

On the Significance of Humanity's Collective Ownership of the Earth for Immigration

Mathias Risse, Harvard University
December 6, 2013

1. *On Global Justice* discusses immigration from the standpoint of humanity's collective ownership of the earth. I formulate an account of proportionate use of collectively owned resources and spaces and submit that a country that under-uses its share ought to admit more immigrants. Over-users do not have to, at least not as far as a fair scheme of sharing the earth is concerned.

One objection is that this approach is disconnected from the practical concerns that motivate people to emigrate: people move to live in a safer environment and to join stronger economies, not because they wish to be at certain locations or enjoy a share of natural resources or spaces. *On Global Justice* discusses immigration in Part 2, which is concerned with humanity's collective ownership of the earth. Since the layout of the book (whose first three parts more or less discuss one ground of justice after the other) subsumes immigration under an exploration of collective ownership, the objection that *On Global Justice* makes too much of the significance of collective ownership for immigration naturally arises.

My approach does indeed not – and is clear that it does not aim to -- track the motivation of would-be immigrants. This by itself should be unproblematic because what motivates people to act, and why they would be entitled to go ahead, are different topics altogether. Nonetheless, the relevance of collective ownership of the earth for matters of immigration is worth revisiting. Considerations pertaining to the spatial distribution of human beings across the earth deserve more attention

than mainstream thinking about immigration affords them. I am specifically interested in that part of mainstream thinking that articulates reasons why states would be entitled to constrain immigration.

In a first step, in section 2, I reflect on how to integrate the topic of immigration into a theory of global justice, to assess what kind of role there could be for collective ownership of the earth. Next, in sections 3 and 4, I address recent arguments by Michael Blake, Christopher Wellman, David Miller and Ryan Pevnick. All of them, in different ways, argue that the state may keep out some or all would-be immigrants, even if it takes force to do so. All of them identify something important that entitles states to restrict immigration. But these approaches are incomplete as long as they neglect the distribution of people across the earth. Theorists who accept states and their right to exclusion should wonder about the costs imposed on others by maintaining such a system. Reflection on collective ownership fills that lacuna.¹

But my response to these authors generates an objection that cuts to the core of my approach. Suppose it is granted that we need a view of the fair distribution of people across the earth to articulate a globally acceptable stance on immigration. This does not by itself imply that such an account should be developed in terms of proportionate use of resources and spaces of the earth. At least two other accounts are possible too. First of all, one may argue that the proportionate distribution of people across the earth should not involve proportionality vis-à-vis natural

¹ Also to be considered here is Joseph Carens' new book on immigration, though I will not discuss him in any detail if he has nothing to add to his already published views (which is what I presume).

resources and spaces. Instead, it should be proportionality vis-à-vis the overall wealth of societies, including natural and societal wealth. The argument for that approach is that focusing on resources and spaces is unstable. For any new generation of human beings natural resources and spaces are no different from inherited wealth left behind by their forebears. That generation has done nothing to create natural resources. But nor have they done anything to create the societal wealth bequeathed to them. So natural and societal resources are relevantly alike when it comes to entitlements to shares of them.

Yet another account agrees with mine that it is natural resources and spaces with regard to which the fair distribution of people across the earth should be determined. But instead of proportionality a different manner of assessing that distribution should be employed. Kolers (2009) uses the term “ethnogeographic community” to emphasize that communities adopt particular land-use patterns through which they control and shape space and which in turn shapes their cultural patterns. Their conception (“ontology”) of land becomes concrete through acts of bounding, controlling and shaping space. This view permits a global standpoint, which would prescribe whose ontology of land matters in a region, and thereby determine the fairness of the distribution of people across the earth.

My approach must be defended against both of these alternatives. I discuss the differences between societal and natural resources in sections 6 and 7, and Kolers’ account in section 8. In section 5, which is so far unaccounted for, I respond to some questions and objections to my account raised by Malcolm Bull in a review of *On Global Justice* in the *London Review of Books* in 2013. Responding to his well-

taken concerns allows me to clarify some important aspects of my approach. Section 9 concludes.

2. One reason why reflection on immigration is challenging is that proposed changes in a country's immigration policy are often plausible only if other policies also change. Suppose somebody advises against more immigration because the kind of immigration a country could expect would decrease wages of low-income workers, at least for the time being. This argument takes for granted that no additional social policy measures are available to improve life for these workers. Or one might argue that wealthier countries had better not admit more immigrants because their inhabitants already contribute too much to climate change. But that argument takes environmentally unfriendly behavior as given instead of insisting that wealthy countries must pay more heed to the environment anyway.

It is impossible to think about the morality of immigration in isolation. As soon as one starts reflecting on what kind of immigration policy is morally required or permitted one must think about which other aspects of political and economic reality should or could also change. Generally, if a philosophical view is used to make a recommendation for politics, one can rarely make a proposal on only one subject. One has to make a set of interconnected proposals, and decide if implementation is possible at all. If the whole set cannot be implemented, one must see what guidance is available under the circumstances (which might be none). Political philosophy will not be of great interest if it is constrained by what is politically possible in the short run. Still, for political philosophy to have any bearing

on reality it must be realistically utopian. It must be constrained by what is politically possible in the long run, or at least by what is economically, biologically or physically possible. It is crucial to be clear on how one sees one's philosophical views constrained through such possibilities, and to remain consistent in one's choice of what kind of possibility constrains one's theorizing.

One implication of what I have just said is that it matters whether we are thinking about immigration in ideal or non-ideal theory. We are assessing immigration under conditions of ideal theory if we assume that in all other regards the world is as it should be as far as justice is concerned. We do so under conditions of non-ideal theory if we assume that in some other regards too the world is not as it should be. For some approaches to global justice questions about immigration arise only in non-ideal theory. Immigration can occur only if there are borders. If in ideal theory there are no borders, there will be no question about acceptable immigration. What such a theory entails for non-ideal cases depends on the nature of the constraints that separate the conditions one finds oneself in from ideal theory. But here I am not interested in theories that hold that ideal theory excludes states. I am interested in theories that hold the opposite. Anybody who accepts that there are states in ideal theory owes a justification of states, one aspect of which is to show how particular principles of justice would apply only to those who share a state. However, any such account does not by itself have strong implications for

immigration. What one can show in this way as far as immigration is concerned is at most that immigration does not have to be entirely unconstrained.²

Is it possible that in ideal theory no moral obligations regarding immigration apply (although states continue to exist)? This will be so if the theory regards immigration as purely remedial one way or another. Immigration will be remedial if it must be granted to people who do not find adequate living conditions where they live, or else if it is seen as a way of aiding development by generating remittances. Remedial immigration does not occur in ideal theory. But it is not a plausible view that immigration is exclusively remedial. Immigration policies problematically limit human freedom. One way of capturing that thought is Martha Nussbaum's version of the capability approach to human flourishing. Nussbaum offers a list of capabilities she considers central to a dignified life. "Bodily integrity" is on her list, and "being able to move freely from place to place" is one instantiation of bodily integrity ((2006), p 76)). An account of global justice that regards immigration as purely remedial could not recognize this kind of moral significance of immigration.

So a theory of global justice should address immigration under both ideal and non-ideal conditions. What such a theory has to say under non-ideal conditions depends on the nature of the deviation from ideal circumstances. Nothing much can be said about it at the abstract level. But without any further complications of that

² Let me elaborate on this point. Below we discuss Blake's (2013) account of what they state is entitled to constrain immigration. Blake (2001) is stage-setting for the debate about whether anything about shared citizenship in a state makes particular principles of justice applicable only among citizens of a state. Blake answers affirmatively, pointing out that shared citizenship involved subjection to a coercively enforced regime of law. But he has made it clear that this answer says nothing about global obligations, in particular not about whether and to what extent the state can limit immigration. It is Blake (2013) that tells us how he thinks about the state's obligations towards would-be-immigrants.

sort the ideal-theory of version of an account of global justice can and must then address immigration.

On Global Justice does so by resorting to humanity's collective ownership of the earth. Part 1 offers an account of the normative peculiarity of the state, the conditions that make it the case that particular principles of justice only hold among those who share membership in a state. The answer is that those who share membership in a state are subject to particular forms of coercion and are expected to participate in a particular form of cooperation. It is under those conditions that rather far-reaching principles of justice govern the distribution of the goods produced under those conditions. But since indeed this kind of answer leaves open what an appropriate response to immigration demands would be, Part 2 turns to collective ownership of the earth to fill that lacuna. States are allowed to exclude people from immigration if they do not under-use their share of resources and spaces. Otherwise they should permit more immigration.

I consider positions implausible according to which it should be up to the discretion of some extraterritorial entities what kind of immigration a state should permit. Such a view would undermine any prospects of the state's building an enduring collective spirit that is needed to maintain trust in every day life. At least that is so if the number of immigration is more than trivial. Once it is granted that states exist in ideal theory the question is only whether they should have complete discretion in the choice of immigration policies, or whether such policies should be subject to moral constraints that could be justified to both the people inside the country and to those outside of it. In that second case we could debate separately

whether the administration of that kind of immigration policy should be done from within the country or perhaps partly from the outside.³ It is that second case that I develop in terms of humanity's collective ownership of the earth.

So *On Global Justice* proposes a solution to the problem that an account of the normative peculiarity of states does not automatically offer a complete account of immigration. One distinctive advantage is that this approach integrates the concerns of those whom immigration policies would exclude. But this solution indeed is in need of further elaboration. More specifically, this proposal must be defended vis-à-vis other accounts of immigration that build on the normative peculiarity of the state, as well as vis-à-vis other views on how to think about proportionality in the distribution of human beings across the earth.⁴

Immigrants need to be distinguished from refugees. Refugees are people who, on account of the political, legal social or economic circumstances in their home country, either permanently or temporarily cannot maintain a minimally decent life there and for that reason relocate. Often such relocation is an outright flight. The reason for such a flight might be war, oppression, or persecution. International law grants refugee status under such circumstances. But it might also be for economic reasons that people cannot make a decent living in their home country. This could be because of natural disasters, mismanagement, or a callous

³ "Perhaps partly:" in cases of conflict in how to interpret the policies in question the state should have a major say, for the same reason that excluded discretionary immigration policies decided by external entities.

⁴ In light of the fact that, below, we will be concerned with Blake (2013) it is worth recording that earlier publications that offered that solution were actually joint publications with Michael Blake – see Blake and Risse (2007) and (2009).

political regime. As opposed to refugees, immigrants wish to relocate even though their lives are not in as dire straits as those of refugees. There will be a continuum between clear cases of refuge and clear cases of immigration. Our topic is immigration, but the line between the two kinds of cases is hard to draw. But what in any event the two cases have in common is that both obligations towards refugees and obligations towards immigrants apply at the level of the global order as such.⁵

3. Let us turn to several other arguments that have recently been offered to show why a state should be allowed to exercise control over immigration into its territory. My aim is to show that attempts to argue in support of the state's right to exclude fail one by one if they do not properly consider the burdens imposed on those excluded by immigration policies. Some approaches fail because they do not consider the burdens imposed on outsiders at all. Some do because they do not consider them convincingly.

Let us start with Blake (2013). Blake's argument has two starting points. First of all, human beings not only have basic human rights, but also have rights to

⁵ *On Global Justice* offers a particular take on the situation of refugees. Human beings are co-owners of the earth. States are permitted to exclude others from their territory only if they (the states) are doing their share to make sure others can make a living where they reside. If people cannot make a living where they reside they cannot be prevented from exercising their liberty rights and move to different location. A case in point is the ongoing refugee crisis in in the Mediterranean, with many people from Africa trying to reach the perceived safety of the European Union by first crossing the desert to reach the shores of North Africa and by then crossing the sea to the Italian island of Lampedusa. A large number of them die in the process. Many of them apparently come from Eritrea, a country that imposes unlimited military service under harsh conditions on its citizens. As co-owners of the Earth these people have a claim against the rest of the world that they receive help where they live (for instance, through pressure on the government to lift these Draconian policies) or else to be permitted to move.

the circumstances under which these rights are protected. Second, everybody has a right to avoid unwanted obligations where they have no obligation to become obligated. Blake argues that what is crucial in the right to exclude is the fact that the state is a territorial and legal community. The state's territory marks out a jurisdiction within which its laws are effective. Somebody who migrates into a jurisdiction obligates its inhabitants to extend legal protection to her basic human rights. But such an obligation constrains the freedom of the current inhabitants.

The question becomes under what circumstances states may refuse to accept new obligations of the aforementioned sort. Blake answers that they are allowed to do so only if the country of origin adequately protects the human rights of its inhabitants. Otherwise, upon entry into another country migrants acquire rights-protections to which they are independently entitled. Force used to prevent that individual from entering is illegitimate. A state's right to exclude people from poor and oppressive countries is generally weak. Blake compares his approach to Wellman's (2008), who allows states to purchase the right to exclude by devoting an appropriate share of resources and efforts to development in poor countries. Blake insists that we cannot justify the use of force against one person by providing benefits to others. Instead, the coerced party itself must be able to accept the use of force without having to identify with the interest of others to an undue extent.

People are indeed entitled to an environment where they can exercise basic rights. Once they are admitted to membership in a state, that state is responsible for making good on that entitlement. (If admission is temporary, that state is temporarily responsible.) But I disagree with Blake's account of the conditions

under which a state may reject would-be immigrants. A first thing to notice is that Blake's account falls silent once poverty and oppression are eradicated. Suppose we live under conditions of ideal theory: all obligations of justice have been met, both domestically and internationally. All, that is, except that questions of immigration remain unsettled. If all other matters of justice have been settled, are people still entitled to move? Blake's account is remedial. People are entitled to enter if their right to appropriate conditions under which to realize their rights is not met where they live. Blake does not say that they are entitled to enter *only* if that is the case. He only gives us a sufficient condition. The necessity-part is not addressed. But the spirit of the discussion is such that immigration is indeed remedial. For that reason I think his answer to the question we just posed must be negative.

We saw that a purely remedial theory of immigration is problematic. Let us elaborate on that point in the context of Blake's theory. Consider a scenario I have repeatedly used to motivate the importance of collective ownership of the earth for matters of immigration. Suppose in the future a mysterious disease makes the population of the US shrink to very few people but does not affect other parts of the world. With the aid of technology these few survivors can keep out would-be immigrants. Let us also suppose that by this time oppression and poverty have been eradicated to such an extent that Blake would agree that nobody on the planet lives under circumstances that entitle her to move. Blake has no way of saying that there is something morally problematic about this situation where the few remaining Americans refuse to share resources and spaces.

This example confirms that we cannot think of immigration as purely remedial. People arguably have a basic entitlement to move around the earth. That entitlement must be pondered against other kinds of entitlements but nonetheless there is a pro-tanto claim to immigration that is not merely remedial. This example also suggests that there is a distributional component to any plausible account of immigration. People should be allowed to move into the depopulated US because the remaining Americans occupy a *disproportionate* share of resources and spaces.

But if in ideal theory we should think about immigration in a way that includes a distributional component then in non-ideal theory such a distributional component will not be completely absent either. It would have to be brought to bear on immigration matters in conjunction with other conditions that pertain under the given conditions. Let us think about immigration under current circumstances. Some would-be immigrants desire to move to a location with special ties to their homeland and that for that reason may have a special obligation to take them. Cases in point would be obligations of former colonial powers. But more commonly people who are determined to leave a poor or badly run country simply wish to join any country that offers security and better prospects. The destination country has no special obligations towards such people. The relationship between such would-be immigrants and their destination country is completely described by the fact that the country would offer them relevantly different living conditions. To the extent that there is an obligation to provide such conditions, all countries that could do so have them, and must divide them up somehow. This point applies regardless of whether the people in question are refugees or immigrants.

Now suppose some such people arrive in country C. On Blake's account, C is obligated to create circumstances where they can realize their rights. In addition, C is not entitled to try to keep them away from its borders so that C could simply avoid a situation where it becomes responsible in the way I sketched. But that does not seem right. C's obligation towards the would-be immigrants is no different from that of any other country that can provide the circumstances under which would-be immigrants could realize their rights. C has an obligation to all people in this kind of situation. And all such people have a claim against countries like C. C has obligations here only as a member of the global order, and the would-be immigrants have claims against the global order, not specifically against C.⁶ C is a duty-bearer only as part of the global order. It should only shoulder an appropriate share of these responsibilities.

If C refuses to accept more immigrants because it has already assumed its share of global responsibilities it does not ask would-be immigrants to identify with the interests of others to an unreasonable extent. It merely asks them to understand the nature of the relevant obligations. Again, there may be cases where would-be immigrants have a special claim towards C. And what C can do with would-be immigrants once they have arrived is constrained by human rights considerations. But none of this detracts from the point that C generally only has obligations as part

⁶ Chapter 11 of *On Global Justice* explains what it means to have obligations to the global order.

of an overall scheme of obligations that apply to the global order. So this again leads us to distributional considerations. Countries must divide up would-be immigrants.⁷

We entered into the reflection of the last several paragraphs with the goal of thinking about immigration under current circumstances. Under current circumstances there is no global arrangement to regulate the distribution of would-be immigrants (or for that matter, refugees). So what is a country supposed to do? This takes us to the debate about obligations under circumstances of incomplete compliance. There are two major views on this matter. One view (e.g., Cullity (2004)) holds that any given agent then has to do more, as much as she can, in fact. The competing view (e.g., Murphy (2000)) holds that she should do as much as she should otherwise, that is, if everybody did comply.⁸

My own sympathies are with the latter view. At the same time, it is also true that it matters precisely what, and how much, it is that one would be sacrificing if one did more than one is required to do under circumstances of complete compliance, and how morally significant it would be if these actions beyond the call of duty were performed. If one is called upon to do more than what one is required to do under circumstances of full compliance, then one should make the more of that kind of effort the less of a sacrifice it would be to do so, and the more significant the matter is. So if we are talking about refugees who are trying to leave a war or drought zone, there will be a strong obligation for wealthy countries to support

⁷ A similar point can also be made against Huemer (2010), who argues that immigration constraints are prima facie harmful and coercive in a way that cannot be outweighed by a range of standard considerations (negative effect on job markets, state's obligation to its poorest, etc.)

⁸ In this context also check Mulgan, *Ethics for a Broken World*

them even if others fail to do so and even if one has already done one's fair share as it would be under ideal circumstances. If we are talking about immigrants who would clearly not count as refugees there would be no reason to do so. And then of course there will intermediate cases.

4. In our discussion of Blake we have seen that there is a need for distributional considerations that emerged from his own way of deriving obligations to would-be immigrants. Let us now turn to accounts that are less hospitable to such obligations than Blake's to begin with. One such account is presented by Wellman (2008). Wellman argues in support of a state's right to restrict immigration in terms of *freedom of association*. On his view, a state is not even required to accept refugees. Wellman offers three arguments in support of this position.

First of all, a right to self-determination entitles countries to associate with others as they see fit. If one denies that legitimate states have such a right, one could not explain why they should not be forced into mergers. For instance, it would presumably be unacceptable to force Canada to join the US. Presumably this would be so because Canadians have the right of freedom of association. But then Canadians should also be allowed to regulate immigration as they see fit. The second argument turns on the significance of freedom of association for people's lives. People care deeply about their country. Therefore they also care about policies that shape how their countries evolve. Wellman considers freedom of association an integral part of self-determination of peoples. As an individual's freedom of association entitles one to remain single, a state's freedom of association entitles it

to exclude foreigners. The third argument – similar to Blake’s -- turns on the weight of responsibility entailed by shared membership in a state. After all, there are special responsibilities of distributive justice among fellow citizens. That generates a good reason to limit the number of people with whom one would share such a relationship. Wellman acknowledges the arbitrariness of one’s place of birth, but denies that this point generates duties of justice that outweigh concerns of self-determination. Even help for refugees takes the disjunctive form of either sheltering them, or else of intervening to create a safe place where they originate.

However, as soon as we have in sight ideas about fairly sharing the earth we also see the limitations of freedom of association as an idea that would allow the state to regulate immigration entirely as it pleases. What this appeal to freedom of association ignores is that people do not associate in virtual space or on an infinite plane, but by occupying parts of a planet with limited space and resources that must be shared among many people. The example of the dwindled population of the US again makes the point. Those people do have freedom of association. However, their association must physically occur somewhere. But since humanity is for the time being limited to this planet, the amount of space that can be claimed by any group that insists on its right freely to associate is subject to limitations. Humanity’s collective ownership of the earth captures that thought.

Notice how this engages Wellman’s arguments. We can ignore the third since it is the same argument that Blake presents. And indeed, the US should refrain from annexing Canada. That is so, at least in part, because Canadians have the right to associate freely. But that does not imply Canadians may take up as much space as

they wish to associate with each other. In fact, both the following claims are true: (a) the US is not allowed to annex Canada, at least partly because Canadians have freedom of association; (b) Canadians must adopt an immigration policy that makes sure they exercise their freedom in an appropriate territory.⁹

Miller (2005) compares immigration to marriage. There is a right to immigrate, says Miller, but it is like a right to marriage: one needs to find a willing partner first. Miller's position is reflected in the UDHR. Article 13 grants the right to leave a country, but not the right to enter a particular country, or even the right to enter *somewhere*. Article 14 merely grants a right to seek and enjoy asylum. But the marriage analogy is misleading. Everybody is presumably free to enter marriage or not because what matters about marriage in the first place is whether the partners see it as an appropriate match. There is nothing in the marriage case analogous to the distributional component in immigration and group association. The reason is that there is nothing in the marriage case that is analogous to natural ownership rights to the locations where the association would have to occur.

One might ask what should happen if Canadians actually refuse to adopt an appropriate immigration policy. Would Americans then be allowed to annex them, as an appropriate response to a moral failure on the side of the Canadians? Or would Americans be allowed to take away from the Canadians a chunk of their territory up to a point where Canadians do occupy a proportionately sized area? They would not,

⁹ For a very different use of freedom of association in the context of the immigration debate, see Lister (2010). Lister uses that idea to argue that all states must allow a degree of family-based immigration, and that this is a duty owed to its citizens, rather than to the would-be immigrants themselves. See White (1997) for general discussion of the connection between freedom of association and the right to exclude.

even if they themselves are in full compliance otherwise. A country does not forfeit its right to existence if it does not adopt a morally appropriate immigration policy. It should also be remembered here that on my account considerations of proportionate distribution are considerations of reasonable acceptability. What can permissibly be done about violations of such matters is more limited than what can permissibly be done about violations of demands of justice.

Things would be different if the US lost much of its territory to climate-change related devastation, but only if it comes to the point that Americans could no longer meet basic needs but Canadians refuse to share their territory. In the 2004 blockbuster *The Day After Tomorrow* climate change suddenly brings about a new ice age in the United States. In response, massive evacuations (in this case not to Canada but) to Mexico take place. In such a scenario there would be a duty of the neighboring country to take people in, and of course then what counts as proportionate use would change substantially. At the same time, unless the evacuation goes into largely unpopulated areas, the jurisdiction of the host state would in principle have to be accepted (assuming that state accepts its obligation to share its space). It should be clear, however, that this is not an entirely academic point. The US, in all likelihood, will not lose much of its territory to climate change any time soon. But other countries are likely to, especially small island states and low-lying coastal countries. Such countries do have similar entitlements.

Wellman's remaining argument is about the importance of self-determination. It is quite proper that people care about how their country evolves, but we must notice again that this evolution occurs in shared space. Within limits

people have discretion to choose immigrants. So the sheer fact that the evolution of a country occurs in shared space does not mean people entirely lose control over the policies that shape their country.

What about the point aid can be provided in different ways? For many obligations it will not matter how the duty bearers make good on them, and this is especially so if we are talking about remedial duties. After all, the point of such duties is to provide relief from hardship. Perhaps a monetary transfer can bring relief. Perhaps relocation can. But again, immigration is not purely remedial. There is an irreducibly spatial and distributional aspect to immigration. Aid can be provided in many ways. But immigration is not merely about aid.

This discussion of Blake and Wellman has made the basic point about the importance of the distributional component of immigration. Let me merely briefly sketch how the same point arises for other authors. Miller (2005) presents two positive reasons for limiting immigration. First, he insists on the importance of a shared public culture that partly constitutes the political identity of people in a given society, something that people have an interest in controlling even as it changes. Moreover, and this is a point quite similar to an argument made by Wellman, Miller thinks the population of a country is rightly concerned with its size because worries about the quality of life and the natural environment relate to population density. Miller's points are valid, but in light of the need to share this planet they cannot be used to infer that the state must be allowed to limit immigration as it sees it.

Pevnick (2011) argues that those who have in the past created a political community have property rights over the institutions that maintain that community. It is for this reason that they can exclude outsiders. Pevnick thinks these property rights sometimes get overruled, but what he has in mind is again a remedial use of immigration. In what by now is a familiar pattern, Pevnick too ignores that ownership of institutions is superimposed on collective ownership of the spaces and resources on which these institutions are erected.

5. Next let me address some objections raised by Malcolm Bull (2013), in his review in the *London Review of Books*. Bull thinks my proposed account of proportionality amounts to a “half-baked” view of immigration:

What sort of average are we talking about, given that any simple average will be skewed by densely populated small island states? Why should the average be more significant than the relative use-rate between countries? And what if there were eventually only one country above the average? Would there then be only one legitimate destination for all the world’s immigrants, even if, blighted by the resource curse (the paradoxical underdevelopment of countries with abundant natural resources), that country were one of the world’s poorest nations? However you calculate it, per capita use-rate is going to be very low not just in North America, but also in places like Russia, Saudi Arabia, Venezuela and the Congo, and very high in small wealthy countries like Singapore, the Netherlands and, arguably, the UK. Currently, net migration to many of the countries in the former category is almost zero, while immigrants pour into the latter. Migrants today aren’t usually looking to stake out a fertile parcel of land. Most are seeking to share the benefits of recent technological and cultural innovations made in other countries – resources specifically excluded from Risse’s calculations. So although his proposal might challenge current immigration policies in North America, it would also permit more restrictive ones in many of the world’s other advanced economies, and eventually channel migrants towards the wastes of Siberia and the jungles of the Congo. Even then, immigrants would not necessarily be able to enter the country; it is merely ‘a demand of reasonable conduct’ that the host country let them in. This would still be the case if, for example, the population of the US shrank to two people able to maintain

border controls with electronic equipment. According to Risse, who returns repeatedly to this scenario, would-be immigrants would not be doing anything unjust if they tried to dismantle the surveillance to enter the country, but neither would the two Americans if they redoubled their efforts to keep the immigrants out. So, if there were a famine in the rest of the world, and everyone sought entry to the United States, the two Americans would be entitled to use their robotic guards to detain the rest of the world's population at the border and feed them their ration of natural resources there – an arrangement not unlike the one currently enjoyed by the inhabitants of the Gaza Strip. It would be unreasonable, but it would not be unjust.

I have quoted Bull at length because he raises good questions that deserve answers.¹⁰ Let me respond to them one by one. Bull asserts that the average per-capita use rate of resources and spaces is “skewed” by densely populated small island states. Let us see what that would mean. That description arguably fits Bahrain, Singapore, Malta, Barbados, Taiwan, Mauritius, the Maldives, Tuvalu and Nauru. Suppose each of these were absorbed by a bigger country with a higher per-capita use-rate. (Each person in those countries has on average more resources and spaces at her disposal). Suppose afterwards the per-capita use rate of the absorbing country is lower than before but still higher than the earlier average across that country (as it was prior to the absorption) and the absorbed country.

As a result, the average per capita use rate across all countries increases: the average person in the average country now has a higher share of resources and spaces at her disposal. After all, the existence of a densely populated small country where the average person has a rather small share of resources and spaces at her disposal slightly decreases the world average across countries. So if densely

¹⁰ Bull mischaracterized my account in other ways that I have addressed in a letter to the editor that appeared in Vol. 35, No 7, 11 April 2013. But his account of my immigration proposal is accurate.

populated small island states disappear, the benchmark average value with regard to which the permissibility of immigration is assessed rises. Among other things, this means it is harder to qualify as an under-using country and that under-using countries have to permit less immigration than in the status quo.

Suppose the number of densely populated island states increases instead. Suppose Santa Cruz del Islote were to declare independence from Colombia, Hong Kong and Aberdeen Islands from China, and Migingo Island in Lake Victoria from Kenya (without joining Uganda). Suppose also Malé were to secede from the rest of the Maldives and Ebeye from the Marshall Islands. These are some of the most densely populated islands. In these cases we would see new states with high over-use of resources and spaces, much above the world average. The average person in the average country would have less at her disposal. It would be easier for a country to be classified as under-using. Meeting immigration demands would be more difficult. Under-users must permit more immigration to reach proportionality.

In a nutshell, the nature of the “skewing” is that the existence of densely populated small island countries decreases the global use average across countries. Thus the existence of such countries increases the demand for immigration elsewhere compared to a situation without such states.

Why would this be problematic? One possibility is that small island states attract populations and generate economic success out of proportion to the size of the land. It would be unfair then that their existence drives up demand for immigration elsewhere since after all, the preferences of immigrants do not reflect a desire to claim certain shares of resources and spaces. But small island states would

probably not be as intuitively troublesome as Bull may think. The relevant measure is not population density but the value for human purposes of three-dimensional regions. Being an island may be disadvantageous if we are talking about a remote place in the path of many storms and for some reason shunned by the fish. But being an island can also be distinctly advantageous for its proximity to fisheries and seabed resources, opportunities to groom tourism, proximity to and unimpeded access to shipping routes, and because of the fondness many people have for living by the water. So often the sheer fact that an area is an island will increase its value for human purposes, at least other things being equal.

I am not sure what else could be problematic about small island states, but if it is that sort of thing, we must postpone a verdict on the seriousness of the problem (if indeed any) until a relatively concrete way of assessing proportionate use becomes available. If ultimately small island states do trigger counterintuitive results, one might either remove them from the calculations to increase the overall plausibility of the results, or decide not to worry too much about such distortions. After all, in light of the general difficulties in seeing through secessions it is unlikely that we will see a significant increase in the number of small island states in the foreseeable future. Moreover, climate change pushes for the opposition tendency.

But why, to return to Bull's questions, should the average be more significant than the relative use-rate between countries to begin with? I take it that the competing proposal Bull refers to under "relative use-value" is this. Suppose people in country A have a lower per-capita use rate than people in country B. So on average they have less access to resources and spaces. People in A should be

allowed to move to B. However, there is nothing morally relevant about this kind of comparison. The natural space in which human beings currently and for the foreseeable future reside is the planet earth. That is the space through which we can readily disseminate with our technology. People in A have a grievance only vis-à-vis their share of the whole. This is the point I made against Blake. Aside from special ties between certain regions (colonialism being the obvious case), we must think about immigration in terms of movement across the planet, not as bilateral activity.

If there eventually were only one country above the average (and thus under-using), to continue with Bull, then this would be the only destination to which immigrants have a claim. If that country were governed very badly, then it might not be smart to relocate there. But that country could not reject people by pointing out that it is “full.” Perhaps the point is that it would be unfair to the residents if more people were to immigrate given that it is because of the failed government that things are bad. Suppose a well-organized group that can take care of its own security decides to immigrate to a badly governed country with the intention of exploiting the resources there, or simply to find a new place to live. They might make arrangements with the government, but ultimately this can be expected to harm the local population. However, there are duties of justice that may trump considerations of reasonable acceptability of the sort that would permit more immigration. If we must suspect that more immigration would undermine a duty of assistance in institution-building, immigration should be suspended.

Or perhaps what Bull has in mind is that scoring high on the scale of value for human purposes is inherently connected to bad governance. But we have no reason

to think that it is. Much more would enter into the calculations to assess that kind of value than resources. Any connotations with the resource curse would be misguided given our current state of knowledge.

Bull is right that migrants nowadays usually seek to share the benefits of recent technological and cultural innovations, human-made resources that I exclude from what needs to be commonly shared. It is correct that my proposal would likely change immigration policies in North America, but may well permit more restrictive ones in other advanced economies, especially Europe. But that seems fair. For demographic and thus self-interested reasons, Europe should encourage immigration. Nonetheless it is a sensible guess that any plausible measure of proportionate use would find Europe much less wanting than the US. But perhaps Bull's concern is that societal wealth also generates claims to shared ownership. That point I discuss at length below.

Finally, Bull worries that immigrants may not be able to enter since it is merely a demand of reasonable conduct that the host let them in. Indeed, in my dwindled-population example, would-be immigrants would not be doing anything unjust if they tried to dismantle the surveillance systems that keep them from entering, but neither would the remaining Americans if they redoubled their efforts to keep them out. Bull is right that if there were a famine in the rest of the world, and everyone sought entry to the US, the Americans would be entitled to use robotic

guards to detain the others and feed them their ration of natural resources at the border.¹¹

It would not be unjust but it would be highly unreasonable. One may wonder how much bite it has to say that. Chapter 17 of *On Global Justice* discusses how different principles of justice would apply to the state. It points out that principles that capture reasonable expectations should only be integrated at a later stage of development than the principles of justice that are concerned with non-domestic matters, at a stage when countries can be expected to contribute to the creation of a mutually acceptable global order. But once such a stage is reached, principles of reasonable conduct concerned with immigration, among other things, should get priority over principles of justice concerned with the relative standing of citizens vis-à-vis each other and regulate inequalities that remain after the preceding principles have been realized. Those demands of reasonable conduct should be discharged – and resources be redirected accordingly -- before remaining primary goods are regulated entirely in terms of domestic priorities.

Would this be enough to make sure that would-be immigrants who are entitled to entry as a matter of reasonable conduct would be able to enter? Perhaps not. But keep in mind that our subject matter is principles of justice and reasonable conduct. The world obviously is not just. So even if something were a matter of justice there is a guarantee that it be done only to the extent that those who can

¹¹ I have nothing to say regarding the Gaza-reference: obviously there are other things going on in the Israeli-Palestinian conflict which make the distribution of the population across the region in question potentially problematic.

make it happen prioritize the relevant measures in their actions. Justice, in that regard, is no different from reasonable conduct.

6. Anybody who thinks my proposal can be defended against the kind of objection raised by Bull and also looks promising in the debate with Blake, Wellman, Miller and Pevnick might nonetheless wish to develop that account somewhat differently. Distribution of population in terms of proportionality is all well and good, an objector might say, but the resources with regard to which we make such calculations must include human creations. The motivation for this is not even primarily that immigration tracks societal wealth rather than natural resources and spaces. The motivation is that for any new generation, natural and societal resources are alike in a fundamental way: that generation has not done anything to create either sort. For them, all of these resources are like manna from heaven.

Suppose humanity must evacuate the earth and eventually reaches a new planet occupied by an advanced civilization. The indigenous population recently went extinct on account of an infection from which all earth organisms are immune. Human understanding is advanced enough for them to comprehend how to use the technology left behind by these beings. Those societal resources are a windfall. As they think about distribution, the newly arrived earthlings should treat natural and societal resources alike. But every generation of new human beings on earth is like the new arrivals on that planet. They find both natural and societal resources that from their point of view simply exist without being the accomplishment of anybody in that generation. Or so the objector may elaborate.

A first response is to return to the three starting points for my development of humanity's collective ownership of the earth (chapter 6 of *On Global Justice*): the satisfaction of basic human needs matters; the resources and spaces of the earth are needed by all for survival and for all human activities to unfold; those resources and spaces are nobody's accomplishment. Based on those starting points I have argued for Common Ownership as the most sensible conception of collective ownership, drawing partly on its minimalist credentials and partly on the weaknesses of competing conceptions.

Societal resources on earth differ from natural resources in three ways. To begin with, they are *somebody's* accomplishment. Secondly, they were generated in a social context that made their creation possible by allowing for the accumulation of knowledge and the emergence and nurturing of skills. These social contexts sometimes disappear when societies collapse and vanish. But even when societies are conquered or otherwise absorbed there often remains much continuity. The societal contexts that make the creation of artifacts possible involve currently living people differentially. Some are involved in the maintenance of a culture that permits for the relevant kind of production. But others are not.

Thirdly, the sense in which natural resources and spaces are needed is also importantly different from how societal resources are needed. Any newborn baby will perish unless it has access to resources and spaces in some way, but also if it does not receive basic care and thus becomes a beneficiary of societal resources in some way (if only by getting to avail itself of its mother's care-giving capacities). But in the case of natural resources we can, and must, naturally describe the sense in

which those resources are needed as including the earth system as a whole. At this stage of its geological history, the earth is hospitable to human life. Some regions are more hospitable to humans than others. But even for those parts that create the conditions under which human life can flourish it would be inappropriate not to think of the favorable conditions as part of an earth system. The earth as a whole is the natural habitat for human beings as a species. Thus it is the habitable conditions that the earth as a whole currently provides that human beings need for survival, much as the human has needed them to rise in the first place.

That is very different for societal resources. Families, tribes, nations or other cultural niches provide the context where somebody needs societal resources. We need not think of the cultural sphere generated by humanity as such to articulate the thought that human beings need societal resources as much as they need natural resources. For much of human history most communities of human beings would have readily survived if 95% of all human beings (those not closely connected to their cultural niche) had simply disappeared from this planet. In fact, the remaining 5% might not have noticed.¹²

These differences notwithstanding the objector may still insist that, after all, *for any new generation* of human beings societal resources are like natural resources in what matters most: *they have not been created by them*. This is a central moral equivalence between natural and societal resources that does not vanish because of dissimilarities. Suppose Nazaire and Nicholas are born the same day, Nazaire in Haiti and Nicholas in the US. Both are on a par as far as natural resources are

¹² Examples where societal resources were not needed: Romulus and Remus, Rousseau, K. Hauser.

concerned, but also regarding the societal resources of the US and Haiti: neither has done nothing to create any those. Nazaire and Nicholas have the same claims to the overall heap of (natural resources and spaces + societal resources of the US + societal resources of Haiti). But according to *On Global Justice*, Nicholas would be brought up as a person with entitlements to the societal resources of the US, and Nazaire as a person with entitlements to the societal resources of Haiti. One might emphatically ask now: how could this be just?

7. To answer that question, let us look more closely at Nazaire and Nicholas. On their birthday, they enter the world with certain claims. Grounded in common humanity they can make certain demands against the rest of the world, and qua human beings they become co-owners of the earth. Since neither has done more or less than any other human being to create the resources and spaces of the earth, the boys acquire the same claims to those resources and spaces that all other humans have had, currently have, and continue to have. If *per impossibile* Nazaire and Nicholas entered a world without any human imprint, they would still have the same claims the day after their birthday, and on all subsequent days, though only against each other. But we live in a world with human imprint, where the normal case is that babies receive attention from parents or possibly other caregivers around them.

Crucially, Nazaire and Nicholas also have claims against their parents. This is where they begin to differ. Qua human beings they have the same claims, and against the same people (everybody). Qua children they have claims against their *respective* parents. Nazaire and Nicholas have claims to protection and care against

the people who made the decision to bring them into the world, or anyway, who made decisions that immediately caused them to come into the world. To do the best they can in this regard, Nazaire's and Nicholas' parents respectively will have to enlist the support of their communities. Generally, it is impossible for parents to raise children otherwise. For children to be able to get by in life normally means to be brought up to function at least reasonably well in their cultural niche. So Nazaire and Nicholas have claims against their respective parents to bring them up in such a way that they can do okay in the cultural niche they are most likely to inhabit.

So from the first hour onwards, Nazaire and Nicholas should be treated as growing members of different human communities. Human communities are composed of members of different ages. Some members are in their prime and maintain and decide on the fate of the community. Others are fading away from it, yet others are growing into it. Since human beings naturally live in communities, growing members of these communities have claims not only against their parents to be provided with protection and care. They also have claims against their communities to be supportive throughout this process of socialization. Often young humans grow into different communities simultaneously, perhaps a religious group, a linguistic group (or two) and a political group. All of them have collective obligations to be appropriately supportive in this process. But much as Nazaire and Nicholas have claims to parental care to *different* parents, they also have claims to communal care to *different* communities. Nazaire is a growing member of the political community of Haiti. Nicholas is a growing member of the political community of the US. This of course is a situation that has not arisen on account of

choices they have made. Nonetheless, there is great moral relevance in their relationship with their parents and their communities. The absence of choice does not undermine that claim.

Let us return to the differences between societal and natural resources. First of all, societal resources are somebody's accomplishment, whereas natural resources and spaces exist independently of human accomplishment. But since human creations are somebody's accomplishment, different members of a new generation will have differential entitlements to them even though they do not have differential entitlements to natural resources. This happens via differential claims against those who already have differential claims to societal resources. For a newborn child this would be the case via claims against their parents and communities. Nazaire has claims to certain accomplishments that Nicholas does not have, and vice versa, because at the moment they are born they have claims against parents and communities.

The second difference is that societal resources (at least those on earth) are generated in a particular context that often persists in some way and thus involves people differentially. This claim is not true of relics of earlier civilizations found in excavations, or of antiques that continue to circulate but can no longer be produced, or of artistic creations from bygone eras. However, this claim will be true of many things we use in our lives. This matters as we reflect on the differential entitlements of Nazaire and Nicholas.

At the moment of birth the two of them acquire differential entitlements via claims against their parents. But these parents do not hold differential shares of

man from heaven. They hold different shares of human-made products that require a cultural context to be made. Anything humans make requires at least some skill, some understanding, and often a certain infrastructure. Frequently it takes considerable skill, much understanding, and a sophisticated infrastructure. To a large extent it is the cultural context that encourages or discourages the development of particular capacities. This is why trade is often productive on all sides: each side gets to take advantage of what it can do best (relative to its own abilities) and uses that ability to acquire goods and services through trade that in turn others are best at producing.

But such cultural contexts require maintenance and development. As Nazaire's and Nicholas's parents and their communities make good on their obligations to raise their children to be functioning members of their community, they ipso facto socialize them into becoming capable of playing some role in maintaining and developing the cultural practices before which the goods and service are produced that they have in their lives. In the early stages of this process they will receive a lot (which is also owed to them, as we noted). But as time passes they will be expected to take over more and more responsibilities. To be sure, this process unfolds in multifarious ways in any given culture. In some cases it fails altogether. But in most cases these efforts meet at least with some success.

Eventually Nazaire and Nicholas are expected to assume obligations towards the community that has hopefully discharged its own obligations towards them. This also mean the will start participating in a shared stewardship of the cultural resources of their respective society and hold a claim to those resources that

members of the community share with each other, but not with those who are not part of that culture. In the course of their upbringing, that is, Nazaire and Nicholas acquire stakes in different cultural contexts that enable the creation of different human products. Put simply, they acquire and maintain cultural literacy in different niches.

The third difference is that it makes sense to say individuals require for their survival and for all their activities the earth as a whole, but it does not make sense to say they require the sum total of human accomplishments. People require for their survival and for their activities the more culture-specific resources provided by their cultural niche. In addition to the two points already made, this means Nazaire and Nicholas acquire a special relationship with the cultural resources provided by their environment: their cultural contexts gradually make them into the people they ultimately become. They stand in a formative relationship with their respective cultural resources. But Nazaire does not stand in that kind of relationship with Nicholas's cultural context, and vice versa.

Before this background, and given the features that are constitutive of a political community generally (a particular kind of cooperativeness and coerciveness), eventually Nazaire and Nicholas will be able to raise certain complaints against their environment as appropriate. They can protest if their environment favors some who have been brought up in it much more than it favors others. For instance, they can complain about inequality of opportunity on the education front, or against excessive inequalities in the distribution of goods. But

these are complaints against their respective communities, not against the community of the other.

So appearances notwithstanding, at birth Nazaire and Nicholas acquire very different claims. That is because they acquire claims against their parents, who in turn are generally situated in very different ways. Our discussion has also shown that natural and societal resources are very different when it comes to entitlements children acquire at birth. Any two children do not differ at birth when it comes to entitlements to natural resources. But they do differ when it comes to entitlements to societal resources. I have deliberately selected my two characters to come from Haiti and the US to make this reasoning maximally problematic. The US is one of the richest places on earth, whereas Haiti is the poorest country in the Western hemisphere. So does my argument not merely glorify the status quo?

Of course, the status quo must change substantially. For one thing, both Haiti and the US will have to reform internally quite a bit to be just societies. In addition, there are obligations deriving from other grounds of justice, including common humanity, collective ownership of the earth, shared subjection to the trading regime and membership in the global order. A reform of the world's political and economic system should proceed along those lines. Once all that has been done, there will no longer be anything problematic about Nazaire and Nicholas acquiring differential entitlements at birth. In our unjust world, being born in locations as dramatically different in terms of average life prospects as the US and Haiti also means being born in locations that vary in terms of how much the average person suffers from the world's injustices. But a proper response to that situation is not to argue that at

birth any two children acquire the same entitlement to all global societal resources. A proper response to that is to make the world more just, for which in turn *On Global Justice* makes a suggestion that I just sketched very roughly.

8. So societal resources are indeed rather different from natural resources in morally significant ways. Since we have seen that two human beings readily have differential claims to societal resources, they need not be added to the collectively owned pool.¹³ However, there is another line of objection to which we must now turn. That line agrees that it is natural resources and spaces (rather than societal resources) with regard to which fairness in the distribution of people across the earth should be determined. But instead of proportionality a different manner of assessing that distribution should be employed, one that focuses on the multifarious ways in which natural spaces and resources are integrated into people's culture.

Kolers (2009) uses the term "ethnogeographic community" to emphasize that, over time, communities adopt particular land-use patterns through which they control and shape space, which in turn affects their cultural patterns. Their conception, or "ontology," of land materializes through acts of bounding, controlling and shaping space. So an ethnogeographic community is a group of people who share densely and pervasively interacting land-use patterns as well as such an ontology of land. One example of a non-mainstream ethnogeographic community

¹³ A related question that arises here is under what conditions refinements applied to natural resources also become part of the common pool. To that question *On Global Justice* already provides an answer – look up details, but it's about if in due course others could have and would have added the same refinements.

that Kolers offers is the Bedouins. What is distinctive about them is not religion, ethnicity or language. Instead, it is the way they interact with the land on which they make their lives.

An ethnogeographic community can lay claim to a region to the exclusion of others if it has demonstrably achieved plentitude in that region and if there is no competing right of that sort to the territory. Plentitude may be empirical or intentional. Empirical plentitude captures the internal diversity and complexity of regional land-use patterns, and how they differ from such patterns elsewhere. Intentional plentitude captures the projects that agents have with regard to enhancing or maintaining empirical plentitude in a region. A community achieves plentitude if by their own standards their land-use patterns push the use of the land to its limits. Ethnogeographic communities can legitimate their claims to territory “by demonstrating that the fullness of the territory has been formative in their own identity, and their projects have been formative of the place itself” (p 137).

Kolers is not concerned with immigration directly. Nonetheless his view permits a global standpoint to think about immigration. That standpoint prescribes whose ontology of land matters in a region, and thereby also tells us when the distribution of people across the earth is fair. If a community achieves plentitude by its own standards, then presumably it need not have to permit immigration. Kolers extensively discusses how to assess competing claims to a region. The details do not concern us. Crucially, this way of thinking about immigration is very different from what is presupposed in the kind of proportionality my account makes central. Kolers denies that we need a universal criterion of use. Instead we need a

universally fair way of testing criteria of use. The idea of plentitude is meant to do this work.

Kolers' account is very sensible in many ways, and to the extent that it is, we can see how natural it is to make room for attachment to one's native region also in an account of immigration. People are not merely deeply attached to the land on which they make their lives, but people and regions stand in an interactive relationship. To the extent that communities have a mentality, it has been shaped by what their region permits or forces them to do to make their lives. It matters whether people live in mountainous regions, by the sea, or in the desert, and it matters whether the climate is harsh or moderate. It matters whether people live in wide-open spaces or in difficult terrain that limits unimpeded movement to confined areas. It also matters if life is shaped by an ongoing struggle to bring water to the house, by efforts to find shelter from storms, by challenges of fending off water-related diseases, by the hardship caused by infertile soils, or by the fortunate absence of all of these. Just how all this matters depends on many factors – Montesquieu and Rousseau famously thought one way in which it matters is appropriateness of forms of government -- but all this is far too large a topic for us to explore. But through such challenges, people also shape the land in their own image, and thus over generations develop an intense interactive relationship with it.

Location matters in many ways as well. Certain regions have been staging areas for armies over millennia because geographical factors limit where an army can pass through. Some regions have been able to produce goods that proved so irresistible to others that they would make long hazardous journeys to acquire

them, and project force around the world to conquer the territories where they are produced. Other regions have proved inhospitable to foreigners, strategically remote, or without potential to produce goods that others desire. These factors too matter deeply for shaping a people's trajectory, and in turn create highly differential opportunities or necessities for them to interact with their natural environment.

Unsurprisingly, attachments to the land run deep. Much poetry and many novels make the land central, and much art celebrates it. Even to the extent that people voluntarily leave the land to which they have grown accustomed to find better prospects elsewhere, they normally do not do so lightly (unless perhaps they have been pervasively treated there as inferiors all along so that their subordinate status itself has become associated with the land). If people are forced off land that has been formative to their character, this frequently is a reason for ongoing hostility or at least mournful reminiscence. History has been replete with episodes of violent displacements, not least of all the 20th century. Many readers will have encountered some of the individual fates produced by these upheavals, either personally or through testimony or in reality-inspired fiction. Separation from the native land always features prominently in such accounts.

In many ways, Kolers' account and mine are complementary. My account of collective ownership of the earth and proportionate distribution of people across the planet has nothing to say about why people would have entitlements to living *here* rather than *there*. It does not characterize the ways in which people are being shaped by the region they occupy and vice versa, or explore the importance of that process. But my account also offers no resistance to such accounts. There is nothing

problematic from the standpoint of justice for people to settle down somewhere and preclude others from taking up the same territory. Nonetheless, such takings occur on a shared planet. It is that thought that my theory articulates.¹⁴

A major target for Kolers' discussion is what he calls the Anglo-American ethnogeography he claims has been adopted by nearly every mainstream Anglo-American philosopher in the last several centuries. This ethnogeography

treats land as the passive object of human activity and ignores all forms of value that are not easily priced on the market. These assumptions ignore the dynamic, bi-directional relationship between people and land – the mutually formative interactions between people and their habitat – and therefore hide the fact that it is impossible fairly to compare the holdings of persons across economies or ethnogeographies. (p 64)

My account is quite different from this characterization and thus does not constitute advocacy for an Anglo-American ethnogeography. My guiding idea is that we need to find a way of assessing the value for human purposes of three-dimensional parts of the world. That can sensibly be done only if we do not ignore forms of value that are not commonly priced on the market. So my account urges us to think about valuations that are non-standard in terms of what is commonly done. At the same time, my account proposes non-standard evaluations that are meant to *expand*

¹⁴ Kolers' account and mine diverge when it comes to the claims of people on land lost to climate change. In Risse (2009) I have argued that people on disappearing island nations have a right to relocation. As individuals they have such a claim as a matter of justice. But my account does not deliver a collective right of a whole people to relocate to the same place. This will be possible only if considers of proportionate use permit it. The rest of the world does owe these people a new home, and is does owe them efforts to try to make it possible that the disruption inflicted on their lives (which of course is already dramatic) is does become worse through relocation to an area that does not support their life patterns or by breaking them apart. But this will not in general mean that they can *all* relocate to the same place. Kolers (2012) has argued (both against Risse (2000) and against Meisels (2009)) that this kind of approach, in virtue of its individualistic outlook, mischaracterizes the nature of the wrong inflicted on those who lose their lands.

market perspectives. It does not downplay the importance of markets but brings more aspects of our natural world under the purview of market-based pricing.

However, the motivation for doing so is (and is only) that we share a planet and therefore require some way of making sense of competing claims to space and resources. Among other things, and *pace* Kolers, we do need comparability across groups to regulate immigration. However, my proposed measure of proportionate use is pragmatic. In fact, my argument against the Equal Division conception of collective ownership of the earth in chapter 6 of *On Global Justice* is that defenders of that conception need a measure for comparing bundles of resources and spaces of the earth that is beyond reasonable contestation, but that such a measure is unavailable for substantive (not merely epistemic) reasons. So I use this kind of measure only as a rough guide to obtain an assessment of when would-be immigrants can be fairly rejected.

Still, we need such a measure to assess when claims to spaces and resources unacceptably infringe upon claims of others. Kolers' account allows for some people to take up rather disproportionately large regions of the earth if this fits their ontology. Or, to articulate the concern without talking about a notion of proportionality that is alien to Kolers' account, his account allows groups to take up space on earth regardless of how their claims bear on the claims of others. To be sure, he does address the case where different ethnogeographies make claims to the same territory, and offers helpful advice. But it would be hard to see how, on this account, a group of people who live elsewhere could have a claim to entry simply because of their currently highly crowded situation.

Also notice that these ontologies of land have often been acquired at times when many fewer human beings existed and thus when demands on shared spaces and resources were more limited. But such ontologies can only be of restricted reach in the present era of high-density populations, a tendency exacerbated by the threat posed by climate change to many human living spaces. To be sure, my account is much less hospitable than Kolers' to the claims of many indigenous populations whose ontology of land is very different at least from that behind the Anglo-American ethnogeography (which, I hasten to repeat, is in turn rather different from what I am proposing). But these normally are among the ontologies that have developed at times when many fewer human beings made claims to spaces and resources.

Of course the claims of such ethnogeographies must be integrated somehow. In light of the importance of having a universal criterion I propose to think of cultural patterns that cannot be captured by a pragmatically-minded measure that generates cross-cultural comparability as non-standard scenarios that must be *accommodated*. That is, I propose to treat such patterns in a manner parallel to how special rights of some minorities should be accommodated in liberal states. Where Kolers emphasizes the local interconnectedness between land and people, my account emphasizes that we live on a shared planet and will need to work out a criterion for a sensible division of space in some ways. I believe that for the problems we are facing in this century, this is a key perspective.

9. Let us conclude. I have argued for the significance of humanity's collective ownership of the earth for immigration. Generally, my concern has been to throw more light on my account of immigration in *On Global Justice* that makes collective ownership central. My three major points are as follows:

1. Contrary to philosophers who believe they can supplement an account of the normative peculiarity of the state with an account of immigration that does not take a global standpoint, I have argued that such a standpoint is needed and must articulate an idea of proportionate use of the earth.

2. Contrary to those who agree with my proposal that proportionate use of the earth matters to immigration but insist it must be proportionate use vis-à-vis a common pool that also includes societal resources, I have argued that that common pool should not include societal resources. Societal resources differ importantly from natural resources.

3. Contrary to Kolers (2009), who thinks the fair distribution of people across the earth should be articulated in ways different from proportionate occupation, I have argued that his account of ethnogeographic communities does not undermine the significance of humanity's collective ownership for the earth for immigration.

Literature

Blake, Michael. 2013. "Immigration, Jurisdiction, and Exclusion." *Philosophy and Public Affairs* 41, 103-130.

Blake, Michael. 2001. "Distributive Justice, State Coercion, and Autonomy." *Philosophy and Public Affairs* 30:257-96.

Blake, Michael, and Mathias Risse. 2009. "Immigration and Original Ownership of the Earth," *Notre Dame Journal of Law, Ethics, and Public Policy* 23 (1): 133-167.

Blake, Michael, and Mathias Risse. 2007. "Migration, Territoriality, and Culture," in *New Waves in Applied Ethics*, ed. Jesper Ryberg, Thomas Petersen, and Clark Wolf, Ashgate Publishers: 153-182.

Bull, Malcolm. 2013. "Help Yourself." Review of Mathias Risse, *On Global Justice*. *London Review of Books* 35 (4), Feb 21, 2013, 15-17.

Cullity, Garrett. 2004. *The Moral Demands of Affluence*. Oxford: Oxford University Press.

Huemer, Michael. 2010. "Is There a Right to Immigrate?" *Social Theory and Practice* 36: 429-61.

Kolers, Avery. 2012. "Floating Provisos and Sinking Islands." *Journal of Applied Philosophy* 29 (4): 333-343.

Kolers, Avery. 2009. *Land, Conflict, and Justice. A Political Theory of Territory*. Cambridge: Cambridge University Press.

Kukathas, Chandran. 2005. "The Case for Open Immigration," in Andrew I. Cohen and Christopher Heath Wellman (eds.), *Contemporary Debates in Applied Ethics* (Malden, Mass.: Blackwell), 207-20.

Lister, Matthew. 2010. "Immigration, Association, and the Family." *Law and Philosophy* 29: 717-745.

- Meisels, Tamar. 2009. *Territorial Rights*. 2nd edition. Dordrecht: Springer.
- Miller, David. 2005. "Immigration: The Case for Limits," in Cohen and Wellman (eds.), *Contemporary Debates in Applied Ethics* (Malden, Mass.: Blackwell), 193-206.
- Murphy, Liam. 2000. *Moral Demands in Non-Ideal Theory*. Oxford: Oxford University Press.
- Nussbaum, Martha. 2006. *Frontiers of Justice: Disability, Nationality, Species Membership*. Cambridge: Harvard University Press.
- Pevnick, Ryan. 2011. *Immigration and the Constraints of Justice: between Open Borders and Absolute Sovereignty*. Cambridge: Cambridge University Press.
- Risse, Mathias. 2012. *On Global Justice*. Princeton: Princeton University Press.
- Risse, Mathias. 2009. "The Right to Relocation: Disappearing Island Nations and Common Ownership of the Earth." *Ethics and International Affairs* 23 (3): 281-330.
- Wellman, Christopher. 2008. "Immigration and Freedom of Association." *Ethics* 119, 109-141.
- White, Stuart. 1997. "Freedom of Association and the Right to Exclude." *Journal of Political Philosophy* 5: 373-391.