regions of the world that share the Mediterranean Woodlands, Forest, and Scrub Biome as defined by the World Wildlife Fund. Then I explain how the MBES would, for ecological-protection purposes, combine all of those regions into a single legal entity with personality in international law similar to that of the two hundred or so Political States – often referred to (anachronistically) as “nation-states” – that we are familiar with in today’s world.

In particular, I emphasize why developing such a new entity – this non-territorially-contiguous “Eco-State” – is not only (i) increasingly *necessary* in order to combat the ecological degradation that Mediterranean ecosystems now face but also (ii) increasingly *feasible* as a political matter, since traditional notions of (political) state sovereignty are already being questioned and eroded around the world.



B. The Mediterranean Basin and the Mediterranean Biome

B1. The Mediterranean Basin

Although the Mediterranean Basin can be defined in countless ways, I use here an ecological approach to identify features that form natural divisions in the distribution of flora and fauna due to such factors as climate and soil composition. More specifically, my definition of the Mediterranean Basin draws from an effort of about fifteen years ago that was sponsored by the World Wildlife Fund (“WWF”) and was summarized in an article appearing in the journal *BioScience* (Olsen et al. 2001). Because the majority of the authors of the article were, at the time of publication, conservation scientists affiliated with the WWF, I refer to the classification system they described there as “the WWF classification system”.

The WWF classification system identifies over 800 specific “ecoregions” in the world as a whole.¹ About three dozen of these “ecoregions” belong to the Mediterranean Woodlands, Forest, and Scrub Biome. Under the WWF classification system, a “biome” is a major habitat type; it is an amalgamation of those ecoregions that share similar environmental conditions (temperature, precipitation, soil type, etc.) and that therefore contain similar patterns of biological complexity and similar communities and species of plants and animals (Head 2012, 5-6, 17-18).

On that basis, I define the Mediterranean Basin broadly to include significant portions of roughly twenty countries, all surrounding the Mediterranean Sea, as depicted generally in Map 1. Nearly all of the areas within the black line on Map 1 are part of the Mediterranean Woodlands, Forest, and Scrub biome.²

¹ Each ecoregion is regarded as being separate, with specific territorial limits that are drawn on the basis of a combination of land cover, species, climate conditions, and several other factors (World Wildlife Fund. n.s. a). Other ecological classification systems have been prepared by other entities (Head 2012, 17-24).

² In addition to the Mediterranean Woodlands, Forest, and Scrub and the Mediterranean Sea ecoregions, the Mediterranean Basin includes a few small “Mediterranean conifer and mixed



Map 1. The Mediterranean Basin ³

B2. Other regions encompassed in the Mediterranean Biome

The Mediterranean Basin is only one of five regions of the world, however, that share a similar set of ecological conditions. Map 2 shows where the Mediterranean Woodlands, Forest, and Scrub Biome appears in California, Chile, South Africa, and Australia – as well as in the Mediterranean Basin itself.

forests' ecoregions; these occupy the high mountain ranges in certain areas of North Africa and Spain (Global Species n.s.).

³ Map 1 has been prepared by J. W. Head based on a combination of ecological, climatic, agricultural, and other factors, with special reference to the WWF classification system. With the exception of Portugal, the black line designating the territory I define as the Mediterranean Basin has been drawn to exclude any state that does not actually have some coastal territory on the Mediterranean Sea.



Map 2. Ecoregions in the “Mediterranean Forests, Woodlands, and Scrub” Biome (Terpsichores 2012a).⁴

Why are these maps significant? Partly because they show that as an ecological matter, the Mediterranean Basin can be regarded as nearly unique, differing from anywhere else in Europe in terms of the mix of climate, land cover, species diversity, soil type, and a cluster of other factors that are physical in character. The various Political States in the region – Italy, Greece, Turkey, Egypt, Morocco, and the others – all share this same nearly-unique cluster of ecological factors, which we may refer to more succinctly as the Mediterranean Biome. This sharing suggests that the careful ecological management and preservation could naturally, and most efficiently, be *shared among those states*.

Map 2 is especially important in showing that although no other regions elsewhere in Europe constitutes part of this Mediterranean biome, four other smaller regions of the world located very far apart from each other *do* in fact

⁴ A similar map, but showing existing boundaries of Political States, can be found at Tvpm 2005 and is available for use under the terms of the GNU Lesser General Public License, version 2.1. As is more evident on that other map, the location of the biome in California extends slightly south into Mexico as well.



share (belong to) that same biome. Notwithstanding the political and social differences that exist between those various regions – between the Napa area of California, for instance, and the coastal regions of Tunisia – it would also seem sensible to create a system of shared responsibility for ecological management and preservation of this shared Mediterranean Biome, inasmuch as the ecological conditions within all five of them are so similar. Indeed, as a matter of rainfall, seasonality, soil type, land cover, species diversity, and other physical characteristics, these five parts of the Mediterranean Biome resemble each other much more than they resemble other parts of the (political) states in which they are currently located.

B3. Ecological and agricultural issues in the Mediterranean Biome

Creating some system of shared ecological management responsibility is particularly sensible because of the ecological *degradation* that afflicts all of these regions – none more severely than in the Mediterranean Basin itself. In an article I co-authored recently with two colleagues, I offered these observations:

[N]early the entirety of the Mediterranean Basin . . . falls within one of those terrestrial areas around the world that the World Wildlife Fund has identified as the most critically endangered ecologically. This terrestrial eco-degradation takes many forms. Several of them relate specifically to agriculture – which . . . has special significance to the economy and culture of the Mediterranean Basin (Head et al. 2017, 101-102).

As further explained in that article, the terrestrial degradation in the Mediterranean Basin (that is, leaving aside the very extensive marine pollution and degradation) takes many forms. For example, pesticide and fertilizer use in agriculture has wrought havoc; dangerous levels of hexachlorocyclohexanes, such as lindane, are still found in the soil and coastal regions of the Mediterranean Basin despite the fact that they are no longer used. Biodiversity is threatened. For instance, the Northern bald ibis – one of the most critically endangered birds in the world – now has populations in only two locations worldwide, one in Morocco and one in Turkey. Large dam projects have



changed river flows, causing river-bed and river-bottom erosion, thus lowering the water table (which stresses plants and animals downstream); the Nile River is interrupted, for instance, by at least twelve large reservoirs and dams, including the Aswan High Dam, which traps 98% of the river's sediment, decreasing soil productivity and depth downstream (Head et al. 2017, 103).

Overall, the World Wildlife Fund reports that “[m]ost natural communities have been degraded or permanently altered throughout the Mediterranean basin . . . [mainly because of] continuing conversion to agriculture, pasture, and urban areas.” (World Wildlife Fund n.s. b).⁵ Likewise, the portions of California belonging to the Mediterranean Biome are classified as “Critical/Endangered”, also largely because of agricultural conversion (World Wildlife Fund 2001).⁶

In our earlier article, my colleagues and I proposed a regional organization that could help address the agricultural and ecological problems in the Mediterranean Basin itself (Head et al. 2017, 119-132). What we did not do there, however, is to elaborate on a further step that I also propose here: the establishment of an “Eco-State” that would encompass not only the regions shown in Map 1, above, as falling within the Mediterranean Biome in Europe, the Middle East, and North Africa but also those other four regions of the world

⁵ Other organizations echo this assessment. The wildlife charity Wildscreen reports that the Mediterranean Basin has “a ‘Mediterranean climate’, which describes the distinct, subtropical climate shared by five regions around the world” and which has made the Mediterranean Basin “one of the most biologically rich and complex regions on Earth” – but that pressure from its 455 million residents and nearly 250 million annual tourists “is causing severe degradation of the Mediterranean’s natural environment, and only five percent of the original habitat remains unaltered.” (Wildscreen Arkive n.s.).

⁶ The same is true of the 17,000 square mile ecoregion AA1210, the 76,000 square mile ecoregion AA1207, and the 44,000 square mile ecoregion AA1202 – all of these are located in southeastern Australia – as well as the 65,200 square mile ecoregion AA1209 in southwestern Australia and the 23,000 square mile ecoregion AA1203 in south central Australia. Indeed, of all the Mediterranean Biome ecoregions in Australia, only the 53,000 square mile ecoregion AA1201, in Western Australia, carries a classification of something less serious than “Critical/Endangered”; its classification is “Vulnerable”. Also classified as “Critical/Endangered” are all three Mediterranean Biome ecoregions in South Africa and the single Mediterranean Biome ecoregion in Chile. In nearly all of these ecoregions, agricultural conversion constitutes a principal cause of degradation (World Wildlife Fund n.s. c).



(as shown in Map 2) that share the same biome. It is that topic to which I turn now, beginning with the concept of an “Eco-State” as a new form of policy-and-management organization designed for the express purpose of addressing global issues of an ecological and agricultural character.

C. The concept of the Eco-State with blended sovereignty

In order to address ecological and agricultural issues in all five regions of the world that constitute the Mediterranean Woodlands, Forest, and Scrub Biome, a new legal entity could be created that would share authority with the existing “Political States” (so-called “nation-states”) that currently hold power in these regions. Let me explain how as a historical and conceptual matter this new legal entity – which I refer to as the Mediterranean Biome Eco-State (“MBES”) – would combine all of those regions into a single legal entity, with personality in international law and a form of blended sovereignty aimed at agroecological integrity.

My explanation revolves around two key propositions: (1) the concept of the “nation-state” – along with the concept of monolithic sovereignty that accompanies it – can be traced back several hundred years, but both of these concepts have become ever less useful and defensible, as shown in part by the rise of public international organizations, which now are recognized (like states are) as possessing international legal personality; (2) because neither of these two types of entities – that is, neither traditional “nation-states” nor public international organizations – has proven capable of preventing or overcoming severe ecological degradation (whether attributable to agriculture or energy production or some other human activity), we should create a new entity in international law – an Eco-State (distinguished from the traditional “Political State”) – whose definition and territorial reach would have ecological foundations, rather than historical or economic foundations, and whose emergence would represent a further move away from monolithic sovereignty and toward a pluralistic sovereignty that is blended and layered in nature.



C1. The nation-state, monolithic sovereignty, and international organizations

As I have recounted elsewhere, the modern state system swept across Europe from the 13th century onward and had firmly established itself as a *political* matter by the early 17th century (Head et al. 2017, 112). The *legal* question then rose as to what rules should guide the monarchs of Europe in their relations with each other. Several scholars addressed this question, but ultimately those of Hobbes, as posited in his book *Leviathan* (1651), prevailed, yielding a concept of sovereignty that was infused with absolutism – what I have called “thick” or “monolithic” sovereignty (Head et al., 2017, 113-114, citing Hobbes 1651).

This “monolithic sovereignty” concept, which prevailed through the early 20th century, has two particularly noteworthy features. First, it is *territorial* in its conception. Within a single (usually contiguous) physical territory, the government of a state is thought to have nearly unimpeded authority. Second, the “monolithic sovereignty” concept is *national* in its assertion (or pretension) that state territorial boundaries widely reflect “nationalities”, so that persons residing within State A are of one nationality and persons residing within State B are of another nationality. This assertion reflects in part the fact that the historical backdrop against which Hobbes drew up his vision of a Leviathan – a centralized state with concentrated legal and political power – was one of intense nationalism and of religious and ethnic conflict between different (perceived) nationalities (Head et al. 2017, 114).

Indeed, in both respects – territoriality and nationality – the “monolithic sovereignty” concept reflects the peculiar historical circumstances of 15th-century through 19th-century Europe. Today’s circumstances are dramatically different, of course, and the concept of state sovereignty has recently started to change in response to these differences. This change appears, for instance, in the emergence of a particular species of non-state entities: international organizations. Starting especially in the 1940s, an explosion of new organizations – the United Nations, the World Bank, the International Monetary Fund, to name just three – emerged to address a range of issues concerning political, economic, environmental, military, research, diplomatic, and other forms of cooperation and authority. Most of them, moreover, involve limited transfers of sovereignty by their member states to the institutions themselves –



and the institutions are regarded as having legal personality in international law (Head et al. 2017, 119; Head 2017, 371-372).

C2. Changing sovereignty to reflect reality

I have emphasized above in subsection B3 that existing rules and institutions have failed to prevent or reverse severe ecological degradation in the Mediterranean Basin, and I have asserted that similar degradation threatens other regions of the world that also constitute constituent parts of the Mediterranean Biome. What different approach can be taken in order to address this failure?

My position is that because neither of the two types of entities currently recognized as having legal personality in international law – that is, neither traditional “nation-states” nor public international organizations – has proven capable of preventing severe ecological degradation, a new entity in international law should be created. I refer to this new entity as an Eco-State in order to distinguish it from the traditional “Political State”.

The definitional and territorial reach of an Eco-State would reflect only ecological factors (rather than historical or economic factors). It would draw from the scientific basis on which specific portions of the Earth’s terrestrial surface have been classified into biomes – and I have used the WWF classification system for this purpose.

The emergence of the Eco-State as a concept, and the creation of an Eco-State for each of the world’s biomes (the WWF classification system identifies fourteen different biomes) would represent a further move away from “monolithic sovereignty” and toward a pluralistic sovereignty that is blended and layered in nature. This move would reflect practical developments in many parts of the world where authority over various topics is already being shared among several entities.

In the case of the region of Trentino-Alto Adige in northern Italy, for instance, a special division (or layering) of authority allocates most legislative and administrative powers to the two largely self-governing provinces that make up the region – namely, Trentino and South Tyrol. Hence, even though the roughly one million people of the region are Italian citizens, and Trentino-



Alto Adige is unmistakably part of Italy, the exercise of sovereign control is not strictly territorial.⁷ Instead, it is “topical” in that sovereignty is allocated on the basis of topics or aspects (or subject-matter) of administration and operation (Head et al. 2017, 117).

The world is replete with other illustrations of the same reality. The USA presents an obvious illustration: its federal-state composition involves extensive “layering” of legislative and administrative authority defined in constitutions and frequently erupting into disputes. Likewise, the European Union involves a layering or blending of sovereignty. A conference conducted in Trento in 2009 highlighted many other such illustrations of layered or blended sovereignty, in which administrative and other forms of authority over certain territories has been allocated on the basis of the topics at issue – trade, currency, education, taxation, defense, and so forth. Such illustrations appear in Catalonia (in its relations with Spain), in Quebec (Canada), in Aceh (Indonesia), in Sabah & Sarawak (Malaysia), in Südtirol (Italy), in Wales (UK), and elsewhere in the world. In all these cases, and numerous others, sovereignty is not territorially exclusive and absolute but rather layered, blended, shared, and mixed (Head et al. 2017, 117, citing Toniatti and Woelk 2017).

It is this form of sovereignty that an Eco-State would possess. Specifically, the Mediterranean Biome Eco-State would be the manifestation of the Eco-State concept in the Mediterranean Basin and the other four regions around the world that share the same ecological attributes. The MBES would share authority with Political States. Let me turn now to describe in more detail how that would work.

⁷ For details about the administrative and legislative powers of Trentino-Alto Adige, see Autonomous Region of Trentino-Alto Adige. n.s. a. The special statutory foundation for these powers is found in the “*Statuto Speciale di Autonomia per il Trentino-Alto Adige*.” (Autonomous Region of Trentino-Alto Adige. n.s. b).



D. The Eco-State in practice: comparing the MBES with other international entities

D1. A chaos of institutions

Having summarized the concept of an Eco-State in general, particularly in contrast to the centuries-old concept of the nation-state – what I have referred to above as the “Political State” – now I turn to a more detailed account, with special attention to the specific Eco-State that would encompass all of the territories falling within the Mediterranean Biome. For that, I refer to Table 1 and the following explanatory narrative – a main theme of which is that the world is already populated with a very wide variety of institutional entities, to which the Eco-State should now be added.

In Table 1, the following abbreviations apply: ROK = the Republic of Korea; USA = the United States of America; ROC = the Republic of China (Taiwan); CA = California; NSW = New South Wales; EU = the European Union; UN = the United Nations; WTO = the World Trade Organization; “poli” = political; “econ” = economic; NGO = non-government organization; “comm” = commercial; “char” = charitable; “envir” = environmental; ICC = the International Chamber of Commerce; Gates = the Bill & Melinda Gates Foundation; GP = Greenpeace; MBES = the Mediterranean Biome Eco-State; UNSC = UN Security Council; d = dues; f = fees; b = bonds; t = taxes; ICJ = the International Court of Justice; DSB = the Dispute Settlement Body of the WTO. Most of those abbreviations appear in the column headings, where those abbreviations appear in brackets in order to give illustrations of the types of legal entities referred to in those columns.

One overarching point that I wish to convey here is that developing such a new entity – this non-territorially-contiguous “Eco-State” – is not only (i) increasingly *necessary* in order to combat the ecological degradation that Mediterranean ecosystems now face but also (ii) increasingly *feasible* as a political matter, since traditional notions of state sovereignty are already being questioned and modified. An additional observation is also warranted: for several of the cells in Table 1, it is difficult to indicate whether the attribute is in fact *present* (signified by “YES”) or *maybe present* (signified by “???”) or



absent (signified by an empty cell). In a few particular cases, I have reflected this uncertainty by inserting a notation of “YES?”. In short, a broad diversity already exists in the real world of those entities that have prominence on the international stage.

Table 1. Comparison of Eco-State features with the features of other entities ⁸

| | Traditional state [ROK, USA] (A) | "near" state [ROC] (B) | subsidiary federal unit [CA, NSW] (C) | regional supranational entity [EU] (D) | global public international organization "poli" [UN] "econ" [WTO] (E) | global non-public or private NGO "comm" [ICC] "char" [Gates] "envir" [GP] (G) | (H) | (I) | Eco-State [MBES] (J) |
|--|--|------------------------------|---|--|--|---|-----|-----|----------------------------|
| (1) "has" territory | YES | YES | YES | ??? | ??? | | | | YES |
| (2) territory is predominantly contiguous | YES | YES | YES | ??? | | | | | |
| (3) is broadly recognized as independent state | YES | | | | | | | | YES |
| (4) issues rules that are binding in a territory | YES | YES | YES | YES | YES UNSC | YES? | | | YES |
| (5) jurisdiction covers all of several states | | | | YES | YES | YES | | | |
| (6) jurisdiction covers parts of several states | | | | | | | | | YES |
| (7) jurisdiction covers all of the Earth | | | | | | YES | YES | YES | |
| (8) can have "nationals" permanently overseas | YES | YES | | | | | | | |
| (9) has legal personality in international law | YES | ??? | | YES | YES | YES | | | YES |

⁸ For abbreviations used in Table 1, see preceding text.



| | Tradi- tional state [ROK, USA] (A) | “near” state [ROC] (B) | subsidiary federal unit [CA, NSW] (C) | regional suprana- tional entity [EU] (D) | global international organization “poli” [UN] (E) | public “econ” [WTO] (F) | global non-public or private NGO “comm” [ICC] (G) | “char” [Gates] (H) | “envir” [GP] (I) | Eco- State (J) |
|---|---|---------------------------------|--|---|--|----------------------------------|--|--------------------------|------------------------|----------------------|
| (10) is controlled by Poli State government officials | YES | YES | YES | YES? | YES? | YES? | | | | |
| (11) isn't con- trolled by Poli State govern- ment officials but has non- binding input from them | | | | | | | YES? | | | YES |
| (12) has “taxing” power – via dues, fees, bonds, taxes | YES f b t | YES f b t | YES f b t | YES f b | YES d | YES d | YES? | | | YES |
| (13) has coercive police power | YES | YES | YES | | YES UNSC | | | | | YES |
| (14) has adju- dicatory powers | YES | YES | YES | YES | YES ICJ | YES DSB | YES | | | YES |

Although Table 1 is largely self-explanatory, several specific attributes of Eco-States do warrant special attention. These include territory, sovereignty, legal personality, financial stature, and rule-making authority. After discussing these issues briefly, I offer some observations on how the development of Eco-States, such as the Mediterranean Biome Eco-State, can contribute to the legitimacy and diversity of governance over ecological issues.



D2. Territory

As shown on the first line of Table 1, an Eco-State would “have” territory, in the sense that it would exercise some aspects of control over an extensive, defined, physical terrestrial area.⁹ In this respect, an Eco-State will resemble a Political State such as Korea or Mozambique or Belgium or Japan.

However, as reflected in the second line of Table 1, the territory of each Eco-State will be non-contiguous, and this distinguishes Eco-States from most Political States. Although the USA and Russia are two examples of Political States that do have non-contiguous territory (Alaska for the USA, the region around Kaliningrad for the Russian Republic), most Political States have territories that are contiguous. The reason every Eco-State will have a great deal of non-contiguous territory, of course, is that each one’s territory is determined entirely by ecological (not political) factors, and the combinations of climate, soil, and other factors making up a biome do, as a practical matter, “repeat” across continents. Map 2, above, shows the non-contiguity of the Mediterranean Biome. As a further illustration, Map 3 shows the “Temperate Broadleaf and Mixed Forests” Biome (according to the WWF classification system). Like the Mediterranean Biome, that temperate-forests biome exists in several territories on the surface of the Earth.

In addition to non-contiguity, all Eco-States – including the MBES – would have another territorial attribute: non-rigidity. As climate change advances, the territorial boundaries of the Eco-States will tend to shift. The changing boundaries would continue to be determined on the basis of scientifically-established criteria – a mix of rainfall, soil type, species diversity, temperature, and the like.

⁹ For the present, I am concentrating only on terrestrial, not maritime, aspects of Eco-States. Questions would also arise regarding regulatory authority over ecological issues in the world’s maritime areas, such as territorial seas, contiguous zones, and exclusive economic zones.



Map 3. Ecoregions in the “Temperate Broadleaf and Mixed Forests” Biome (Terpsichores 2012b).

These territorial features of Eco-States distinguish Eco-States not only from Political States but also from public international (intergovernmental) organizations, such as the IMF, the WTO, and the UN. Those entities do not “have” territory in anywhere near the same sense as a Political State has territory (notwithstanding the property rights that such organizations might claim over their headquarters and other small operational facilities). Likewise, an Eco-State’s territorial features distinguish it from nongovernmental organizations operating at the international level. Table 1 refers directly to three such organizations: (i) the International Chamber of Commerce (“ICC”) which has a commercial character, (ii) the Bill & Melinda Gates Foundation, which has charitable purposes, and (iii) Greenpeace, which has an environmental focus. Numerous other entities could of course be added to the list in any of these three sub-categories of international nongovernment organizations – for instance, the Internet Corporation for Assigned Names and Numbers (“ICANN”) as another commercially-oriented entity, the Rockefeller Foundation as another charitable entity, and the World Wildlife Fund (“WWF”) as another environmental-



protection entity. Unlike any of those entities, each Eco-State would be territorial in character.¹⁰

As a reflection of these commonalities among various segment of (noncontiguous) Eco-States, each such Eco-State would issue rules and directives that are binding within its territory. It would do so under authority that is independent of any authority retained by the Political States to issue rules and directives. That is, every Eco-State would, by the nature of its ecologically-determined territorial reach, overlap in territory with several Political States. The authority of such an Eco-State to issue rules and directives would overlap with the authority on the part of several Political States also to issue rules and directives. The *topics* or *subject-matter* of the rules and directives, however, would differ: the Eco-State would be responsible for those rules and directives (and other attributes of governance) that relate to agricultural and ecological issues, while the Political State would be responsible for those rules and directives (and other attributes of governance) that relate to all other issues.

An obvious question arises: how, as a practical matter, could lines be drawn to distinguish between agroecological issues and non-agroecological ones? This is not a trivial question, of course, but it is effectively the same question that arises routinely in any federal system in which some aspects of governance rest with a central political authority and other aspects rest with a subsidiary (or more than one subsidiary) level of authority. As I have explained in detail elsewhere (Head 2017, 381-382), the concept and practice of blended authorities and competences – what I have termed “pluralistic sovereignty” to distinguish it from the “monolithic sovereignty” that Hobbes and others would favor – can be seen as a commonplace feature of modern political life in nearly all societies. In other words, it would be a faint criticism indeed if someone were

¹⁰ An Eco-State’s territorial character also distinguishes it from another type of entity that I have not included in Table 1 at all: the private-sector international corporation, such as Siemens or IBM or BP. Were I to include such entities in Table 1, the only “cell” that would have any notation in it would be in line (10), where a question mark could signify that in some cases a multinational corporation “is controlled by state government officials”; this would be the case, for instance, with some multinational corporations headquartered in China or Russia and operating internationally.



to claim that difficulties would arise in distinguishing between the competence of the Eco-State and the competence of those Political States whose territories overlap with that Eco-State.

The sixth line in Table 1 also reflects the point explained above: unlike any nation-state, the authority of an Eco-State would extend over the territory of several Political States. This feature also distinguishes the Eco-State from all other entities of the types that I have included in Table 1, such as international organizations. For international organizations, jurisdiction to issue rules and exercise other aspects of governance applies (sometimes with some minor exceptions) to the *entirety* of the territory of each Political State that is a member of the organization. By contrast, hardly any Eco-State would exercise its agroecological jurisdiction over the entirety of the territory of any Political State. A few Political States in Africa might fall entirely within the territory of the Eco-State that encompasses the “Tropical and Subtropical Grasslands, Savannas, and Shrublands” biome – but this would be the exception rather than the rule.

In the MBES, then, authority to issue rules and directives over ecological and agricultural matters would rest with the MBES governing officials, acting independently of (and with no duty of loyalty or allegiance to) whatever Political State officials operate in the same territory for non-agroecological purposes. Issues regarding the selection and responsibilities of Eco-State officials are discussed below.

D3. Legal personality

As indicated in the ninth line of Table 1, each Eco-State would have personality in international law. This would put it on a par with every Political State, whose legal personality is implied as a bedrock principle of the international legal system. Through the process of recognition, the international community at large creates, or at least endorses the existence of, a Political State, in a way that is roughly analogous to the more explicit process by which public authorities (such as a secretary of state or minister of commerce) creates or endorses a corporate entity – this is called in some legal systems a “juridical person” – through prescribed formalities and documentation.



The fact that each Eco-State would have personality in international law would also put it on a par with such international institutions as the WTO. The WTO charter, by which that organization is created and governed, includes an express provision acknowledging that its member states recognize its status as a person in international law (World Trade Organization. n.s., art. VIII.1). In similar fashion, the establishment of the several Eco-States would be formalized and documented in a treaty with a similar provision recognizing the status of each as having international legal personality. I have proposed that this treaty would be the charter (that is, the founding document) of a Global Corporate Trust for Agroecological Integrity (Head 2017, 296, 299, 320, 324).

The eleventh line in Table 1 reflects another especially important dimension of the Eco-State's legal personality. As shown there, an Eco-State would differ from a typical international organization of the sort we are accustomed to (in the form of the UN, the WTO, and the World Bank, for instance) in the control to be exercised over it by Political States. Most existing international organizations are controlled firmly by their member states. Indeed, this reality forms the foundation for many criticisms leveled at those organizations, especially the ones operating under formal weighted voting systems that give some member countries much more "say" than other countries have in the organizations' policies and practices (Head 2008, 233, 243-244, 271, 272). An Eco-State would, by contrast, have autonomous powers vis-à-vis any Political State. It would operate under the overall auspices of the treaty by which Eco-States are created and governed – and that treaty itself would, under arrangements I have explored elsewhere, have not only Political States as participants but also a range of other non-state entities (Head 2017, 320).

How would this unusually robust element of independence from Political States manifest itself in the context of the MBES? For one thing, it would place the MBES in a stronger position than that of the EU: whereas the EU is largely dependent on its member states for financial and political purposes, the MBES would be largely independent of those Political States in the Mediterranean Basin – and likewise from the Political States elsewhere in the world (California, Chile, South Africa, and Australia) – with which its territory overlaps.



D4. Financial status

The twelfth line in Table 1 reflects some other important characteristics of Eco-States. As shown there, an Eco-State would differ from a typical international organization of the sort we are accustomed to (in the form of the UN, the WTO, and the World Bank, for instance) in its capacities to raise funds. In this respect, an Eco-State would be like a Political State, whose legal authority to impose taxes and fees, and/or to issue debt instruments, is unquestioned. This authority would make Eco-States more financially self-sufficient than most international intergovernmental organizations, which typically rely heavily on their member Political States for financial stability.¹¹

How would these financial arrangements work in the case of the MBES? Persons (including businesses) located within the territorial boundaries of the Mediterranean Biome – in southern Europe, in the Eastern shore of the Mediterranean Sea, on the north coast of Africa, in much of California (and a small sliver of northwestern Mexico), in Chile, around Cape Horn in South Africa, and across some southern regions of Australia (see Map 2) – would pay taxes to the revenue authorities of the MBES. Those taxes would, in aggregate, fund a wide range of operations carried out by other MBES officials (or by private persons under the supervision of such MBES officials). Those MBES officials would be selected through broadly representative participation by constituents of the MBES. The operations of those MBES officials would include managing wildlife sanctuaries, converting to non-fossil-carbon energy sources, implementing a new non-growth and low-consumption economic model, and supporting agricultural reforms through ongoing research, conservation training, crop diversification, and the like. The fact that MBES

¹¹ Even those international organizations that rely mainly on issuing bonds, rather than imposition of taxes or fees, to cover their operational expenses – the International Bank for Reconstruction and Development comes to mind in this regard – still rely in important part on the fact that the bonds are backed by obligations of the member countries, especially those with convertible currencies. This backing is what allows the IBRD, for instance, to assure its bondholders that it will be able to make good on those bonds in case the IBRD encounters difficulty in servicing the bonds (The World Bank. n.s.).



taxpayers in California and Italy and Australia would support MBES operations in other portions of the MBES – along the north coast of Africa, for instance – would be both necessary and appropriate. After all, taxpayers in economically advantaged portions of Political States regularly pay for programs carried out in less-economically advantaged portions of those states. MBES tax revenues and expenditures would operate in the same manner.

E. Eco-States as new creatures of international law

As I noted out the outset, my aim in this brief essay is not to explore all elements of the Eco-State concept as a whole or of how the MBES in particular would operate. Accordingly, although Table 1 reflects several additional attributes not yet discussed above,¹² I wish to turn now to this more general observation: because of the attributes that Table 1 shows for Eco-States – distinguishing them from Political States and also from the broad array of international organizations with which we are already familiar in the world – *the Eco-State would constitute a new creature in international law*. In this respect it would join Political States (which have been “subjects” of international law since their emergence in the 17th century) and international intergovernmental organizations (which have been “subjects” of international law since the middle part of the 20th century) – but the Eco-State would actually be *stronger* than the second of those two “subjects” of international law.

Indeed, I wish to emphasize both (i) how Eco-States would have more territorial logic and stability, and therefore more *legitimacy*, than Political States, and (ii) how Eco-States would, like plants growing in a native prairie ecosystem, benefit collectively from their aggregate *diversity*. I examine those two points in turn.

¹² For instance, the last two lines in the table show that Eco-States, like Political States, would have robust ability to enforce the rules and directives that they issue.



E1. Legitimizing sovereignty through perennality

I have highlighted in another context the fundamental difference between grain agriculture based on *annual* plants and grain agriculture based on *perennial* plants (Head 2017, 138-139, 148-152). Wes Jackson's 1980 book *New Roots for Agriculture* – a work that helped secure his McArthur “Genius award” – emphasized the promise that perennial grains hold for addressing some of the worst aspects of modern agriculture: if crop research could be directed toward perennials, whose firmly-rooted strength would protect the soil while producing adequate yields of grain, then agriculture could be made sustainable for the first time since the agricultural revolution of several thousand years ago. Jackson sought then, as The Land Institute has sought ever since, to make agriculture more ecologically legitimate by tying it back to the ecosystem from which it first arose (Jackson 1980, 1-4; Head 2015, 144-148).

Now I apply the same reasoning to global governance regarding agriculture and environment. We could make sovereignty more legitimate by devoting adequate research toward developing the concept of the Eco-State as I have summarized it above – that is, a legal entity rooted not in the short-term ebbs and flows of political power (planted now, flourishing for a while, only to be “harvested” then and taken away) but rather in the long-term, perennial character of the natural ecosystems that define such Eco-States. In a rough analogy that I find useful, the Political State is like an annual plant; the Eco-State is like a perennial plant. Applied to the Political State, the concept of sovereignty *lacks legitimacy* because (among other reasons) it boils down to human-centered political power, which is necessarily short-term. However, when the concept of sovereignty is applied to the Eco-State, whose territorial boundaries and authorities would be based wholly on ecological factors, that concept *would gain legitimacy* because (among other reasons) it rests on the processes and characteristics of the natural world, which is permanent on any time-scale that applies to the human species.

To place this in the context of the Mediterranean Basin, which is famous for its ebbs and flows of political power: if the MBES can be developed along the lines I have proposed here, then a more legitimate and durable form of sovereignty can result. The sovereignty of the MBES will encompass authority



to issue and enforce agroecologically-related rules, to raise revenue and spend it on agricultural improvement, and to secure long-term loyalties of persons whose lives and livelihoods draw from, and participate in, a particular biome appearing not only in the Mediterranean Basin but also in four other regions of the world.

I would emphasize again, though, that *adequate research* must be directed toward developing the concept of the Eco-State, which I have only outlined here in its general contours. In particular, many questions must be addressed about the definition, powers, and other features of the Eco-State and about the relations between Eco-States and Political States.

One such question concerns a particular feature of the relationship between an Eco-State and a Political State that both exercise authority over the same territory: how would *changes* in the Political State (which are inevitable over time) bear on the Eco-State's exercise of authority? After all, it is easy to imagine an especially strong and ambitious Political State leader (Italy's Berlusconi comes to mind or even Germany's Hitler) attempting a take-over of an Eco-State's authority.

Yes, these circumstances are easy to imagine, but it is also easy to remind ourselves of a precedent in which a seeming mismatch between competing claims of sovereignty survived such changes. In medieval Europe, before the rise of the so-called nation-state, territorial control frequently changed hands from one political claimant to another. Through the course of those changes, though, the authority of the (Catholic) church remained largely intact. One reason for this was that the underlying values espoused by all such claimants went largely unquestioned. While I would be among the last persons to praise the Catholic church for the form of governance it exercised then, the fact remains that a wide sharing of deeply-held, historically-conditioned attitudes about certain aspects of human existence served as a glue that for many centuries resisted dissolution as a religious matter in that part of the world. States came and went, but the church survived. In like fashion, *a wide sharing of deeply-held attitudes about the sanctity of the Earth and the proper place of humans in it would serve as a glue that could secure the authority of Eco-States through the vicissitudes of Political States.*

A follow-up question is equally obvious: How are such "deeply-held attitudes" to be instilled? They evidently are not shared by many people in our



current day – otherwise the severe ecological degradation we see would not continue – so how can we imagine this new set of values to be brought into wide acceptance?

One answer to this question would be to provide everyone with at least a basic grounding in Earth sciences – a part of what Wes Jackson of The Land Institute is fond of calling “ecosphere studies” and what I would refer to more broadly as ecosphere ethics¹³ – so that people would understand the importance, both in their own ecoregion and for the world as a whole, of climate cycles, soil conservation, biodiversity, and the like. In the context of the Mediterranean Biome, for instance, I believe that widespread popular knowledge of such matters, along with an appreciation of their significance to human and planetary survival, is essential to the flourishing of human and other species in the special ecological setting shared by all of the territories that share the Mediterranean soil, climate, and land cover. Principle 14 of the Earth Charter reflects the importance of such a commitment to Earth-science education by positing in general terms that we should “[i]ntegrate into formal education and life-long learning the knowledge, values, and skills needed for a sustainable way of life”¹⁴ (Bosselmann and Engel 2010, 260).

In a similar vein, there is another dimension to the analogy that I wish to draw here between perennials and annuals on the one hand and Eco-States and Political States on the other hand. Unlike Political States, whose governments typically regard the current generation of human beings within their territorial

¹³ The Land Institute has sponsored three three-day conferences in 2015, 2016, and 2017 in order to explore the meaning and significance of “ecosphere studies”, and to organize educational initiatives that could encourage a world-view in which the ecosphere – as distinct from merely the biosphere (life on Earth) or the ecosystem (confined to a particular territory) – would be the primary frame of reference for policy-making.

¹⁴ In a similar vein, the Preamble of the Earth Charter also asserts that “we must recognize that . . . we are one human family and one Earth community with a common destiny.” (Bosselmann and Engel 2010, 257). The Earth Charter was launched in 2000 at the Peace Palace in The Hague by the Earth Council in cooperation with Green Cross International and UNESCO. Although it does not take the form of a treaty and is not generally regarded as binding on its own in international law, some observers assert that it “is now widely accepted as a foundational document for future international law and global governance.” (Bosselmann and Engel 2010, 15).



boundaries as being the constituency whose interests they must pay most attention to, each Eco-State will have a broader and deeper set of constituents. The Eco-State's constituents will be broader in the sense that they will include not just human beings but all other species and components of the ecosystems within the biome reflected in that Eco-State's composition. Its constituents will be *deeper* in the sense that they will include not just those humans and other organisms that are alive *today* but also later generations of the species in those ecosystems.

E2. Strengthening Mediterranean Biome sovereignty through diversity

I have argued in the preceding paragraphs that sovereignty can be legitimized through “perenniality” – that is, by grounding it in the natural world with territorial boundaries of Eco-States, including the MBES in particular, that are drawn to reflect more or less permanent ecological realities, not temporary political artificialities. Now I assert that sovereignty can likewise be strengthened through diversity.

What I mean by diversity in this context can be illustrated by offering another analogy to a prairie ecosystem. The diversity of species of grasses, legumes, and forbs in a natural grassland or prairie ecosystem provides strength against any number of threats and challenges. The threat of pathogens is relatively low because no one pathogen is likely to be successful in attacking multiple species; indeed, no one pathogen is likely to get enough food supply in a mixed-species grassland area, since no single host-plant species that it targets will predominate in that area. Compare this to a typical field of maize in a Missouri field or rice in a Korean agricultural landscape: any pathogen resourceful enough to break through the defenses that modern pesticides put in its way will sweep quickly through that densely-planted single-species field.

Although there are obvious differences, I see important similarities between that image and the image of a single source of authority over a territory, as would be the case under Hobbesian “monolithic sovereignty” of the sort I described above in section C and have explored more fully elsewhere (Head 2017, 359-363). Short of complete failure, but still devastating on the environment, are the countless instances in which Political States are unwilling or unable to protect natural resources against waste, degradation, or outright



destruction. I alluded above in section B to how this has occurred in the Mediterranean Basin. (Recall my explanation there that most natural communities throughout that region have been degraded or permanently altered, mainly because of continuing conversion to agriculture, pasture, and urban use.)

By contrast, a system in which diverse structures and entities exercise governance over a territory can provide strength. Indeed, this is one reason favoring a federal system: some functions are best handled at the most local level; some functions are best handled at a higher, or the highest, level. Weaknesses in any level of government can sometimes be counterbalanced by other levels rising to the occasion as needs present themselves.

Beyond that balancing function, diversity in governance can serve a fairness function as well. My earlier description of certain instances in which territories are subject to “blended sovereignty” or “layered sovereignty”, including the special autonomy arrangements for the Trentino – Alto Adige region in northern Italy, highlights the fact that such arrangements have been put in place in order to honor and preserve the linguistic, historic, cultural, and ethnic commonalities that people in one area share and that distinguish them from other groups included within the larger political unit.

In the context of environmental protection, these values of diversity among the entities wielding authority also makes sense. Placing ecological management responsibility with one set of authorities and placing responsibility over non-ecological matters with a separate set of authorities can add to, not detract from, efficiency. In the context of the Mediterranean Biome, placing ecological management responsibilities with MBES authorities and placing responsibility over other matters with the authorities of the pertinent Political States – Spain, Greece, Lebanon, Egypt, Morocco, South Africa, Chile, and so forth – can add to, not detract from, efficiency.

I close this brief discussion of “Eco-States as new creatures of international law” with an observation about the structural character of Eco-States. Like a Political State of the sort we are familiar with in today’s world, an Eco-State would have local, intermediate, and central offices. For instance, the MBES would have local offices to manage the ecological-protection and agricultural-



production affairs in each small region,¹⁵ and higher-level offices – probably one for the entire Mediterranean Basin area, another for California (and northwestern Mexico), another for Chile, another for the southern tip of South Africa, and one for the Mediterranean Biome territories in Australia – would coordinate the operations of those local offices.

F. Concluding observations

Ecological collapse threatens all of the five regions of the world that share the climate, soil, and land cover attributes of the Mediterranean Biome. My aim in this essay has been to propose a solution in international law to help address this ecological crisis. A Mediterranean Biome Eco-State could provide urgently-needed protection not only for natural systems of the Mediterranean Basin itself but also for those of the other four similar regions of the world – in California, Chile, South Africa, and Australia. While creating an Eco-State concept would introduce a new “creature” or “subject” of international law, doing so would not be unprecedented: it would echo the process by which public international organizations were accepted as “subjects” of international law in the 20th century – and indeed the process by which the Political States were accepted as “subjects” of international law in the mid-16th century.

One particular appeal of Eco-States – including the MBES – is that they would have several strengths that are missing from international organizations and from Political States. Because their territorial authority would reflect more or less permanent ecological realities, not temporary political artificialities, their form of sovereignty would have more “perenniality”, of the sort that makes natural ecosystems strong. Likewise, by their contrast to existing types of

¹⁵ These responsibilities might be allocated on the basis of the various ecoregions that the WWF has defined within each of the 14 terrestrial biomes, including the Mediterranean Biome. The development of increasingly sophisticated technology for monitoring ecological conditions and processes could allow for virtual, rather than actual, presence at the local level; this would keep the total number of local (ecoregion-level) office staff members relatively modest, but some would still be necessary.



international entities enjoying legal personality, Eco-States would also add an element of diversity – also a feature of strong natural ecosystems.

A likely response to the proposals I have summarized above is that they are too ambitious, especially in an age marked by political gridlock, international conflict, and institutional sclerosis. However, it seems inevitable that changes will occur – in environmental awareness, in political ideology, in international legal structures – and what really is at issue is *how* the change will occur and specifically how we can influence its content, pace, and direction.

Moreover, the legal reforms summarized above are not unprecedented. The past century alone has seen changes in international law and institutions that are just as substantial as the ones required today to bring a new regime of ecological protection and agricultural reform to the Mediterranean Basin and the other four regions in the world that we now find in crisis. In my view, then, it is shortsighted to plead that the initiatives outlined here are *too* ambitious, or that they are *too* inconsistent with existing legal doctrines or entrenched political interests, or that a “Plan B” should be designed and held in reserve in case these initiatives cannot prevail over the status quo. Indeed, a more potent critique of the proposals I have summarized in this essay might be that they are not innovative *enough* to protect these ecosystems for future generations of humans and other species.



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