

Humanity's Collective Ownership of the Earth and Immigration

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ABSTRACT

In my 2012 book *On Global Justice*, I argued that humanity's collective ownership of the earth should be central to reflection on the permissibility of immigration. Other philosophers have recently offered accounts of immigration that do without the kind of global standpoint provided by collective ownership. I argue here that all these attempts fail. But once we see how humanity's collective ownership of the earth can deliver a genuinely global standpoint on immigration, we must also consider two alternative ways of offering such a standpoint. First, some have argued that any given generation should be regarded as inheriting both the natural and the societal wealth of humanity. The second alternative invokes ethno-geographic communities characterized by particular land-use patterns. This approach would deliver a global standpoint on immigration by determining which community gets to select the land-use pattern for a given location. I argue that thinking about immigration from the standpoint of collective ownership of the earth is superior to both of those alternatives. While advancing a standpoint from which to think about questions of immigration/migration, this article also offers explanations to situate its themes in the current philosophical debate and cover quite a range of topics in the debate about immigration. No prior acquaintance with *On Global Justice* is presupposed here.

SECTION I

The European migrant crisis began in 2015, when an increasing number of migrants traversed the Mediterranean or Western Asia to reach countries in the EU. Hundreds and probably thousands have died in the attempt, many when their boats sank in the unruly waters of the Mediterranean. The US and Australia too have long been prominent destinations of migrants, of course. As the 21st century progresses, climate change will generate new population movements. Generally, migration and immigration will be among the defining topics of this century. Does political philosophy have anything to say about such population movements?

My 2012 book *On Global Justice* (hereafter *OGJ*) devotes much room to an idea that was the pivotal thought in the political philosophy of the 17th century but has since attracted less attention: that humanity collectively owns the earth. That idea helps with the question I just posed. By *ownership*, I hasten to add, I do not mean here the concrete provisions of ownership in the civil law. Practical speaking we can think of ownership as *intergenerational trusteeship*. With that idea developed in a secular and (hopefully) plausible manner, the book explores several contemporary issues in its light, among them climate change (if humanity owns the planet in common, this must have implications for what we should do about cleaning up the atmosphere, and who should bear the costs), obligations to future generations (ownership of the planet stretches over generations, making the present one caretakers for future generations), and finally *immigration*.

As far as immigration is concerned, *OGJ* formulates an account of *proportionate use of collectively owned resources and spaces* and argues that a country that underuses its share ought to admit more immigrants. If we think of immigration in terms of population movements across a collectively owned planet, we recognize that immigration policies are not entirely discretionary. That is, it is not exclusively up to a state to decide what kind of immigration it wishes to have. Instead, contrary to current political practice, immigration policies must be assessed from a global standpoint, the stan-

dard of assessment being whether policies accommodate a proportionate number of people.¹

A common reaction has been that *OGJ* overstates the significance of collective ownership for immigration. My approach ignores what motivates migrants: people move to live in a safer environment or a stronger economy, not to enjoy shares of resources or spaces. But what *motivates* people and *what is permissible or obligatory* are different topics that we must explore on their own terms. Here I aim to develop my approach further by defending it against the charge of overstating the importance of collective ownership of the earth for immigration. I hope to be able to show that reflection on collective ownership is essential for sound theorizing about immigration, and thus also for sound theorizing about the population movements with which we began. I also hope to demonstrate that reflection on collective ownership generally is an important and currently neglected idea in political philosophy.

Since this essay is for a general readership, section 2 introduces my approach to global justice. In an introductory spirit, section 3 then reflects on how to integrate questions about immigration into a theory of global justice, developing the distinction between ideal and non-ideal theory. Section 4 explains what role there is in debates about immigration for collective ownership of the earth. Sections 5 and 6 engage with some contemporary authors who offer an account of immigration “one state at a time.” All identify good reasons that entitle states to restrict immigration. These approaches turn out to be incomplete or misguided for failing to consider immigration from a genuinely global standpoint. Theorists who accept states and their right to exclude must wonder about the costs imposed on non-members by maintaining such a system, “costs,” that is, consisting of the denial of entry to some who would like to move to the respective country. Reflection on collective ownership fills that lacuna.²

However, my response to those authors generates an objection that cuts to the core of my approach. Suppose I am right that we need a view of the fair distribution

1. Oberman (2011) states that there is a consensus in the literature that wealthy countries can choose between allowing people from poor countries to immigrate and helping them where they are. My view is not part of that consensus. Under-using countries should permit immigration.

2. For most of the social science and legal literature on immigration the question of whether states are allowed to constrain immigration at all does not arise. Readers who approach the philosophical literature before this background may therefore be surprised about the extent to which the sheer acceptability of immigration constraints has become a philosophical problem. A symptomatic recent statement by a social scientist working on immigration is this: “Only from the wilder shores of libertarianism and utilitarianism can it be argued that immigration controls are ethically illegitimate” (Collier (2013), p 246). Much of the philosophical interest in immigration has been fueled by the fact that that same view can also be supported from less “wild” shores.

of people across the earth to articulate a globally acceptable stance on immigration. Agreement this far does not by itself imply that we should develop such an account entirely in terms of proportionate use of *resources and spaces*. First of all, one may argue the proportionate distribution should involve proportionality vis-à-vis *overall wealth*, including both natural and societal wealth. Sure enough, the argument goes, any new generation has done nothing to create natural resources. But nor have they done anything to create any societal wealth. So, much like natural resources, inherited societal wealth should be seen as collectively owned by humanity as a whole. This is a powerful objection that would radically alter how my approach bears on immigration. In response, sections 8 and 9 discuss the differences between societal and natural resources. Contrary to those who agree that proportionate use matters to immigration but insist the common pool includes societal resources, I argue that pool does in fact exclude such resources.

Yet another account does agree that it is indeed natural resources and spaces with regard to which we should assess the distribution of people. But instead of proportionality, another manner of assessing that distribution is employed. Political theorist Avery Kolers (2009) uses the term “ethno-geographic community” to emphasize that communities adopt land-use patterns to control and shape spaces, patterns that in turn shape their culture. Their conception (“ontology”) of land materializes through acts of bounding, controlling and shaping space. Kolers’s view permits a global standpoint, one that prescribes whose ontology of land matters in any given region and thereby determines fairness in the distribution of people without drawing on considerations of proportionality in any way. I discuss Kolers’s account in section 10, but I argue that his account of ethno-geographic communities fails to undermine the significance of collective ownership for immigration. Of the three different ways of developing a global standpoint on immigration, then, I hope to persuade the reader that the concept of collective ownership of the earth is most plausible and worthy of more attention in the globalized world of the 21st century.

Before we reach the discussion of these two alternative ways of devising a global standpoint, section 7 responds to some substantial objections to my account of collective ownership of the earth raised by Malcolm Bull’s 2013 review of *OGJ* in the *London Review of Books*. Responding to his concerns here serves the purpose of clarifying important aspects of my approach. My discussion of Bull’s objections benefits from the discussion of competing proposals on immigration in sections 5 and 6. Section 11 concludes.

SECTION II

Let me locate *OGJ* in the global-justice literature. Justice has been a major subject in Western philosophy since Plato and Aristotle. Generically, justice is impartiality in the assessment of what is deserved. One kind of justice is distributive justice. The meaning of “distributive” justice has varied enormously throughout history, but in recent times its guiding question has come to be about the ways political and economic institutions are arranged and thus about how benefits of social cooperation accrue to individuals. According to a common view, demands of justice are the most stringent ingredients of morality: what justice requires has priority and permits fewest compromises.

Many philosophers think we must stand in a rather dense relationship for such demanding consideration to apply. For instance, they do not think that being loosely connected at the global level through trade relations even implies the need for considerations of justice. As opposed to that, a situation of shared citizenship has struck many as the kind of relationship, and in fact as the only one, where considerations of justice do apply. That is, questions about just distribution arise among citizens, but not among people who do not share the same state. Mexicans among each other, Americans among each other, or Japanese among each other stand in what we might call a justice-relationship; they can debate with each other how to distribute what they create together. But a group consisting of Mexicans, Americans and Japanese is not jointly subject to the same principles of distributive justice, whatever those may be.

In a politically and economically highly interconnected world, we must ask what justice requires globally. As an alternative to the traditional view just sketched *cosmopolitan* views have arisen which apply distributive justice to all human beings—either because the right political and economic structures within which justice applies is not the state, but the global order or world society, or else because justice applies to all human beings as such, regardless of any structures. But neither the traditional nor the cosmopolitan approach is satisfactory. The traditional view overemphasizes the importance of states; the cosmopolitan view is too dismissive of their importance. *OGJ* rejects both approaches and instead recognizes different considerations or conditions based on which individuals are in the scope of then different principles of justice. Finding a convincing alternative to those two aforementioned approaches to

my mind is the most important challenge contemporary political philosophy faces, one that reflects the significance of the political issues at stake.

My view in *OGJ*, and thus my own attempt at meeting the aforementioned challenge, recognizes the existence of multiple *grounds* of justice. Grounds are the properties of individuals that make it the case that particular principles of justice apply to them. *OGJ* seeks to present a foundational theory that makes it plausible that there could be multiple grounds and defends a specific view of the grounds I call *pluralist internationalism*. Pluralist internationalism grants particular normative relevance to states but qualifies their relevance by embedding the state into other grounds associated with their own principles of justice and by imposing additional obligations on those who share membership in a state. The grounds I discuss are shared membership in a state, common humanity, shared membership in the global order, shared involvement with the global trading system and humanity's collective ownership of the earth. There may well be other grounds, but our political realities make these five especially relevant. *OGJ* explores these grounds, proposes particular principles applicable to them, and demonstrates the fruitfulness of this approach to justice by thinking through what it implies for a range of challenges that come up for moral evaluation.

What may seem an unexpected item on my list of grounds is humanity's collective ownership of the earth. The idea that humanity collectively owned the earth was the pivotal thought of 17th century political philosophy. Authors such as Hugo Grotius, Samuel Pufendorf, John Selden, Robert Filmer, Thomas Hobbes and John Locke all had views on the matter. It is unsurprising that collective ownership became so important then. The 17th century was when European colonialism came into its own. Genuinely global questions arose for European thinkers for the first time then, if only regarding their interaction with each other in far-away lands. The central source for humanity's collective ownership of the earth was the divine gift of the earth recorded in *Genesis*. In those religiously troubled times the Old Testament was as credible a foundational text as was available in that debate.

The concept of humanity's collective ownership of the earth is worth revitalizing even though we must now do so in a secular manner so as not to preclude its general acceptability from the outset. Such a revitalization is both feasible and tremendously important. At this stage in history, humanity confronts problems of planetary proportions. The destruction of our habitat is possible. In response political philosophy must make the planet as such central to reflection. The collective ownership involved

is more abstract than ownership in the civil law. The point is to articulate the idea that the earth's resources and spaces are needed by all humans for everything we do whereas their existence is nobody's accomplishment. Of any two humans, no matter when and where they live, neither has done more to create the planet. To the extent that we are entitled to resources and spaces, any two humans have equal entitlements.

I say "to the extent" since my secular revitalization does not indulge human chauvinism: the most plausible view on the value of animals and ecosystems (whatever that may most plausibly turn out to be) is consistent with humanity as such collectively owning the planet in the sense sketched. After all, collective ownership of the earth as I understand it only applies among human beings, and thus assigns entitlements to resources and spaces of the earth that are in the domain of what humans are entitled to (that is, after concerns about animals and the environment for its own sake have been factored in).

So far these ideas have been intuitive, but there is substantive philosophical work to be done, the details of which, however, do not concern us now. To summarize briefly, *OGJ* explores various conceptions of humanity's collective ownership, that is, several ways of developing what is meant by "collective ownership." I argue that one of them (what I call Common Ownership) is philosophically preferred. Common Ownership of the earth, roughly speaking, is parallel to ownership of village commons in the old days: an entitlement to an equal opportunity to use certain resources to satisfy one's needs. To illustrate what it means to offer a principle of justice for a ground of justice, I offer the following principle pertaining to humanity's collective ownership of the earth: The distribution of original resources and spaces of the earth among the global population is just only if everyone has the opportunity to use them to satisfy their basic needs, or otherwise lives under a property arrangement that provides the opportunity to satisfy basic needs. In the course of several chapters *OGJ* argues that this principle has important implications for immigration, climate change and obligations to future generations.

OGJ seeks to exemplify the work philosophy can do to help solve the world's political and economic problems, especially those raised by globalization. Attempts at solving such problems generate questions about what kind of world we desire. Philosophical inquiry rarely generates policy advice unless much of what people believe and how our institutions work is taken as constraining such advice. Nonetheless, we need visions for the world's future. If such visions dispense with philosophy, they forfeit conceptual tools needed to defend them. At the same time,

political thought that proceeds with too little connection to problems that preoccupy those who seek to change the world is complacent and boring, as is philosophical inquiry that mostly investigates its own nature.

SECTION III

Let us turn to immigration, starting with some thoughts on why immigration is a vexing subject for political philosophers. Much confusion exists in the literature because it is often not clearly distinguished how discussion of immigration in so-called “ideal theory” differs from “non-ideal theory” (terms I define below) and there is frequently little clarity of what is required of an ideal-theory treatment of immigration.

Reflection on immigration is challenging partly because proposed policy changes are often plausible only if other policies also change. Suppose somebody advises against more immigration because what immigration a country could expect decreases low-income wages. This argument assumes no additional social policies are available. Or one might argue wealthier countries had better not admit more immigrants because their inhabitants pollute too much. But that argument takes environmentally unacceptable behavior as given instead of insisting that wealthy countries must pay more heed to the environment anyway. Generally, using philosophy for practical recommendations, we can rarely make proposals on only one subject. We must make a set of interconnected proposals. If the whole set cannot be implemented, we must see what guidance (if any) is available. Political philosophy constrained by what is politically possible in the short run is of little interest. Still, for political thought to bear on reality it must be *realistically utopian*. It must be constrained by what is politically doable in the long run, or at least by what is economically, biologically or physically possible. It is crucial to be clear on how such possibilities constrain one’s views, and to be consistent in one’s choice of what kind of possibility constrains theorizing.

So it matters greatly whether we think about immigration in *ideal* or *non-ideal theory*. We assess 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, the world is not as it should be. For some approaches to global justice, questions about immigration arise only non-ideally. Immigration occurs only if borders exist. If ideal theory abolishes borders no question about acceptable immigration arises. What

such theories entail for non-ideal cases depends on the nature of the constraints separating real-life conditions from ideal theory. Here I am not interested in theories that hold that ideal theory excludes states but 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 apply only within states. However, no such account by itself has strong implications for immigration. What one can show in this way is at most that immigration does not have to be *entirely unconstrained*. An account of how immigration can be legitimately constrained must be added.

Is it possible that *in ideal theory* states may regulate immigration as they see fit? This will be so if one regards immigration as purely *remedial*. A remedial measure is one that must be offered because substantive claims have been violated. Thus immigration is remedial if offered in response to violations that are not by themselves matters of population distribution across countries. Immigration is *purely remedial* if only offered in such a way. Sometimes immigration is considered a remedy to inadequate living conditions in countries of origin (either because then the immigrants themselves would be aided, or because third parties benefit from the fact that they immigrate, e.g., because they send remittances). By definition, remedial immigration is absent in ideal theory (since the violations that trigger such immigration are absent). So if immigration is *purely* remedial, ideal theory need not concern itself with it. However, in section 5, when discussing the work of Michael Blake, we encounter an example of severe underuse of resources under conditions of ideal theory. That kind of example shows that we should not think of immigration as purely remedial. For now let us assume that point has already been established.

We should take note in passing of one approach that, like mine, also does not treat immigration as purely remedial, to wit, Martha Nussbaum's version of the capability approach to human flourishing. Nussbaum offers a list of capabilities central to a dignified life. "Bodily integrity" appears, and "being able to move freely from place to place" is one instantiation of bodily integrity (2006, p 76). Views of global justice that regard immigration as purely remedial, one might insist, miss this kind of moral significance of immigration.³

However, an appeal to the relevance of bodily integrity, or other appeals to the importance of freedom, do not compel us to accept a freedom-based approach to immigration according to which there would be a primary right to immigration that is

3. For the significance of open borders for human freedom, see also Carens (2013), chapter II.

in no way (and thus certainly not purely) remedial. One might say, alongside Miller (2005), that the right to free movement is not inexhaustible but best captured as a threshold. A legitimate concern with freedom of movement (or bodily integrity) is fully met if everybody has some space to move around. Concerns with the moral significance of physical movement as such would therefore not undermine the claim that a right to immigration is purely remedial. Moreover, it is also true that many ordinary laws—including private property laws, traffic regulations, no-loitering ordinances, park closing hours—already limit free movement. It is therefore hard to be overly impressed with an appeal to freedom in the immigration debate. Freedom can play a part on all sides of the immigration debate.

SECTION IV

Let me now explain my own take on immigration in terms of collective ownership of the earth. We have seen so far that *if indeed* immigration is not purely remedial, a theory of global justice must address immigration under *both* ideal *and* non-ideal conditions (and, again, be careful about when it addresses which kind of condition). 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 at the abstract level. But without such complications *ideal theory* can and must address immigration. Specifically, the ideal theory we are after here is one that tell us under what conditions states, for moral reasons, ought to allow immigration, and how much. Unlike Nussbaum's approach in terms of freedom, *OGJ* does so by resorting to *humanity's collective ownership of the earth*. Part 1 of *OGJ* offers an account of what I call the "normative peculiarity of the state," that is, 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 such membership are subject to particular forms of coercion and expected to participate in a certain form of cooperation. Far-reaching principles of justice govern the distribution of goods produced under those conditions.

But since indeed this kind of answer leaves open what counts as an appropriate response to immigration demands, Part 2 turns to collective ownership to fill precisely that lacuna: states may not exclude people from entering if and as long as they *underuse their share of collectively owned resources and spaces*. A population *underuses* its share of three-dimensional space if the per-capita value of what they occupy is higher than

the world average across states. The average person in such a state can access more resources than people can on a per-country average. They overuse if the per-capita value of what they occupy is lower than the world average among states. Underusers can be reasonably expected to permit immigration. Overusers may decline further requests for immigration. They do enough in permitting a share of humanity to make a living.

For a state to offer a home to “sufficiently many” people means their number is proportionate to the value for human purposes of the resources and spaces thus removed from general use. A host of biophysical factors shape the value of a territory for human purposes, as do technological constraints. Territories of the same size might differ vastly in terms of soil quality, resource endowment, climatic conditions and other variables. No good measure assessing the value for human purposes of three-dimensional spaces of the earth is currently available. Sustained scientific effort would be needed to obtain one. But the basic idea should be clear: proportionate distribution of humans across the planet must be spelled out in terms of a measure that evaluates what humans can actually do with a region of the earth.

It should not be up to the discretion of extraterritorial entities what kind of immigration a state should permit. Such regulation would undermine any prospects of the state’s building an enduring collective spirit needed to maintain trust in everyday life. At least that is so for non-trivial numbers of immigrants.⁴ So if we grant that states exist in ideal theory, leaving control over immigration to an extraterritorial entity is not an option; the question is only whether states should have complete discretion, or whether immigration policies should be subject to moral constraints justifiable to both people in the country and outsiders. That second case I develop in terms of collective ownership of the earth. We could then debate separately whether immigration should be administered from within the country or partly from outside.⁵

So *OGJ* proposes a response to the problem that an account of the normative peculiarity of states does not have an account of immigration “built in.” This approach in terms of proportionate use integrates the concerns of those whom immigration policies would exclude. They cannot be reasonably expected to accept a state’s im-

4. Collier (2013) argues that moderate amounts of immigration are beneficial for host countries, but that a rapid influx of many immigrants may well undermine social trust. This will be so especially the more immigration increases diversity. For the link between diversity and trust, see Putnam (2007).

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

migration policies if that state underuses its resources and spaces and thus fails to provide a location for a proportionate share of the world's population. But this response requires further elaboration. Specifically, I must defend it against accounts that build on the normative peculiarity of the state without integrating a global standpoint, as well as against views that agree an account of immigration must include a global standpoint but develop that standpoint differently.

The remainder of this study, beginning in section 5, takes up those tasks. But before proceeding, let me note that refugees come up for special treatment in *OGJ*. In international law (specifically according to the 1951 Convention on Refugees), a refugee is a person with “a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”⁶ But for the needed contrast with immigrants we should use a broader and more commonsensical notion of refugee not filtered through international politics. More broadly, refugees are people who, on account of adverse conditions at home, either permanently or temporarily cannot maintain a minimally decent life. Often relocation under such conditions is outright flight in the face of war or persecution. International law grants refugee status under such conditions (which is not a claim to membership elsewhere but a claim not to be sent back to the home country, and thus is consistent with being sent elsewhere). But it might also be for economic reasons that people cannot make a decent living. This could be because of natural disasters, mismanagement or a callous regime. As opposed to refugees, immigrants wish to relocate although their lives are not in as dire straits. There is a continuum between clear cases of refuge and immigration. What the cases have in common is that obligations towards both groups apply at the level of the global order as such.

OGJ offers a particular take on refugees. Human beings are co-owners of the earth. States may exclude others only if they (states) do their share to make sure they can make a living where they reside. Otherwise people cannot be prevented from exercising their liberty rights and moving elsewhere. A case in point is the refugee crisis in in the Mediterranean. First of all, qua humans, people have a claim to aid against the rest of the world. A duty of assistance in building institutions applies (*OGJ*, chapter 4). But this duty comes up against the limits of what is feasible to do from the outside. Secondly, these people are independently entitled to move to underusing countries. Thirdly, if it is not feasible to offer aid in building institutions, or

6. See, e.g., <http://www.unhcr.org/pages/49c3646c125.html>

if it simply does not happen, then those who leave, qua co-owners of the earth, have a claim against the rest of the world to be permitted to move.⁷

SECTION V

Let us turn to accounts of immigration that were recently offered by philosophers who agree with me on the normative peculiarity of states but deny that an account of immigration needs to include a global standpoint. As we will see, attempts to delineate the state's right to exclude fail if they do not properly consider from a global standpoint the burdens imposed on those excluded by immigration policies.

Among authors who think states should be allowed to constrain immigration Michael Blake (2013) is unusual in severely limiting a state's possibilities for doing so. A state's right to exclude people from poor and oppressive countries is generally weak. Let us see why he thinks that and why there would be a problem with his approach because of the omission of a global standpoint.

Blake argues that what is crucial in the right to exclude is that the state is a territorial and legal community. The state's territory delineates a jurisdiction within which its laws are effective. Whoever migrates into a jurisdiction obligates its inhabitants to protect her human rights, which constrains the freedom of current inhabitants. The question becomes under what circumstances—and vis-a-vis which would-be immigrants—states may refuse to accept such obligations. For Blake states may do so only if the country of origin adequately protects human rights. Otherwise, migrants acquire rights-protections upon entry. Force used to prevent entry is illegitimate. After all, Blake thinks that human beings have not only basic human rights, but also rights to the circumstances under which these rights are protected. So if their human rights are not protected in their country of origin, they are entitled to move to a different location where their rights will be protected. It is for this reason that a state's right to turn away would-be immigrants from poor and oppressive states is generally weak. Whereas Christopher Wellman (2008) allows states to purchase the right to exclude by supporting development in poor countries, Blake insists we cannot justify

7. Oberman (2011) argues for a "right to stay." His opponents are those who argue that wealthy states can choose between permitting immigration or helping the poor where they are. Oberman insists there is no such choice: if the poor prefer to stay, they should be supported where they live. My view does not endorse such a choice at the level of ideal theory, such a choice may arise in non-ideal theory. Also, as we just saw, *OGJ* is consistent with a right to stay because I argue for a duty of assistance for poor countries (associated with common humanity as a ground of justice).

force against one person (which we would exercise by denying them entry) by providing benefits to others.

I agree that people are entitled to an environment where they can exercise basic rights (Risse (2012), chapter 4). But I disagree about the conditions when states may *reject* migrants. Note that Blake's account falls silent once poverty and oppression are eradicated. Suppose we live under conditions of ideal theory: all duties of justice are met, domestically and internationally, but questions of immigration remain unsettled. Are people still entitled to move? People may enter if their right to appropriate conditions to realize their rights is not met where they live. Blake does not say they are entitled to enter *only* if that is so. But the spirit of his discussion makes immigration remedial. So his answer to the question posed must be negative.

A purely remedial theory of immigration like Blake's—one that thinks of immigration only as a solution to existing problems—is problematic. Let me elaborate on that point in the context of Blake's theory (thereby finally completing the discussion from section 3). Suppose a mysterious disease shrinks the population of the US to a few people without affecting other regions. With technological aids the survivors can exclude migrants. Suppose oppression and poverty have been eradicated globally. Nobody lives under circumstances that entitle her to move. Blake cannot find anything morally problematic with these few Americans refusing to share. But this case to my mind shows that immigration is not purely remedial. It also shows that there is a distributional component to any plausible account of immigration. People may 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 *non-ideal* theory cannot entirely lack such a component. Often migrants desire to move to a location with special ties to their homeland and that therefore may have a special obligation to take them. Cases in point would be obligations of former colonial powers. But more commonly people determined to leave a poor or dysfunctional country simply wish to join any country with better prospects. To the extent that there are duties to provide such prospects, *all countries* that could do so have them, and must divide them up.

Suppose some such people arrive in country C. For Blake, C is obligated to create conditions where they can realize their rights. C is not entitled to try to keep them out to avoid a situation where it becomes responsible in that way. But that seems wrong. C's duty towards the migrants is no different from that of any country that

can provide the circumstances under which migrants 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 only qua member of the global order. Would-be immigrants have claims against the global order, not specifically against C.⁸ C is a duty-bearer only as part of the global order. This again leads to distributional considerations. Countries must divide up would-be immigrants. All of this applies especially to the European refugee crisis. These refugees have a claim against the global order as such rather than against the countries they reach first (say, Greece or Italy) or that happen to be positively disposed (say, Germany or Sweden). Responding to their needs is a global responsibility. Blake's theory is wanting for not considering immigration *from a global standpoint* that captures an idea of proportionate distribution but instead sees immigration as purely remedial, on a country-by-country basis.⁹

What is a country supposed to do if others fail to do their share? There are two major views on the general question of what an agent (individual, country, etc.) ought to do if others refuse to do their share. One view (e.g., Cullity (2004)) holds that an agent then must do more, as much as she can. The competing view (e.g., Murphy (2000)) holds that she should still do as much as she should if everybody did comply. My inclinations lie with the latter view. But it matters what, and how much, one would sacrifice doing more than required under full compliance, and how morally significant it would be if these supererogatory actions (actions beyond the call of duty) were performed. If one is called upon to do more than required if everybody else does their share, one should make the more of that kind of effort the less of a sacrifice it would be, and the more significant the matter is.

These issues are complex. Suppose I see somebody drown at the beach and many others see it too. Surely I have a duty of rescue even if nobody else moves. If another person drowns and again nobody else moves, I have the same duty. If the same continues to happen, my duty continues to apply, as long as I can manage to do so. There is too much at stake for the person whose life might be lost. If there were less at stake

8. Chapter 11 of *OGJ* explains what it means to have obligations to the global order, but the basic idea should be clear enough: these are obligations that all human beings share.

9. (1) A similar point can 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.) (2) Carens (2013) draws attention to difficulties that could arise if the country where claims to entry are accepted were different from the country where people get to live. It may not always be a good idea literally to divide up immigrants or asylum seekers. But a country that would accept many new people should get credit when it comes to other obligations.

for the persons whom everybody else ignores, I could cease my efforts earlier: enough will be enough even before I have exhausted myself.

In this spirit there is a strong obligation for wealthy countries to support refugees who seek to leave war or drought zones even if others fail to do so and one has done one's share under ideal circumstances (one's share under conditions where everybody does theirs). Let me offer an illustration in terms of a scenario where a claim to overcrowding was actually made explicitly. In August 1942, Swiss politician Eduard von Steiger notoriously argued that Switzerland was like a small lifeboat that was over-crowded, and therefore should not accept more Jewish refugees (Schütt and Pollmann (1987), pp 54of). But Switzerland should have done more than it was doing at the time, given how much was at stake for the Jews, and regardless of what support was offered by others. That same point applies to other scenarios where people flee from actual destruction. If we are talking about immigrants who clearly do not count as refugees there would be no reason to do more than one's share. And then there will be many intermediate cases.

SECTION VI

A need for distributional considerations emerged from Blake's own manner of deriving obligations to would-be immigrants. His view is incomplete *without a global standpoint*. Again, among philosophers who agree on the normative peculiarity of the state Blake acknowledges unusually far-reaching obligations towards would-be immigrants. My purpose currently is to show that attempts to delineate the state's right to exclude fail if they do not properly consider *from a global standpoint* burdens imposed on those excluded by immigration policies. Some approaches are problematic because they do not consider the burdens imposed on others convincingly, and Blake's is among them. Others are problematic because they do not consider these burdens at all. One such account appears in Christopher Wellman (2008), who advocates for a state's right to restrict immigration in terms of *freedom of association*. For Wellman, a state is not even required to accept refugees, let alone immigrants. All such choices are discretionary. Let me introduce the three arguments Wellman offers, and then explain how they are problematic.

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. It would presumably be un-

acceptable then for the US to annex Canada. Canadians have the right of freedom of association. But then they should 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. 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 turns on the weight of responsibility entailed by shared membership in a state. There are special responsibilities of distributive justice among fellow citizens. That generates a reason to limit the number of people with whom one shares that relationship. Wellman recognizes the arbitrariness of one's place of birth, but denies that this point outweighs 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 allows states to regulate immigration entirely as they please. People do not associate on an infinite plain. They occupy parts of a planet with limited spaces and resources that must be shared. My example of the dwindled US population makes that point. The survivors have freedom of association. However, their association must occur *somewhere*. Since for now humanity is limited to this planet, the amount of space that can be claimed by any group claiming its freedom of association is limited. Humanity's collective ownership of the earth captures that point.

Notice how the considerations from the last paragraph engage Wellman's arguments. We can ignore the third since it is much like Blake's argument. And indeed, the US should refrain from annexing Canada. That is so, in part, because Canadians have freedom of association. But that does not imply Canadians may claim as much space as they wish. Both of these claims are true: (a) the US may not annex Canada, partly because Canadians have freedom of association; (b) Canadians must adopt

immigration policies to make sure they exercise their freedom in an appropriate territory.¹⁰

What if Canada refused to adopt an appropriate immigration policy? Would the US then be allowed to annex Canada punitively, at least a chunk of territory up to a point where Canadians occupy a proportionate area? They would not, 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. However, if the world as a whole was getting serious about implementing an immigration regime along the lines sketched here, substantial international pressure on countries that refuse to do their part would be appropriate. As always we must remember that any kind of intervention must be weighed against prudential concerns, and that moral reasons of any sort should not be used as pretext to pursue goals motivated very differently.

But what if the US lost much of its territory to devastation related to climate change, to the point that Americans could no longer meet basic needs but Canadians refused to share territory? In the 2004 blockbuster *The Day After Tomorrow* climate change suddenly triggers a new ice age in the US. In response, massive evacuations (not to Canada but) to Mexico occur. In such a scenario there would be a duty of the neighboring country to host people, and what counts as proportionate use would change. At the same time, unless the evacuation affects largely unpopulated areas, the host's jurisdiction must be accepted (assuming that state accepts its obligation to share its space). This is not an academic point. In all likelihood, the US will not lose the habitability of much territory to climate change any time (very) soon. But other countries will, especially small-island and low-lying coastal states. Such countries have similar entitlements.

Wellman's last argument is about the significance of self-determination. It is proper that people care about how their country evolves. But this evolution again occurs in shared space. Within limits people may choose immigrants. So the sheer fact that the evolution of a country occurs in shared space does not mean people en-

10. Lister (2010) uses freedom of association to argue all states must allow a degree of family-based immigration, and that this is a duty owed to its citizens. See White (1997) for general discussion of the connection between freedom of association and the right to exclude. There is a right to immigrate, says Miller (2005), but it is like a right to marriage: one needs to find a willing partner. But the marriage analogy is misleading. Nothing about marriage is analogous to the spatial distributional component in immigration because nothing about marriage is analogous to natural ownership rights to the locations where the association would occur.

tirely lose control over the policies that shape their country. It does mean, however, that they must share their spaces with an appropriate number of people.

What about the point that aid can be provided in different ways? For many obligations it will not matter how the duty bearers make good on them. 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 brings relief. Perhaps relocation does. But again, immigration is not merely about aid. There is an irreducibly spatial and distributional aspect to immigration. It could be part of an overall agreement on immigration that a country would shoulder its share of global obligations in ways other than by admitting more immigrants, and designated would-be immigrants could agree to renounce their right to entry. But this could not permissibly be a unilateral decision by the destination country.

This discussion of Blake and Wellman makes the basic point about the importance of the distributional component of immigration. Let me sketch how the same point arises for other authors. David Miller (2005) presents two reasons for limiting immigration. First, he insists on the importance of a shared public culture that partly constitutes political identity, something people have an interest in controlling as it changes. Moreover, and this is similar to Wellman, Miller thinks the population is rightly concerned with size because worries about quality of life and the 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 may limit immigration as it sees fit. Finally, Ryan Pevnick (2011) argues that those who have created a political community have property rights over institutions that maintain that community. For this reason they can exclude others. Pevnick thinks these rights sometimes get overruled. What he has in mind is remedial use of immigration. In what now is a familiar pattern, Pevnick too ignores that ownership of institutions is superimposed on collective ownership of spaces where they are established.

SECTION VII

Next I address some objections to my account raised by Malcolm Bull (2013) in a review of *OGJ* in the *London Review of Books*. Addressing these objections allows me to elaborate on the contents of my proposal. But this section can also be skipped without loss: the remaining sections will address two different ways of developing a

global standpoint on immigration that compete with mine. This section is intended for readers who want to engage more with the details of my proposal.

Let me elaborate a bit more on the notion of proportionate use. For any state *S* the desired measure of such use would deliver a measure *VS* of the value of the collectively owned resources on *S*'s territory, including the biophysical conditions determining the usefulness of this region for human purposes (such as climate, location on the globe, vegetation, topography, etc). To assess the extent to which *S*'s territory is used one would divide *VS* by the number *PS* of people in *S*. *VS/PS* is the *per-capita use rate* of commonly-owned resources on *S*'s territory. *VS/PS* includes non-circulating resources (which are not literally used), such as unmined minerals and unextracted oil (suitably discounted). The point is to have a measure of what is at a society's disposal, broadly speaking, actually and potentially, a measure of a stock that takes into account how readily that stock could be transformed into a flow of resources, rather than a measure only of the current flow. The territory of *S* is *relatively underused* if *VS/PS* is bigger than the average of these values across states (so the average person uses a resource bundle of higher value than the average person in the average country). It is *relatively overused* if this value is under average. If *VS/PS* is above average, co-owners elsewhere have a *pro tanto* claim to immigration, in the sense that underusing countries cannot reasonably expect others to comply with immigration policies until such claims are satisfied. It is then a demand of reasonable conduct that the state permit immigration. If a country is not underusing, others can be reasonably expected to accept its immigration policies (if nothing is independently problematic about them).

Bull thinks my account of immigration in terms of proportionality is "half-baked." To begin with, Bull asserts that densely populated small island states "skew" the average per-capita use rate of resources and spaces. Let us see what that would mean. That description fits Bahrain, Singapore, Malta, Barbados, Taiwan, Mauritius, the Maldives, Tuvalu and Nauru. Suppose each is absorbed by a bigger country with 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 higher than the earlier average across that country (prior to 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 commands a higher share of resources and spaces. The existence of a densely populated small country where the average

person has a small share of resources and spaces at her proposal slightly decreases the world average across countries. So if densely populated small island states disappear, the benchmark average value with regard to which permissibility of immigration is assessed, rises. So it is then harder to qualify as under-using, and underusing countries have to permit less immigration than in the status quo.

Just to put the existence of small island states in perspective, suppose instead the number of densely populated island states increases. Suppose Santa Cruz del Islote became independent from Colombia, Hong Kong island from China, and Milingo island in Lake Victoria from Kenya. Suppose also Malé seceded from the rest of the Maldives and Ebeye from the Marshall Islands. These are some of the most densely populated islands. We would see new states with high overuse of resources and spaces, much above world average. The average person in the average country then has less at her disposal. It would be easier for a country to be classified as underusing. Meeting immigration demands would be harder. Underusers must permit more immigration to reach proportionality.

But presumably what Bull has in mind by worrying about how the existence of island states “skews” the average per-capita use rate of resources and spaces is the former case: that is, the nature of the problematic “skewing” is that the existence of densely populated small island countries “artificially” (as in “by way of comparison with a world that does not include them as independent states”) decreases the global use average across countries. Thus the existence of such countries “artificially” 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 disproportionate to their size. It would be unfair if their existence drove up demand for immigration elsewhere since immigrants are not after shares of resources and spaces. But small island states would not be as intuitively troublesome as Bull thinks. The relevant measure is decidedly not population density but the value for human purposes of three-dimensional spaces. Being an island is a disadvantage for remote places in the path of storms and shunned by fish. But it is often distinctly advantageous for proximity to fisheries or seabed resources, opportunities to groom tourism, proximity and access to shipping routes, and because of people’s fondness for living by the water. That an area is an island often increases its value for human purposes, other things being equal. Such places do not increase immigration pressure elsewhere.

I am unsure what else could be problematic about small island states, but if it is that sort of issue, we must postpone a verdict on the seriousness of the problem (if 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 overall plausibility of the results, or decide not to worry too much about such distortions. In light of the general difficulties in seeing through secessions it is unlikely that we will observe a significant increase in the number of small island states in the foreseeable future.

But why, to turn to Bull's next point, should averages be more significant than "relative use-rates between countries"? I take it the competing proposal Bull refers to under "relative use-rate" is this. Suppose country A has a lower per-capita use rate than B. So since on average people in A have less access to resources and spaces, they should be allowed to move to B. However, there is nothing morally relevant about this bilateral comparison. For now humanity's habitat is the earth. That is the space through which we can readily disseminate using our technology. People in A have a grievance only vis-à-vis their share of the whole. This was my point against Blake. Aside from special ties between regions, we must think about immigration in terms of movement across the planet, rather than bilaterally.

If eventually there were only one country above the average (and so under-using), to proceed to Bull's next objection, that would be the only place to which immigrants have a claim. If that country were governed badly, it might well be unwise to relocate there. But that country could not reject people because it is "full." Perhaps it would be unfair to residents if more people were to immigrate if it is because of governmental failures that things are bad. Suppose a group that handles its own security (and thus does not depend on its destination country's government for protection) migrates to a badly run country to exploit resources, or to find a new home. They might make arrangements with the government, but ultimately this change is bound to harm the locals. There are duties of justice that may trump considerations of reasonable acceptability of the sort that would permit more immigration. In particular, if immigration undermines a duty of assistance in institution-building, it should be suspended.¹¹

Bull is right that migrants nowadays usually seek to share the benefits of recent

11. 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 so. 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.

technological or cultural innovations, human-made resources I exclude from what should be commonly shared. It is correct that my proposal would likely change immigration policies in North America (and Australia) but permit more restrictive ones in Europe. But that seems fair to me. For demographic and thus self-interested reasons, Europe should encourage immigration, but at an appropriate speed to avoid complex and prolonged social problems intense immigration into densely populated countries could entail (Collier (2013), chapter 5). Still, it is a sensible guess that any plausible measure of proportionate use would find Europe much less wanting than the US or Australia. (With refugees it is a different story: their concerns have an urgency that concerns the global order as a whole.) But perhaps Bull's concern is that societal wealth also generates claims to shared ownership. That point I discuss in sections 8 and 9.

Finally, Bull worries that immigrants may not be able to enter since on my account it is a *demand of reasonable conduct* rather than a *demand of justice* that hosts let them in. This is a distinction I have not developed systematically here. Recall that in section 2, I emphasized that demands of justice are the most stringent moral demands, and that I have also stated the principle of justice that in *OGJ* I argue applies to humanity's collective ownership of the earth. Policies that do not violate a principle of justice would (obviously) not be unjust but could still be wrong in other ways, and thereby not command reasonable acceptance from others. In my dwindled-population example in section 5, would-be immigrants would not be doing anything unjust by dismantling surveillance systems that keep them out. But nor would the remaining Americans by redoubling their efforts. And such an immigration policy could not command reasonable acceptance from others. Principles capturing reasonable expectations allow for more compromises and have less priority than principles of justice. As far as the conduct of states is concerned, such principles should only be integrated at a later stage of development than principles of justice 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 in fact reached, 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.

Bull may think principles of mere reasonable acceptability short of justice are wanting because people would not take them seriously. But even for matters of justice there is a guarantee that they will be done only to the extent that those who can make

it happen care about it. If people are motivated to take justice seriously they will also take demands of reasonable acceptability seriously. If they are not motivated to take demands of reasonable acceptability seriously, all will not be well with justice either.

Finally, consider Bull's insistence that if there were famines in the rest of the world, and everyone sought entry, the US would be entitled as a matter of *justice* to use robotic guards to detain them and feed them their share of resources at the border. But that would be so only as long as their presence is not the outcome of a failure to provide assistance in institution-building. I made this point in section 3 when discussing refugees. It is a matter of justice that people must not be permanently kept in refugee camps. If there is no way of helping with the establishment of proper institutions or if that simply does not happen, such people must be admitted.

SECTION VIII

Somebody who finds my proposal defensible this far may still be unconvinced. Distribution in terms of proportionality is all well and good, objectors may say, but the resources with regard to which to do the calculations must include human creations. For any new generation, natural and societal resources are fundamentally alike: to them, all resources are manna from heaven. One response is to return to the very starting points for my development of humanity's collective ownership of the earth in *OGJ* (chapter 6): the satisfaction of basic human needs matters morally; the resources and spaces of the earth are needed by all for survival and for all human activities to unfold; and these resources and spaces are nobody's accomplishment. It is based on these points that, in *OGJ*, I argue that, in an abstract sense, humanity collectively owns the earth, to articulate the view that of any two humans, neither has more entitlements than the other to these resources and spaces.¹²

Societal resources differ from natural resources in three ways. To begin with, they are *somebody's* accomplishment. Secondly, social contexts enabled their creation by permitting the accumulation of knowledge and the emergence and nurturing of skills. These contexts disappear if societies collapse and vanish. But even when societies are conquered or otherwise absorbed there often remains much continuity.

12. Based on those starting points I have argued for Common Ownership as the most sensible conception of collective ownership, drawing on its minimalist credentials and the weaknesses of competing conceptions. The core idea of Common Ownership is that all co-owners ought to have an equal opportunity to satisfy basic needs to the extent that this turns on obtaining collectively owned resources. According to Common Ownership, excluding people from territory would only be unjust if it undermined their ability to satisfy basic needs.

Contexts that enable the creation of artifacts involve living people differentially. Some are involved in maintaining a culture that permits for certain kinds of production. Others are not. Thirdly, the sense in which natural resources and spaces are *needed* differs from how societal resources are needed. Newborns perish without access to resources and spaces, but also if they do not receive care and thus become beneficiaries of societal resources. But for natural resources we can, and must, naturally describe the sense in which they are needed as including the earth as such. At this stage of geological history, the earth is hospitable to human life. Some regions are more hospitable than others. But even for those parts that create the conditions that let human life flourish it would be inappropriate not to think of the favorable conditions as part of an *earth system*.

The earth *as such* is humankind's natural habitat. It is the habitable conditions of the earth as such, including its climate conditions, the atmosphere, and the presence of flora and fauna that that we need for survival, much as our species needed them to rise at all. As opposed to that, families, nations or other cultural niches provide the context where somebody needs societal resources. We do not have to think of the cultural sphere generated by humanity as such to say humans need societal resources as much as they need natural resources. For much of history most communities would have readily survived if 97% of humanity (those not closely connected to their cultural niche) had vanished.

One may object that the ability of a person, say, in New Jersey to use the earth will not be diminished if some Pacific islands sink or if volcanic eruptions level parts of Japan. Many natural resources and whole territories can be lost before the entire ecosystem is compromised. But what is crucial is that an account of the way in which natural resources are needed for human survival must talk about the entire ecosystem of the earth. For it is only because the spaces and resources of the earth exist under certain climate conditions that they allow for human life to begin with. A parallel point about global human culture does not hold.

Objectors may nonetheless insist that, after all, *for any new generation* societal resources are like natural ones in what matters most: *they did not create those resources*. This is a central moral equivalence between natural and societal resources that does not disappear because of the dissimilarities. Suppose Nazaire and Nicholas are born the same day, Nazaire in Haiti, Nicholas in the US. Both are on a par as far as natural resources are concerned but also regarding the societal resources of both countries: neither has done anything to create any of those. Nazaire and Nicholas have the same

claims to the heap of (natural resources/spaces + societal resources of US + societal resources of Haiti). But according to my view Nicholas would be raised with entitlements to the societal resources of the US, and Nazaire with entitlements to those of Haiti. *How could this be just?*

SECTION IX

Let us look more closely at Nazaire and Nicholas. At birth they have certain claims. Grounded in common humanity they can make demands against the rest of the world. The boys also acquire the same claims to resources and spaces all other humans have. If *per impossibile* Nazaire and Nicholas entered a world without human imprint, they would still have the same claims the day after their birth, and on all subsequent days, though only against each other. But ours is a world with human imprint, and normally babies receive attention from somebody.

Nazaire and Nicholas also have claims against their parents. This is where they begin to differ. Qua humans they have the same claims against the same people (everybody). Qua children they have claims against their *respective* parents. Nazaire and Nicholas have claims to care against the people who elected to bring them into the world, or anyway, who made choices that immediately caused them to exist. Moreover, generally for children to get on in life means for them to be raised to function at least reasonably well in their cultural niche. Therefore Nazaire and Nicholas have claims against their parents specifically to raise them in such a way that they can do okay in the cultural niche they will likely inhabit.¹³

So from birth onwards, Nazaire and Nicholas *should* be treated as growing members of different communities. Communities include members of different ages. Some are in their prime. They maintain and decide on the fate of the community. Others fade away from it. Yet others grow into it. Since it is their communities that shape their life prospects, humans not only have claims against their parents for bringing them into this world in general, and into this particular social world; they also have claims against their communities to be supportive throughout this socialization. Often young humans grow into different communities simultaneous-

13. For the importance of the fact that, at birth, children enter a social world, see also Carens (2013), chapter 2. One might object that the decision to bring children into the world is often far from voluntary, and happens as a response to communal pressure. But this would only strengthen my argument since it is part of my point to show that the community is required to assist in the up-bringing of the child. The case for that is the stronger the more the community is implicated in the child's existence.

ly, perhaps a religious group, a linguistic group (or two) and a political group. All of them have collective obligations to be appropriately supportive. 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 of the political community of the US. This situation has not arisen through their choices. Nonetheless, there is great moral relevance in their relationships with parents and communities.

Let us return to the three differences between societal and natural resources identified earlier. 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, members of a new generation have differential entitlements to them although they do not have such entitlements to natural resources. This happens via differential claims against those who already have claims to societal resources (parents and communities).

The second difference is that societal resources are generated in particular contexts that often persist in some way and thus involve people differentially. This claim is not true of excavated relics of earlier civilizations, of antiques that continue to circulate but are no longer produced, or of artistic creations from bygone eras. However, this claim is true of many things we use in our lives. This matters as we reflect on the differential entitlements of Nazaire and Nicholas. At birth they acquire differential entitlements via claims against parents. Those do not hold different shares of manna from heaven but of human-made products that require cultural context to be made. Anything humans make requires some skill, some understanding and often some 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 human capacities. This is why trade is often productive on all sides: each side gets to take advantage of what it can do best to acquire goods and services others are best at providing. Many goods these days require a global context to be produced. But my point is not to deny that there could be such global contexts, but that the more local context also matters greatly.

Cultural contexts require maintenance and development. As Nazaire's and Nicholas's communities fulfill their obligations to raise children to be functioning members, they socialize them into becoming capable of playing some role in maintaining and developing their cultural practices. As time passes they are expected to assume responsibilities. Sometimes this process fails altogether. But in most cases

these efforts meet with some success. Eventually Nazaire and Nicholas will likely start participating in 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. Of course, would-be immigrants too are normally quite willing to acquire the relevant skills to help with the maintenance of societal culture on which certain goods might depend. Therefore, one might object, this kind of consideration does not generate a reason to exclude would-be immigrants. But the point I am developing is a different one, namely, that children enter this world with the same claims to natural resources but with differential claims to societal resources. That is consistent with the point just made about would-be immigrants.

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 not that they require the sum total of human accomplishments. People require the culture-specific resources provided by their cultural niche. In addition to the two points already made, this means Nazaire and Nicholas acquire a formative relationship with their cultural niche: that niche gradually make them into the people they ultimately become. But neither stands in that relationship with the cultural context of the other.

Before this background, and given the features that are constitutive of a political community generally (a kind of cooperativeness and coerciveness), eventually Nazaire and Nicholas may raise complaints. They can protest if their environment favors some who have been raised in it much more than it favors others. They can complain about inequality of opportunity in education or 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 and against their communities, who are generally situated very differently. Any two children do not differ at birth when it comes to entitlements to natural resources. But they do when it comes to entitlements to societal resources. I have selected my two characters from Haiti and the US to make my reasoning maximally problematic. The US is one of the richest places on earth. 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. Both Haiti and the US must 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. As a result of such reforms in particular Haiti would be a very different place. Once all that has been done, there will no longer be anything problematic about acquiring differential entitlements at birth. In our world, being born in locations as dramatically different in terms of average life prospects as the US and Haiti means being born in locations that vary in terms of how much average people suffer from the world's injustices. But a proper response to that is not to argue that at birth any two children acquire the same entitlement to all societal resources on earth. A proper response is to make the world more just, for which *OGJ* makes a suggestion that I just sketched very roughly.¹⁴

SECTION X

So societal resources differ from natural resources in morally significant ways. Since two humans readily have differential claims to societal resources, those must be excluded from the collectively owned pool. However, there is another objection we must explore. That objection agrees that we should determine fairness in the distribution of people across the earth only with regard to natural resources and spaces. But instead of proportionality a different manner of assessing that distribution is recommended, one focused on the multifarious ways spaces and resources are integrated into cultures. Political theorist Avery Kolers (2009) uses the term “ethnogeographic community” to emphasize that over time communities adopt certain 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. An ethnogeographic community is a group of people who share densely and pervasively interacting land-use patterns as well as an ontology of land. One distinctive ethnogeographic community is the Bedouins. What is distinctive about them is not religion, ethnicity or language, but the way they interact with land.

An ethnogeographic community can lay claim to a region to the exclusion of

14. A note for philosophically trained readers: this response, and the train of thought in sections 8 and 9, will not satisfy those who approach this debate with non-relationist or globalist commitments (see *OGJ*, chapter 1). But with them the debate will be about those commitments to begin with. There is no prospect of convincing them otherwise at this stage of the extended argument.

others if it has demonstrably achieved what Kolers calls “plenitude” in that region and if there is no competing right of that sort to the territory. A community achieves plenitude if by their standards their land-use patterns push the use of the land to its limits. Plenitude may be empirical or intentional. Empirical plenitude captures the internal diversity and complexity of land-use patterns, and how they differ from such patterns elsewhere. Intentional plenitude captures the projects agents have with regard to enhancing or maintaining empirical plenitude. Ethnogeographic communities can legitimize claims “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 (2009) does not discuss immigration.¹⁵ Still, his view generates a global standpoint to think about immigration. That standpoint prescribes whose land ontology matters in a region, and thereby determines when the global distribution of people is fair. If a community achieves plenitude by its own standards, then presumably it does not have to permit immigration. Kolers explores how to assess competing claims to a region. Crucially, this way of approaching immigration differs 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 plenitude is meant to do this work.

Kolers’s account is sensible in many ways. He demonstrates how natural it is to make room for attachment to one’s native region in an account of immigration. Individuals are not merely deeply attached to the land on which they make their lives, but people and regions stand in interactive relationships. To the extent that communities have a mentality, it has been shaped by what their region permits or forces them to do to get on. It matters whether people live in the mountains, by the sea or in the desert, and whether the climate is harsh or moderate. It matters whether people reside in wide-open spaces or in tough terrain that limits unimpeded movement. It also matters if life is shaped by persisting struggle to bring water to the house, by efforts to shelter from storms, by challenges to fend off water-related diseases, the hardship caused by infertile soils or by the fortunate absence of all of these. Just how

15. Kolers (2012) addresses immigration. Suppose group A wants to settle in region M, home to group B. If A already has territory L that is not full by A’s standards, this project would be illegitimate. If M is full by A’s standards, the project would still be illegitimate (except if all territories are full, in which case there would be pressure to revise ethnogeographies and conceptions of plenitude). However, if L but not M is full by A’s standards, and if A has an actionable plan (“intentional plenitude”) for filling it in perpetuity, then A does have a claim to move into M. The space must be divided up.

all this matters depends on many factors—18th-century philosophers Montesquieu and Rousseau famously thought governance is one topic for which it matters—but all this is too large a topic for us to explore. But through such challenges, people also shape the land in their image, and over generations develop an intense interactive relationship with it.

Location in relation to other places matters as well. Certain regions were staging areas for armies over millennia because geographical factors limit where armies can pass. Some regions could produce goods that proved so irresistible that strangers would make hazardous journeys to acquire them. Other areas are inhospitable to all but a few hardened natives, strategically remote, or without potential to produce desirable goods. 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. Attachments to land run deep. Much poetry and countless novels make the land central. Much art celebrates it. Even to the extent that people voluntarily leave the region to which they are accustomed, they often do so with a heavy heart. If they are forced off land that has been formative to their character, this frequently is a reason for ongoing hostility. History is replete with episodes of violent displacements, not least the 20th century.

In many ways, Kolers' account and mine are complementary. My account 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 shaped by the region they occupy and vice versa, or explore the importance of that process. But nor does it offer resistance to such thoughts. There is nothing inherently 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 point that my theory articulates.¹⁶

Kolers targets the "Anglo-American ethnogeography" he claims has been adopted by most mainstream Anglo-American philosophers. This ethnogeography (p64):

16. Kolers and I diverge when it comes to the claims of people on land lost to climate change. Risse (2009) argues 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 is possible only if considerations of proportionate use permit it. The rest of the world owes these people a new home, as well as efforts to try to make it possible that the disruption does not become worse through relocation to an area that does not support their life patterns. But this will not always mean they can all relocate together. Kolers (2012) argues (also 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.

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.

My account does not advocate for an Anglo-American ethnogeography as characterized. My guiding idea is that we need to assess the value for human purposes of three-dimensional regions. That can sensibly be done only if we integrate forms of value not commonly priced on markets. At the same time, my account proposes non-standard evaluations that bring more components of our natural world under the purview of market-based pricing. However, the motivation for doing so 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 need comparability across groups to regulate immigration. My measure of proportionate use is pragmatic, a rough guide to obtain an assessment of when would-be immigrants can be fairly rejected.

Why use this measure at all then? The reply is a repetition of the insistence that we simply need such a measure to assess when claims to spaces and resources unacceptably infringe upon claims of others. To be sure, Kolers does address cases where different ethnogeographies claim the same territory. But he also allows for some to occupy disproportionately large regions if this fits their ontology. On Kolers's account groups using disproportionately large regions could not always legitimately turn away newcomers. But their claims always must be equally considered even *vis-à-vis* claims of people who escape from over-crowding.

To be sure, the claims of such ethnogeographies often are those of indigenous people, and they must be integrated somehow. Given the importance of having a universal criterion, I propose to think of cultural patterns that cannot be captured by a pragmatic measure generating cross-cultural comparability as non-standard scenarios to be *accommodated*. We should treat such patterns parallel to how liberal states should accommodate certain minority rights. Where Kolers stresses local interconnectedness between land and people, I emphasize that we share a planet and need a criterion for a sensible division of space. For the problems we face in this century, this is a key perspective.

Land ontologies have often arisen when many fewer humans existed and thus

when demands on shared spaces and resources were more limited. “In the nineteenth and twentieth century,” writes H.G. Wells at the beginning of *The Shape of Things to Come* (1933, 17),

the story of mankind upon this planet undergoes a change of phase. It broadens out. It unifies. It ceases to be a tangle of more and more interrelated histories and it becomes plainly and consciously one history. There is a complete confluence of racial, social and political destinies.

Indeed, and for this reason ontologies acquired antecedently are of restricted validity in our era of high-density populations, a tendency exacerbated by the threats of climate change to human living spaces. To be sure, my account is much less hospitable than Kolars’s to claims specifically of indigenous populations. But these normally are among the ontologies that have developed at times when many fewer people had claims to spaces and resources.

But is it not misguided to single out indigenous ontologies as the ones that likely have to shift due to higher populations? The earth may be *overpopulated*, objectors may say, not because it is *overcrowded* but because of excess consumption. Overpopulation is generated by multiplying population with consumption. It is the industrialized countries that overconsume. We should single out the Anglo-American ethnogeography as one developed when there were many fewer people and that now has to change. But these two perspectives are consistent. Just about all ethnogeographies must be reconsidered in the present, some because they make claims to inordinate amounts of space and resources, and some, including the Anglo-American ethnogeography, in virtue of misguided attitudes towards environmental protection.

SECTION XI

It is time to conclude. My goal has been to argue for, and elaborate on, the significance of humanity’s collective ownership of the earth for immigration. In the process I have also explored some central issues in the global-justice literature and elaborated on some pertinent difficulties in the discussion of immigration in that literature. My major points are the following:

1. Contrary to philosophers who supplement an account of the state's normative peculiarity with an account of immigration that does not take a global standpoint, we do need such a standpoint, and it should be one that articulates an idea of proportionate use of the earth.

2. Contrary to those who agree that proportionate use of the earth matters to immigration but insist the common pool includes societal resources, I argue that pool should exclude societal resources. Societal resources differ importantly from natural ones.

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

The debate about immigration will be among the central topics of more applied political philosophy in the 21st century. The standpoint of humanity's collective ownership of the earth is indispensable to that debate.

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