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Original Ownership of the Earth: A Contemporary Approach

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1. That humanity collectively owns the earth was the guiding idea of 17th century political philosophy: Grotius, Hobbes, Pufendorf, Locke, and others debated how to capture this status and the conditions under which parts of the Global Common could be privatized.¹ Like no other work in the philosophy of international relations, it is Hugo Grotius' *Three Books on the Law of War and Peace*, published in 1625, that makes world ownership central to the relations among both individuals and political entities. His concern is with the “differences of those who do not acknowledge one common Civil Right whereby they may and ought to be decided” (I.I.I), which he seeks to regulate non-parochially. By making world ownership central, Grotius offers a standpoint of global public reason.

It is not surprising that ideas of collective ownership would play such a prominent role in the 17th century. European expansionism had come into its own, so questions of global reach inevitably entered European political thought. At the same time, an appeal to God's gift of the earth – occurring, as it does, in the Old Testament – was as secure a starting point for inquiry as these religiously troubled times could offer. Yet although the protagonists commonly took the biblical standpoint that God had *given* the earth to humankind, at least some, like Grotius and Locke, thought this matter was plain enough for reason alone to grasp it. And indeed, the view that the earth originally belongs to

¹ See Buckle (1991) and Tuck (1999) for these discussions. I talk about “collective ownership” in a generic sense, capturing the idea that, in some sense to be explicated in more detail, humanity as a whole owns the earth. Thanks to an audience at Southern Connecticut State University for discussion and to Arthur Applbaum, Eric Cavallero, and Alexander Schwab for comments.

humankind collectively is plausible without religious input. Since political philosophy is once again preoccupied with questions of global reach, we have much to gain from revitalizing the standpoint of original collective ownership. To be sure, asking about “original” ownership is not asking about a certain period, but if resources and spaces that exist independently of human activities are in some sense owned, a sense that would be morally prior to claims individuals or groups could make to them. This essay explores the view that the earth belongs to humankind collectively from a contemporary, secular standpoint. My goal is twofold: First of all, to offer a particular view on the ownership status of the earth; and second, to defend this inquiry into original ownership against objections. I hope to stimulate more research into these matters that are of such striking importance to contemporary political philosophy with its focus on global justice. The standpoint of collective ownership could generate a fruitful research agenda.

Philosophically, we indeed have much to gain by revitalizing and developing the idea that humanity collectively owns the earth since this status affects what people can do with portions of the planet. While reflections about personhood and about how persons ought to relate to each other are foundational to moral theory, reflection about original ownership can help along moral arguments by appealing to the fact that resources and spaces that we all need are nobody’s accomplishment. What is at stake is ownership of things that make human life possible, ownership of “our sole habitation (...) in which we live and move and have our being” (Passmore (1974), p 3). Consider the following scenario to illustrate the ongoing relevance of collective ownership. Suppose the population of the US tragically shrinks to two, but these two control access to the country through sophisticated border-surveillance mechanisms. Nothing changes elsewhere. Most

people would agree that they should allow for immigration since they are grossly under-using the space they control. We can best explain this view by the fact that all of humanity has claims to the earth that would otherwise be disregarded. So the collective ownership status of the earth bears on questions of immigration more broadly.² Another matter to which the standpoint of collective ownership applies straightforwardly is distributive questions about burdens that arise in the context of climate change.³

After the Rawlsian Renaissance of political philosophy it has mostly been left-libertarians who took world ownership seriously. Left-libertarians hold that agents are self-owners but that natural resources are owned in an egalitarian manner.⁴ As opposed to that, right-libertarianism's *differentia* is the denial of any moral account of ownership of external resources. Let me therefore quickly address a typical *reductio* through which right-libertarians often seek to ridicule collective ownership. Can somebody seriously claim, asks Murray Rothbard, that a newborn Pakistani baby has a claim to a plot in Iowa that Smith transformed into a field?⁵ As soon as one considers such implications of

² For the application of the standpoint of collective ownership to questions of immigration, see Blake and Risse (2007) and Blake and Risse (forthcoming). Kant thought the “communal possession of the earth’s surface” is one basis of the cosmopolitan right of resort. (Immanuel Kant, *Metaphysics of Morals*, Doctrine of Right, sections 6, 13; see also Kant, *Perpetual Peace*, 106. For a commentary, see Simmons (2001).) According to Kant, this right does not entitle to immigration, but grants mobility and safety in foreign lands. Yet Kant gives no reason for the relatively restricted nature of this right. More robust rights to immigration emerge from a fuller accounting of collective ownership. Ideas about collective ownership have entered international law through idea of the “common heritage of humankind;” see Attfield (2003), pp 169-172, Malanczuk (1997), pp 207f, and Cooper (1994), chapter 3; cf. also Buck (1998).

³ The ownership approach, in some way or another, is taken up, in the context of discussions about climate change, in Singer (2002), Hurka (1993), Grubb et al (1992), Grubb (1995), Traxler (2002), and Gardiner (2004). For systematic development, see Risse (forthcoming). A less straightforward application of the ownership standpoint are human rights, see Risse (2009).

⁴ See Vallentyne and Steiner (2000a) for contemporary contributions, and Vallentyne and Steiner (2000b) for historical ones. There is much more of a history to left-libertarianism than my remarks make clear.

⁵ Rothbard (1996), p 35; Hospers (1971), p 65, makes a similar point.

collective ownership, says he, one realizes its implausibility. Smith has claims on the strength of his plight, but the baby has none. Yet collective ownership of the sort I defend does not grant each and every individual claims to each and every object. Not any nugget of gold found on the ocean floor has to be shared out among all human beings, nor does each drop of oil extracted on the Arab peninsula. That our baby has claims to resources on a par with Smith's is consistent with its not having claims on Smith to vacate *that* land. A detailed view of what collective ownership amounts to has yet to be established, but collective ownership is not so easily shown to be absurd.⁶

2. Two points are obvious enough: first, the resources of the earth are valuable and necessary for all human activities to unfold, most importantly to secure survival; second, those resources have come into existence without human interference. These points must be considered when one uses human accomplishments to justify property rights strong enough to determine use across generations. Consider the argument from first occupancy, which assigns resources to first takers. This view is problematic since the fact that somebody came to a place first cannot grant ownership resonating through the ages

⁶ (1) Some think that outside a theistic framework collective ownership is *meaningless* (Narveson (2001), p 73, seems to do so.) What leads to this view are concerns about what exactly is owned and who owns, and to a larger extent concerns about the sort of ownership-relation that can apply to humanity as a whole. All these worries are addressed in what follows. One may say that ownership presupposes that some people are excluded: "humankind," that is, cannot be an owner, unless those who are excluded are animals or extra-terrestrials. ("Arriving on earth, E.T. found himself sadly excluded from what is collectively owned by humankind.") Yet I think that ownership, in the limit case of humankind being an owner, loses this feature. (2) Considerations of the original ownership status of the earth also enter in discussions of the legitimacy of private property (which do not necessarily have any libertarian focus); see Waldron (1990), Munzer (1990), Christman (1994), Penner (1997), and Harris (1996). See Becker (1977) and Reeve (1986) for overviews.

precisely because the resources are needed by all and their existence is nobody's accomplishment. The same difficulties hold for a Lockean labor theory of acquisition.⁷

Egalitarian Ownership is the view that the earth originally belongs to humankind collectively, in the sense that all humans, no matter when and where they are born, must have *some* sort of symmetrical claim to them.⁸ Egalitarian Ownership is detached from the complex set of rights and duties the civil law delineates under the heading of property law (Honoré (1961)). At this level of abstraction from conventions (which themselves have to be assessed in relation to views on original ownership) all Egalitarian Ownership states is that all humans have symmetrical claims to resources. Nothing is as yet said about exclusion, transfer, or other aspects of property in the civil law.⁹ This is the most plausible view of the ownership of natural resources, because of the two points made above: that the existence of the resources of the earth is nobody's accomplishment, whereas they are needed for any human activities to unfold.

⁷ For the Lockean theory, see Sreenivasan (1995). However, it will become clear once we discuss various conceptions or interpretations of Egalitarian Ownership that I am not actually entitled to launching this complaint against first occupancy or labor theory accounts of acquisition on the basis of Egalitarian Ownership alone. I will only be fully entitled to this complaint once Common Ownership is established as its philosophically preferred conception.

⁸ I must acknowledge right away one semantic oddity here. Shortly, I will introduce as one conception of Egalitarian Ownership the right-libertarian idea that the earth is originally unowned and that no moral constraints apply to appropriation. While this can be seen as a trivial case of everybody's having symmetrical claims to the earth, it cannot easily be seen as a case of *collective* ownership, other than perhaps in an entirely vacuous sense. In anticipation of the fact that I will later reject this right-libertarian idea anyway, I will continue to use the term "collective ownership" to refer to Egalitarian Ownership, with the awareness that this introduces a semantic prejudice against the right-libertarian stance. However, I will discuss this stance with considerable care later.

⁹ Risse (2004) did not develop the standpoint of collective ownership in this way. Following Christman (1991), there I understood "ownership" to consist of a set of rights and duties: First, we have the right to possess, use, manage, alienate, transfer, and gain income from property. Derivative of these are rights to security in ownership, transmissibility after death, and absence of term (specifying absence of temporal limitations on ownership). In addition, there are the prohibition of harmful use, residuary character of ownership (laws specifying rules of ownership in cases of lapsed interest), and liability to execution in case of insolvency. All of this is true of ownership as it is understood in the civil law, of course, but something much weaker is meant by Egalitarian Ownership as I understand it here.

We will explore how much argumentative work each of these starting points does, as well as what we need to add to them to render Egalitarian Ownership defensible against objections. I state the fact that we all need external resources for two reasons: First, it explains the relevance of inquiries about the original ownership status of the earth; and second, it makes sure such inquiries are not led ad absurdum by pointing out that it is equally true of remote galaxies that no human being has helped create them. The earth is a closed system that all humans need for survival, but this is not true of other parts of the universe.¹⁰ While the points supporting Egalitarian Ownership also hold for animals, I assume we can show independently that human beings stand in moral relations to each other that differ from their relations to animals. Nothing turns on claiming that animals are inferior. We explore original ownership to assess redistributive claims humans make upon each other. Such claims arise in contexts where questions about moral ties among humans and animals are not at issue, or can be treated separately.¹¹

¹⁰ (1) For the importance of claims of need for distributive justice see Wiggins (1998) and Williams (2005). More would need to be said about what needs are, but the details will not matter for our purposes; see for instance Braybrooke (1987), Goyal and Gough (1991), Miller (1999), chapter 10, and Griffin (1986), chapter III. Waldron (1993) stresses the importance of a theory of needs for the justification of private property. (2) One might grant that the earth is a closed system of resources all human beings need for survival and that this does not apply to other parts of the universe, but still ask why everybody should accept that the space that is collectively owned does indeed include the *whole* earth. Why would not people in Japan or New Zealand say they collectively own their islands, but that this does not concern others? (A one-person version of this standpoint is expressed by the protagonist of Haldór Laxness's novel *Independent People*, Bjartur of Summerhouses, who says the following when his son announces his wish to emigrate: "What the devil do you think you know about any damned world? What is a world? This is the world, the world is here, Summerhouses, my land, my farm is the world" (p 393).) We put this point aside for now and return to it later. (3) If space-travel expands, humanity's living space might expand as well, in which case the considerations offered here would speak to the expanded space too.

¹¹ For discussions about what might be morally special about human beings, see Singer (1993), chapters 2 and 3, and Gosepath (2004), chapter II.5. Most plausibly, as far as extensions of moral considerations to animals are concerned, we would be talking about higher animals anyway. My assumption that we can show independently that human beings stand in moral relations to each other that differ from their relations to animals should be unproblematic because I do not think of the ownership approach as a foundational account of morality. Again, reflections about personhood and about how persons ought to relate to each other are foundational to moral theory, but reflection about original ownership can help along moral

One may ask, inspired perhaps by Wiggins (2000), why we would presume that ownership appropriately captures our relationship to the environment. But Egalitarian Ownership is a view about the relationship among human beings: *to the extent* that we think nature is at our disposal, no human being has a privileged claim to resources. While the civil law often permits us to destroy objects, Egalitarian Ownership does not entail the permissibility of wanton destruction, nor does it commit us to ascribing merely instrumental value to nature. Valuing nature intrinsically, as sublime or awesome, as providing a context where human life can obtain its meaning in the first place, or even as in some sense sacred is consistent with the view developed here.¹²

The idea that humanity collectively owns the earth has played its part in the history of perceived human superiority: Gruen and Jamieson (1994), for instance, include excerpts from Locke in their collection of reflections on nature to make this point. But Egalitarian Ownership does not presuppose the arrogance associated with the biblical account that seems to subject the rest of creation to the human will, an attitude that shows, say, in Calvin's view that God took six days to create the world to demonstrate to humans that everything had been prepared for them. In that way our approach differs from its 17th century predecessors many of whose defenders took no issue with this

arguments by appealing to the fact that resources and spaces that we all need are nobody's accomplishment. See Blake and Risse (forthcoming), Blake and Risse (2007), Risse (2009), and Risse (forthcoming).

¹² See Krebs Part I.1 and references therein for the notion of nature. A classical starting point for reflection on nature is Mill (1874). For an overview of ways of thinking about the value of nature, see Krebs (1999). Wiggins (2000) emphasizes that nature is "sublime and awesome", and that our valuing it thus must have an impact on our attitudes towards it. Goodin (1992) defends the view that the value of nature lies in the fact that it gives us a context in which our lives can find a meaning. What is crucial about this context is that humans have not designed it. Blake and Risse (forthcoming) explore the possibility of there being an overall assessment of the value of human purposes of certain regions. But even the construction of such a value is consistent with acknowledging the independent value of nature; the purpose of constructing such a value will be to assess what distribution of human beings across the globe is acceptable.

implication. Nor does this view imply a commitment to the “rape” or “domination” of nature deplored in Horkheimer and Adorno’s *Dialectic of Enlightenment*.¹³

Not all attempts to reconsider our manner of valuing nature are consistent with Egalitarian Ownership. Aldo Leopold’s credo -- “A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise” (Leopold (1949), p 224f) -- is not. Leopold suggests that at some point people will find practices of “owning land” as despicable as we find practices of “owning people.” This sort of “land ethic,” developed by Callicott (1989) and others, moves outside of a scope of views one may call *enlightened anthropocentrism*, the position that all values ultimately must be values to human beings, values on a human scale, which, alas, does not mean their range is exhausted by instrumental values, or values of human flourishing, even broadly conceived. Enlightened anthropocentrism acknowledges that answers to environmental questions “must be based on human values, in the sense of values that human beings can make part of their lives and understand themselves as pursuing and respecting” (Williams (1995), p 234).¹⁴

¹³ The biblical story can be read in different ways, White (1967) and Passmore (1974), chapters 1 and 2. Passmore (1974) contains a wealth of information about the diversity of attitudes towards nature that have been held across cultural traditions. For the reference to Calvin, see Passmore, p 13. A letter from Chief Seattle to US President Pierce from 1855 takes a rather different view on the ownership situation that connects human beings and the earth: “This we know: The earth does not belong to man; man belongs to the earth.... All things are connected like the blood which unites one family. Whatever befalls the earth, befalls the sons of the earth. Man did not weave the web of life: he is merely a strand in it. Whatever he does to the web, he does to himself” (quoted in Weiss (1988), p 1).

¹⁴ Compare Wiggins (2000): “In thinking about ecological things we ought not to pretend (and we do not need to pretend) that we have any alternative, as human beings, but to bring to bear upon ecological questions that human scale of values. The evaluations that the human scale enables us to make of past, present, and possible states of the earth are conditioned through and through not only by our own peculiarly human needs and interests, but also by the cognitive and affective history of our kind. That is how it has to be. Yet this is not to say that all human evaluations are relative (unless that is the special significance you decide to assign to the term of art ‘relative’). We shall see moreover that the human scale of values is not uniformly human centered” (p 7f).

Deliberately outside of such a standpoint also moves arguably the “biospheric egalitarianism” of the Deep Ecology movement inspired by Arne Naess (Naess (1989)), according to which all living things (including plants and ecosystems) are alike in having value in their own right.¹⁵ Approaches such as Naess’s, while they may grant that it so happens that humans care more about each other than about other entities, will not give any morally privileged status to human projects: a rejection of alleged human chauvinism is part of their concern (see also Routley and Routley (1980)). They will not even tend to give such a status to the idea that human beings are “at home” in the world in the sense that they can sensibly think they can use the environment to satisfy their basic needs. Locke formulated that last point as follows: “The Earth, and all that is therein, is given to Men for the Support and Comfort of their Being” (*Second Treatise of Government*, section 26). At a minimum, this idea, stripped of theological content and connotations of human arrogance, must be acceptable within approaches to the question of how to value nature for Egalitarian Ownership to look plausible.

To avoid trivialization, we should not understand the priority given to beings with a subjective good (especially human) that is necessary for the plausibility of Egalitarian

¹⁵ “Arguably:” Perhaps even Deep Ecology could be reconciled with Egalitarian Ownership. Naess (1984) says that “humans have no right to interfere destructively with nonhuman life except for purpose of satisfying vital needs” (p 266). But we also read that “Ecosophy, as I conceive it, *says yes to the fullest self-realization of man*” (emphasis in original, p 270). Using the ownership language explicitly, Naess (1989) writes: “The Norwegian people or the Norwegian state does not own Norway. The resources of the world are not only resources for human beings. Legally, we can ‘own’ a forest, but if we destroy the living conditions for life in the forest, we are transgressing the normal of equality” (p 175). But also: “The principle of biospheric egalitarianism defined in terms of equal rights, has sometimes been misunderstood as meaning that human needs should never have priority over non-human needs. But this is never intended. (...) Human beings are closer to us than animals, but there is no unsatisfied need driving the food cosmetic industry. (...) The dimensions of peripheral needs of humans must be compared with vital needs of other species, if there is a conflict” (p 170f). While there might be a way of rendering Egalitarian Ownership consistent with this outlook, the best thing to say here is that it would be awkward to do so. There is more of a commitment to the moral importance of beings with a subjective good (in particular humans) in the ownership approach than Deep Ecology would be comfortable with. While the language used to formulate positions in some generality might not make the differences clear, case-by-case applications would.

Ownership as restricted to the satisfaction of basic needs, but as including a further-reaching priority for the realization of the good life of such beings. Required is a considerable priority for the good of such beings, alas not a priority that categorically thinks this sort of good always trumps all other considerations. For instance, defenders of Egalitarian Ownership do not have to concede that any human needs must prevail even if the Grand Canyon must be destroyed to meet it.

Above I only listed as starting points for our inquiry that all human beings need external resources and spaces but their existence is nobody's accomplishment. In light of the discussion of how we might reconcile Egalitarian Ownership with environmental concerns, we must add a third assumption, namely, that at least the satisfaction of needs of beings with a subjective good (especially humans) indeed is of moral significance.¹⁶

3. In a next step, we must assess specific *conceptions* of Egalitarian Ownership, where contenders need to explicate that idea of symmetrical claims. Only if in light of the philosophically preferred conception of Egalitarian Ownership political structures can be justified where something like a civil law is available can we discuss property under such more constraining conditions. Parallel to Rawls's four-stage sequence (see Rawls (1999),

¹⁶ Freeing the idea of collective ownership from its theological context allows us to respond to a certain line of ridiculing the idea that the earth is there for the sake of human beings. John Muir, patron saint of the environmental movement, wrote: "But if we should ask these profound expositors of God's intentions, How about those man-eating animals – lions, tigers, alligators – which smack their lips over raw man? Or about those myriads of noxious insects that destroy labor and drink his blood? Doubtless man was intended for food and drink for all these? Oh, no! Not at all! There are unresolvable difficulties connected with Eden's apple and the Devil. Why does water down its lord? Why do so many minerals poison him? Why are so many plants and fished deadly enemies? Why is the lord of creation subjected to the same laws of life as his subjects? Oh, all these things are satanic, or in some way connected with the first garden" (quoted in Gruen and Jamieson (1994), p 24). No such absurdities arise on the view defended here. At the same time, our approach is not committed to a general care-taking attitude that has come with one interpretation of the divine creation, as captured for instance by the idea of a Great Chain of Being, where nothing is created in vain; see Lovejoy (1957), and for some discussion, Sagroff (2008), p 201.

section 31) that begins with the Original Position, then proceeds to the constitutional, legislative, and finally to the judicial stage, we begin with the abstract viewpoint captured by Egalitarian Ownership, develop different conceptions of it, and could (but will not) proceed then to assessing civil law prescriptions in light of the most plausible conception. Considerations developing the value of nature are most readily brought to bear at this last stage because we will only then have settled what specifically individuals or groups can do with resources. Before we can proceed, however, we must add a few more points of clarification about Egalitarian Ownership.

One may say the term “ownership” is misleading in the statement of Egalitarian Ownership, but I use it since there is this connection to the familiar, thicker notions of ownership in civil law; and we are, after all, concerned with what sorts of claims individuals have to resources. Importantly, the considerations supporting Egalitarian Ownership speak to raw materials only, not to what human beings have *made* of them. Perhaps it is true that people born into a given society should not be favored in terms of access to its achievements. Yet an argument for that view would differ from the one here. An egalitarian standpoint of sorts on collective ownership has no implications for how one thinks about redistributive questions about entities that would not exist without human interference. The distinction between what “is just there” and what has been shaped by humans is blurred, say, for land human beings have wrested from the sea, or for natural gas that can be harnessed from garbage deposits. But by and large, we understand well enough the idea of what exists without human interference.¹⁷

¹⁷ (1) A more difficult question is under what conditions man-made products, including improvements of original resources, should no longer be accompanied by special entitlements of those who made them or their offspring. See Blake and Risse (forthcoming) for discussion. (2) The considerations supporting Egalitarian Ownership also do not appeal to any parts of the human gene pool, and so that pool is not part

What we need to inquire about is not two-dimensional surfaces but three-dimensional space. Collectively owned is the earth as a whole, not merely its surfaces. We must inquire about materials that exist independently of human contributions (air, soil, raw materials such as minerals, coal, water), but also about how biophysical factors such as climate endow regions with value for humans. This is one regard in which the collective-ownership approach requires a serious update. When Grotius and Locke wrote, wealth in land was central to the economy, and questions about access to territory as well as the seas were more unsettled than today. Thus interest in two-dimensional surfaces was naturally central. When Marx wrote in the 19th century, attention had shifted to the means of production, and according to Rifkin (2000), we now live in the “age of access” in which the basic parameters of the economy (“paid-for experiences,” according to Rifkin) have to be understood yet differently. It is important to be clear, therefore, that originally owned is three-dimensional space of differential usefulness for human purposes, regardless of its era-dependent relevance for the respective economy. (Since I wish to stay neutral with regard to the status of animals, I do not include wildlife among external resources. But doing so would be unproblematic in terms of this account.)

States may themselves adopt vastly different systems of ownership, explicating what forms of control, benefits, or possibilities of exclusion owners may have, as well as different ideas about who can own what and how. Also, some states have insecure property rights, are unable to enforce what rights there are, or control access to their

of what we collectively own. Genes can be passed on only through actions of particular individuals. Generally, my concern is to apply Egalitarian Ownership only to cases where those considerations apply without any reasonable doubt. After all, I want to claim that the relevant ownership rights are natural rights, and that a particular conception of human rights can be derived from them. So indeed, our starting points ought to be beyond doubt, and minimalist in character.

territory. Some indigenous peoples may reject ideas of ownership entirely. Nevertheless, since any two individuals occupy a symmetrical status with regard to original resources, Egalitarian Ownership formulates a standing demand on all groups that occupy the earth to do so in a manner that respects this symmetrical status of individuals.

That Egalitarian Ownership operates in this way should be acceptable even within cultures where individuals are not seen as property owners if the claim that all individuals have a symmetrical claim to what is originally owned is understood in sufficiently weak terms to keep it within plausible limits. As far as such cultures are concerned, the symmetry of claims to original resources merely applies as a standing demand to keep the property regime justifiable to those subject to it. Nothing about Egalitarian Ownership precludes such cultures from being acceptable to their members even if they do not treat individuals as property holders. Moreover, particular features of the relevant cultures might provide reasons for setting aside the enforcement of any claims that may follow from Egalitarian Ownership. At the same time, the stance we have developed makes room for the thought that even such cultures must be acceptable to those who live in them *especially* because all individuals have symmetrical claims to original resources, no matter how precisely we understand such acceptability.

4. Let us proceed to conceptions of Egalitarian Ownership. Such conceptions differ in how they understand the symmetry of claims to original resources.¹⁸ There are, roughly, four types of ownership-status an entity may have: *no* ownership; *joint* ownership – ownership directed by collective preferences; *common* ownership – in which the entity

¹⁸ The most plausible view on duties to nature must be factored in; but again, only at the stage of the civil law will those fully come into their own when it is spelled out precisely what one can do with resources.

belongs to several individuals, each equally entitled to using it within constraints; and *private* ownership. Common ownership is a right to use something without the right to exclude other co-owners from also using it. If the Boston Common were held as *common* ownership when it was used for cattle, a constraint on each person's use could be to bring no more than a certain number of cattle, a condition supported by respect for others and the concern to avoid the infamous Tragedy of the Commons. Yet if they held the Common in *joint* ownership, each use would be subject to a decision process to be concluded to the satisfaction of each co-owner. Joint ownership ascribes to each co-owner property rights as extensive as rights of private ownership, except that others hold the same rights: each co-owner must be satisfied on each form of use.

The difference between common ownership and no ownership emerges clearly (conceptually, if not practically) if we ask what it takes to create *private* property. No ownership requires a theory of *acquisition*. The crucial issue is how to create rights and duties constitutive of property in the first place, one important question being whether this process is subject to moral constraints. Right-libertarians deny this, but such a denial is not implied by the acceptance of No Ownership. One may argue alternatively that, while resources are indeed originally unowned, acquisition requires a certain consideration of others (a subject the literature discusses under the heading of "provisos"). Common ownership requires a theory of *privatization*, the crucial issue being how to derive private ownership from a bundle of rights and duties constituting common ownership. Private ownership must derive either from a contract, or in a way that renders a contract superfluous. (I speak of "appropriation" when staying neutral between acquisition and privatization.)

So there are various interpretations of Egalitarian Ownership: resources could be jointly owned, or commonly owned, or each person could have private ownership of an equal share of resources, or its value equivalent. On any of these interpretations, ownership rights are pre-institutional, and in that sense natural, rights. How can we decide which conception (each of which, once further detail is added, could be developed in different ways) we should prefer? Political philosophers in the 17th century debated how best to interpret God's gift, and we need to have a similar debate about these conceptions. Rather than authoritative revelation, what we can work with are (a) the independent plausibility of these conceptions (in light of how they cohere with other moral convictions), and (b) the extent to which the conceptions can claim to be good developments of the two basic intuitions supporting Egalitarian Ownership.¹⁹

5. I submit that Common Ownership is the most plausible conception. I will first elaborate on Common Ownership some more, to explain precisely what it involves. As part of this discussion I will already offer reasons for rejecting other conceptions, but I will later turn to that subject more systematically. The core idea of common ownership is that all co-owners ought to have an equal opportunity to satisfy their basic needs to the extent that this turns on collectively owned resources. This formulation, first, emphasizes

¹⁹ In capital letters, "Joint Ownership" and "Common Ownership" are names of interpretations of Egalitarian Ownership and hence views about ownership of the earth, whereas in small letters "joint ownership" and "common ownership" are general forms of ownership of anything. I continue to say that humanity "collectively" owns the earth if the precise form of ownership does not matter. I use the term "Equal Division" for the interpretation of Egalitarian Ownership that corresponds to private ownership. It might be possible that this terminology could be used to develop conceptions of Egalitarian Ownership that my subsequent discussion does not address. This poses a problem for my argument because I argue in support of Common Ownership first by showing that it is a plausible conception of Egalitarian Ownership, and then by raising objections to the competing conceptions. I do think, however, that in the course of this discussion we encounter sufficiently many relevant considerations to have a reasonable level of confidence that those would offer resources to address other possible conceptions as well.

an equality of status; second, it points out that this equality concerns opportunities to satisfy basic needs (whereas there is no sense in which each co-owner would be entitled to an equal share of what is collectively owned, let alone to support in getting such a share, any more than co-owners of the Boston Common had such claims); and third, it does so (only) insofar as such needs require collectively owned resources.²⁰

To put this in Hohfeldian terminology, common ownership rights minimally include liberty rights accompanied by what Hart (1982) calls a “protective perimeter” of claim rights (p 171).²¹ To have a liberty right is to be free of duties to the contrary, and obviously, common ownership rights must include such rights. Co-owners are under no duty to refrain from using any resources. Were co-ownership reducible to such rights, we would end up with a Hobbesian state of nature. While nobody is under any duty to refrain from using resources, nobody is obliged not to interfere with any use either. Nobody could create even minimal claim rights by privatizing resources. But the symmetry of claims postulated by Egalitarian Ownership demands more than liberty rights. In light of the intuitions supporting Egalitarian Ownership, to count as an interpretation of the latter, Common Ownership must guarantee minimal access to resources, that is, impose duties to refrain from interference with certain forms of use. Otherwise some might legitimately be deprived of any access to resources.²² Therefore, then, we must add that protective perimeter of claim rights to the liberty rights.

²⁰ I take it that, to the extent that a notion of equality of opportunity enters here, it is exhausted by the liberty right, claim right, and immunity right we are about to introduce. Also, the reflections we offer here are too limited in scope to support any ideal of equality of opportunity in actual societies.

²¹ For discussion of the Hohfeld terminology, see for instance Jones (1994), chapter 1, Edmundson (2004), chapter 5, and Wenar (2005).

²² However, in our discussion of No Ownership below we will see that this move proceeds too quickly and that more needs to be said here.

Enough mileage can be obtained from the original intuitions to require that common ownership rights (for Common Ownership to serve as an interpretation of Egalitarian Ownership) be conceived of in sufficientarian terms, in the sense that no co-owner should interfere with the actions of another if they serve to satisfy basic needs. These intuitions cannot be pressed beyond that. Equal Division and Joint Ownership press them too far: no requirements of actual equality in one's share in originally collectively owned resources, or participation in a collective decision-making process, emerge from the intuitions that original resources are needed by all but are nobody's accomplishment. Again, the equality of status captured by common ownership is merely an equality of opportunity to satisfy one's basic needs to the extent that those turn on collectively owned materials.²³

We must add one more right. In a pre-institutional state of nature, where the level of technology and organization is low, liberty rights plus a protective perimeter of claim rights plausibly guarantee individuals an equal opportunity to satisfy basic needs to the extent that this turns on obtaining collectively owned resources. Yet we must also make sure individuals can maintain their co-ownership status under more complex arrangements. These arrangements might be property conventions in which access to resources plays little immediate role for most people. A necessary condition for the acceptability of such conventions is that the core purpose of the original rights can still be

²³ The plausibility of a protective perimeter depends on how many resources there are. One assumption that enters implicitly is that – at least globally, and modulo our ability to find a sensible allocation mechanism – there is indeed “enough” to render the stipulation of such claim rights plausible. In a world that is wildly at odds with that assumption (such as the post-apocalyptic scenario in Cormac McCarthy's *The Road*) much moral thought would have to be reconsidered anyway. The plausibility of such claim rights would not be undermined by the existence of emergency situations (such as shipwreck scenarios) in which claims to non-interference may no longer hold.

met. That purpose is to make sure co-owners have the opportunity to meet basic needs. In Hohfeldian terminology, co-owners have an *immunity* from living under political and economic arrangements that interfere with those being subject to them having such opportunities. This immunity delivers a standing demand that individuals' status as equal co-owners be preserved regardless of what particular property arrangements hold. This immunity will later take us to human rights.²⁴

These rights are “natural” because we can justify them without reference to conventions or institutions that hold within or among groups, as well as without any reference to any transactions, such as promises or contracts. The justification has appealed only to natural attributes of persons, and the force of these rights can be recognized as valid by all reasonable people independently of any provisions of positive law. In a Hobbesian spirit one may say individuals might rationally agree to living in states or under other arrangements even if those failed to offer guarantees called for by the aforementioned immunity. That much may be true, but would be based on rational grounds and, given the basic nature of the needs at stake here, individuals would make such agreement only under duress. My argument takes individuals to be co-owners of the earth, and it is in this manner that an entitlement of the sort postulated here arises.²⁵

²⁴ The idea is that certain rights must be guaranteed by the global order for these natural ownership rights not to be violated. Why is this an immunity rather than a claim right? Nothing much depends on this, but I think the idea here is most naturally captured by saying that others do not have a morally acceptable power to erect political and economic structures that make it impossible for certain people to meet their basic needs. An immunity is a meta-right, and that is what we want here.

²⁵ All we say here is consistent with the existence of additional natural rights, especially rights to individual appropriation, as long as common ownership rights are respected.

6. I take it that I have now made a plausible case for Common Ownership as a conception of Common Ownership. But why accept Common Ownership over other conceptions? Much of the case for Common Ownership has to be made vis-à-vis No Ownership, rather than any other conception. One may think No Ownership is the default view among interpretations of Egalitarian Ownership. Otsuka (2003), for one, does, claiming that “in the absence of any such belief that the earth was previously owned by some being who transferred this right of ownership to humankind at the outset, it is reasonable to regard the earth as initially unowned” (p 22, note 28). Yet as Wenar (1998) points out, No Ownership possesses no such character if we acknowledge any natural rights at all (as for instance Otsuka (2003) does, cf. p 3f). For then there exist no circumstances when no rights hold, and the absence of rights over a domain loses its default status.

Inspired again by Wenar (1998), we can say that No Ownership embodies an ideal of “equal freedom,” whereas Common Ownership, Joint Ownership, and Equal Division all embody ideals of “equal voice.” The equal-freedom characterization is apt for No Ownership (unless moral constraints are added) because this view gives everybody the same freedom to occupy unowned land, but nobody has to make room for those who arrive late. The equal-voice characterization fits the other views because in these cases each person has a claim to being treated as an equal owner (of sorts), not simply as somebody with an equal chance of becoming one (where such an equal chance would apply in an ex ante manner to people alive at different times).²⁶

²⁶ One aspect of Wenar’s “voice” metaphor is a bit unfortunate in the present context. We have distinguished Joint Ownership from Common Ownership in terms of a shared process. “Equal voice” should not be understood as necessarily evoking such a process.

We just rejected an argument to push the burden of proof on those opposing No Ownership. Let us look at an argument that tries to push this burden on the “equal-freedom” approach embodied in No Ownership. According to this argument, any view on original ownership interprets the idea that everybody is *equally entitled* to resources. Unless we can show otherwise, we should explicate “equal entitlement” in terms of “equal voice,” since “equal voice” is the appropriate way of *respecting* individuals equally, which in turn is the vantage point of moral inquiry and leads to the “equal entitlement” perspective to begin with. Yet this argument begs the question. It is hard to see what *mistake* someone makes insisting that “equal freedom” is the right way of respecting individuals.

So we must tackle No Ownership directly. Some defenders of No Ownership constrain the acquisition of property (through “provisos”), others do not. Whereas Kirzner (1978) and Rothbard (1974), (1996) reject any moral constraints, Nozick endorses a proviso:

You may acquire previously unowned land (and its fruits) if and only if you make nobody else worse off than they would have been in the state of nature in which no land is privately held but each is free to gather and consume food and water from the land and make use of it.

To mention another example, Otsuka (2003) endorses this proviso:

You may acquire previously unowned worldly resources if and only if you leave enough so that everyone else can acquire an equally advantageous share of unowned worldly resources.

Let us first discuss No Ownership without any provisos. European conquerors in the 16th century claiming for their king all land between Atlantic and Pacific would not meaningfully have occupied anything. Defenders of No Ownership can readily acknowledge constraints of this sort (meaningful occupancy), much like somebody who

condones lying may insist that communication requires linguistic structure. A first objection to restricting constraints on acquisition in this manner might point out that it would be inappropriate for accidents of space and time to play a major role in the determination of property holdings, certainly if this process leads to rights that resonate through the ages through inheritance and bequest (as indeed it is often taken to do). What it took for some to acquire them seems insufficient to create entitlements that anchor privileges across generations.

Defenders of No Ownership without provisos might bite such bullets. They may say that, as long as nobody prevents others from exercising their “equal freedom” possibilities, accidents of space and time do not invalidate anything: justice need not remove such accidental interference with life chances.²⁷ Opponents would resist this, but it is hard to do so from a shared basis. What one ultimately needs to press against defenders of No Ownership is that they disregard a notion of *minimal human solidarity*, a basic acknowledgement of a general minimal entitlement to external resources that everybody has, also regardless of which generation they belong to. We cannot dismiss No Ownership as a conception of Egalitarian Ownership without endorsing a minimal entitlement to external resources that everybody has. Above, I emphasized that the intuitions behind Egalitarian Ownership should be acceptable across societies; I claim the same for this notion of solidarity. It is the minimal nature of the entitlement that makes the implied tie to possible interference plausible.

We can pin down the argumentative work that this notion of solidarity does (which should also make clear just what its content is and appease skeptics of this move):

²⁷ For relevant discussion, see Nagel (1997).

it is in light of, first, the acknowledged moral value of the satisfaction of basic needs of human beings, and, second, the fact that the existence of the external resources required to that end is nobody's accomplishment that Common Ownership becomes a plausible conception of Egalitarian Ownership. Yet these points by themselves do not defeat defenders of No Ownership. An appeal to solidarity closes the remaining argumentative gap by insisting that each person's ability to make ends meet should be protected from accidents of space and time *sufficiently much* to render acceptable the claim right and immunity right that came as part of Common Ownership. I am not making an exclusive appeal to the value of the satisfaction of needs to delineate the role of solidarity. This notion plays a more limited role: it bridges the gap *not* between the value of the satisfaction of needs, on the one hand, and an endorsement of Common Ownership, on the other; instead, it bridges the (one might say, "smaller") gap between the value of the satisfaction of needs *and* the fact that external resources are nobody's accomplishment, on the one hand, and that endorsement, on the other.²⁸

A commitment to such a form of solidarity is so basic as to be a starting point for additional claims, rather than being itself derived from anything else. While we could try

²⁸ (1) One might have wondered why there is moral significance to the satisfaction of needs of human beings in the first place. That is, one might have thought that this in turn must be because something else about the life of human beings is of value. The account developed here acknowledges that this is so, given that I granted that some answer can be given to the question of what renders the relationship among human beings special vis-à-vis our relationship to animals. But we can now also see why there is no need to go into more detail as far as this point is concerned, to the extent that one might have worried that a more developed account of that sort would do independent argumentative work. For no matter what else we would stipulate as having moral value, this additional endorsement of solidarity would still be required to proceed to an endorsement of Common Ownership, and in turn is all that is needed to that end. (2) Suppose somebody says that individuals are not merely symmetrically located with regard to external resources as far as their *needs* are concerned, but as far as all of their activities are concerned, and for that reason alone there should be further-reaching collective ownership rights than Common Ownership acknowledges. But such an approach would find itself without a convincing response to the right-libertarian challenge at this stage. According to that view, we would now have to introduce a more demanding notion of solidarity than would have no room within an approach that is supposed to apply to all human beings.

to offer additional support for this view (by appeal to the arbitrariness of anybody's station in life, the value of the satisfaction of basic needs or of the realization of human life projects), we plainly cannot derive this idea of solidarity from anything defenders of No Ownership would accept.²⁹ So we must add an endorsement of basic solidarity as a fourth assumption, in addition to the points that everybody needs external resources for the satisfaction of basic needs; that their existence is nobody's accomplishment; and that there is significant value to the satisfaction of needs of human beings.

So far we have discussed No Ownership without any provisos. Alternatively, defenders of No Ownership might accept a proviso. Depending on what particular proviso they accept, they would be adopting a theory identical in what it permits and forbids to one of the collective-ownership scenarios we have distinguished, or else they might adopt an entirely different theory. Ownership theories that go beyond Common Ownership (in terms of the set of natural rights they derive) are implausible as interpretations of Egalitarian Ownership because they would be making too much of the original intuitions that supported that view to begin with. Assuming no proviso would be of interest that formulates restrictions that leave people without the ability to satisfy basic needs, we see that no separate discussion of No Ownership with provisos is necessary.

7. Let us turn to Joint Ownership and Equal Division (the latter being the interpretation of Egalitarian Ownership that corresponds to private ownership, in the sense in which Joint Ownership corresponds to joint ownership). Much of what we said to defenders of No

²⁹ Recall that, above, we left open what to say to somebody who would claim that the shared space of human beings is the *whole* earth. The relevance of such an attitude would be to deny support or entry even in light of unsatisfied needs (or at any rate, this is the relevance that this point takes on for defenders of Common Ownership). This, however, would amount to a denial of basic solidarity.

Ownership was said on behalf of any equal-voice approach. We now need to show that, among equal-voice approaches, it is indeed Common Ownership that we should prefer.

Joint Ownership and Equal Division, again, make too much of our slim starting points – they make too much of the original symmetry. But there is more to say. Let us turn first to Joint Ownership. To support Joint Ownership, one needs a theory of what it is about individuals that requires such a high standard of justification for each use of collectively owned assets. Grunebaum (1987), a rare defender, introduces a notion of *autonomy* construed in such a way that each use of collective property violates a given individual's autonomy unless this individual gives her approval. Although this notion may at first appear very strong, it is actually too weak to be plausible. For if each individual needs *to be asked* about any use of the collective property, any individual also needs *to ask* about it. A response would be that only such a notion is consistent with each person's having autonomy. Yet regardless of assessing the actual strength of weakness of the notion of autonomy needed here, it will strike many that this use of the notion of autonomy overstates the normative weight of each person's autonomy. It overstates the importance of each individual vis-à-vis the rest of the world, a problem that is not alleviated because *each* individual's importance that is overstated in this way.

One might object that my approach does not offer the best understanding of Joint Ownership. The choice between Common Ownership and Joint Ownership should occur at the level of choosing principles for something like a global basic structure, not at the level of particular acquisitions, which is where the objection above applies. According to Joint Ownership, we would model an original position in which all parties are joint owners, and we seek to agree on principles of permission under which we are all

permitted to acquire materials or spaces without additional unanimity in particular acts. Under the conditions of an original position, this amounts to asking what permissions it would be reasonable both to give and to receive. Joint Ownership, the objector might conclude, models better than Common Ownership the idea that we have to justify our acquisition of the earth's resources *to each other*.

Yet we can grant all this as stated; but I submit that the list of rights summed up under Common Ownership would then emerge from the deliberation thus conceived. To begin with, we need to keep in mind that an "original position" is merely an expository device to represent factors relevant to a collective decision. The *locus classicus* for the application of this device is Rawls's *Theory of Justice*. Given the nature of the state, we must decide which features of individuals should give them claims of justice to goods produced by social cooperation. In each case, this would have to be carefully argued in light of those factors that characterize the normative peculiarity of the state. The original position is merely a device stipulating that deliberators in this position know all and only those features of themselves that do so entitle them.

As far as Egalitarian Ownership is concerned, if we were to construct a similar device, we would only have the intuitions giving rise to Egalitarian Ownership in the first place to assess which features of individuals should matter to the distribution of natural resources. Should, say, intelligence and strength make it possible for some individuals to acquire more resources than others have, as long as those have enough to satisfy basic needs? One might be inclined to answer negatively because of the morally arbitrary nature of these features. But this will not do. Consider the parallel to the state. We could say that strength and intelligence should have only a limited effect on one's distributive

shares in a state because such natural assets are morally arbitrary. Once pressed further why this should matter, we could say that everybody, weak or strong, intelligent or simple-minded, is subject to the authority of the state's law enforcement and that, *therefore*, all those individuals share something of moral relevance in relation to which claims to assets that arise from differences in strength and intelligence must be qualified.³⁰

However, if we are talking about natural resources, we could offer no such elaboration, as long as anybody's exercise of these faculties does not keep anybody else from satisfying basic needs. That is, whenever somebody offers a stronger interpretation of Egalitarian Ownership than what Common Ownership stipulates, an intelligible response would be that the intuitions supporting Egalitarian Ownership are already fully exhausted by Common Ownership. There would be no convincing reply to that response, parallel to how there was a reply in the earlier case to somebody who questioned the importance of the fact that the distribution of strength and intelligence are morally arbitrary. What we can plausibly say at the intuitive level about the original ownership status of the earth offers no traction for a stronger claim *as opposed* to the weaker claim expressed by Common Ownership, and recasting this debate in an original position does not change that situation. Crucially, a reasonable person could reject any stronger conception of Egalitarian Ownership, which in turn means that no such conception could deliver *natural rights*. Therefore, then, Joint Ownership, understood as a manner of

³⁰ I am here adopting a view on the basis of the normative importance of shared membership in a state developed in Blake (2001), Nagel (2005), and Risse (2006). The details of that view do not matter. The relevant point is that something can be said about the normative relevance of shared membership in a state so that there is a response to an objector who wonders why the moral arbitrariness of the distribution of intelligence or strength should matter for distributive questions within states.

setting up a certain kind of deliberation, does not conflict with Common Ownership understood as a view about how co-owners should relate to each other.

Consider Equal Division as defended by Steiner (1994).³¹ Equal Division gains plausibility from the idea that there is a (figurative) heap of resources to which each human being has an equal claim. However, the idea of “dividing up” such a heap presupposes an ability to assign values to sets of resources to render them comparable (e.g., through a market mechanism). Yet many materials only acquire value through activities that require social contexts in which *not* all humans participate equally. What makes resources valuable contradicts claims to symmetry with regard to the heap of resources after an application of the valuing operation. One may say what we collectively own is the overall value of resources, and that it is this overall value of which each person should have an equal share. But again, individuals have no symmetrical claims to that overall value for the reason specified. Defenders of Equal Division face a dilemma: either they claim that what individuals have symmetrical claims to are the original resources themselves; if so, they have no way of saying what counts as an equal share. Or else they say that it is the overall value of these resources, however assessed, to which individuals have such claims. But in that case the claim is false.

Let us consider two objections to this argument. First, one might say that it is not generally true that independent actions or accomplishments of others that raise the value of one’s own assets should not count towards the value of those assets. If I own a field and others open a plant nearby, the value of my field might rise because now people have more reasons to live in our area. But none of this value increase would be owed to those

³¹ The argument I just gave in the preceding paragraph could also be used against Equal Division, but an additional objection arises as well.

other people (in the sense that it must be transferred to them). It is irrelevant to my ownership claims if people's activities contribute differently to the value of any particular item that gets priced in any way at all. Similarly, I have a claim to an equal share of resources regardless of whether the valuing mechanism that divides up the heap of resources has arisen through differential activities of different people. But such examples presuppose an ownership structure only civil law can prescribe. My field *already* has some value that *then* changes in response to the actions of others. But the point of my argument against Equal Division is that no value can be assigned to original, hence still entirely unvalued, resources in a way that does not break the original symmetry of claims.

Secondly (and this is more an objection to Common Ownership on behalf of supporters of Equal Division, as well as other possible conceptions of Egalitarian Ownership stronger than Common Ownership, than to my argument against Equal Division), one might say Equal Division gives more appropriate consideration to the standpoint of individuals who have to bear the consequences of appropriation licensed by the respective conception of Egalitarian Ownership. Suppose two groups of ship-wrecked simultaneously land on an isolated island. Suppose one group occupies most of the island, but leaves enough to the others to satisfy their basic needs, but no more. According to Common Ownership, this would be acceptable, but not according to Equal Division, and it seems that, indeed, there is something morally problematic about this situation. Common Ownership does indeed not condemn such acquisition as wrong, but nor does not require of those left with little to accept this distribution. They have the right to take away the holdings of the other group, to the extent that those do not use them to satisfy their basic needs.

So according to Common Ownership, neither side would do a wrong (either by appropriating much more than the other side, or by not accepting this state of affairs), and this strikes me as the right result as far as natural rights are concerned. An additional question one could ask is: under what circumstances could both sides be reasonably expected to *wave* their liberty right to commonly owned resources to allow the respectively other side to build a community within a certain portion of three-dimensional space? That is, under what conditions could one or both sides not only demarcate a certain area for themselves and attempt to control entrance to it, but could expect outsiders to *accept* this scenario? Answering this question, however, goes beyond what we can do here. Answering it means explaining under what conditions the fact that certain groups claim certain parts of the world and keep others out would be acceptable to those others. For now I merely want to record that this line of questioning shows the fecundity of the ownership approach for questions of global political philosophy.

8. So Common Ownership is the philosophically preferred conception of Egalitarian Ownership. I now explore two implications of Common Ownership to illustrate what we can do with this view. One implication is that at least one prominent version of left-libertarianism is incoherent.³² This version is defended by Otsuka (2003). Otsuka combines a libertarian understanding of personhood with an egalitarian view of the ownership of external resources. What matters about this view of personhood is that individuals have a right of self-ownership, and Otsuka understands this right as a conjunction over the two following rights (p 15):

³² This discussion follows Risse (2004).

1. A very stringent right of control over and use of one's mind and body that bars others from intentionally using one as a means by forcing one to sacrifice life, limb, or labor, where such force operates by means of incursions or threats of incursions upon one's mind and body (including assault and battery and forcible arrest, detention, and imprisonment).
2. A very stringent right to all of the income that one can gain from one's mind and body (including one's labor) either on one's own or through unregulated and untaxed voluntary exchanges with other individuals.

Yet granting a "very stringent right to all of the income that one can gain from one's mind and body" will be anathema to those endorsing the basic solidarity needed for the acceptance of Common Ownership. Political and economic arrangements in which individuals now live have replaced the original situation of collective ownership, and one of the natural ownership rights is an immunity from living under arrangements where their equal opportunity to satisfy basic needs is realized. This immunity might require measures inconsistent with Otsuka's right of self-ownership.³³ Once we make such a commitment to solidarity, it does not matter as categorically as presupposed by Otsuka just how we make it possible for others to meet basic needs. Anybody who endorses the sort of solidarity needed to justify Common Ownership may still want to endorse limits on what redistribution states can require, but would not take a rejection of redistribution far enough to support Otsuka's self-ownership. As a view that combines ideas of a common jurisdiction over resources with an idea of the person such that nobody is required of anybody to help others out, left-libertarianism is incoherent.

One would not need to argue for the argumentative superiority of Common Ownership over other conceptions of Egalitarian Ownership if we could read this

³³ Christman (1991) and (1994) argue, from an egalitarian perspective, for a conception of ownership that excludes precisely that second bit of Otsuka's right to self-ownership.

superiority off theological premises or take it from revelations. One would then not have to make other commitment to rule out No Ownership, and thus would be free to adopt views on personhood independently, read those off theological premises, or obtain them from revelation. Yet outside of a theological framework we need to ask both about one's conception of Egalitarian Ownership and one's view of personhood why one would want to endorse those rather than plausible competitors. Such reasons might stand in conflict.

One might want to side-step the problem by adopting No Ownership with a suitable proviso. Yet how do we decide whether to accept a proviso, and which one?

Rejecting Nozick's proviso, Otsuka (2003) argues that as a means of ensuring

that nobody is placed at a disadvantage, Nozick's version of the Lockean proviso is too weak, since it allows a single individual in a state of nature to engage in an enriching acquisition in all the land there is if she compensates all others by hiring them and paying a wage that ensures that they end up no worse off than they would have been if they had continued to live the meager hand-to-mouth existence of hunters and gatherers on non-private land. (p 23)

He then argues for his own proviso as follows:

The egalitarian proviso has prima-facie plausibility for the following reason: One's coming to acquire previously unowned resources under these terms leaves nobody else at a disadvantage (or, in Locke's words, is 'no prejudice to any others'), where being left at a disadvantage is understood as being left with less than an equally advantageous share of resources. Any weaker, less egalitarian versions of the proviso would, like Nozick's, unfairly allow some to acquire a greater advantage than others from their acquisitions of unowned land and other worldly resources. (p 24)

Such a move is typical of the debate among defenders of No Ownership who wish to add a proviso on acquisition: they want to make sure nobody is *at a disadvantage* through other people's acquisitiveness. The disagreement is about how to think about advantage. But why care about placing people at a disadvantage? Kirzner and Rothbard have no qualms about placing anybody at such a disadvantage, insisting that nobody is *entitled* to not being so placed. Again we are being led to some version of basic solidarity and thus

to the same result we encountered above. The reasons required for endorsing Otsuka's proviso are in a tension with the reasons required for endorsing the second bit of his right to self-ownership. There is no unified stance from which one can endorse both.³⁴

9. A second application addresses an attempt made by Thomas Pogge to show that the global order harms the poor (see Pogge (2002)). One argument he offers is

Uncompensated Exclusion: The better-off enjoy ample advantages in the use of a single natural resource base from whose benefits the worse-off are largely, and without compensation, excluded.

This view succeeds *only* if the natural resource base belongs to humankind collectively. Unless those barred from enjoying a share of resources have a legitimate claim, no violation occurs through unilateral appropriation. I will argue that, in light of Common Ownership, Uncompensated Exclusion is plausible only if one takes a particular viewpoint within the debate about the sources of growth and prosperity. Since there is not enough space to deal with that debate in detail, I draw no further conclusions from that result but pursue this thought merely to illustrate implications of Common Ownership.³⁵

Common Ownership implies that co-owners who unilaterally use resources do not owe compensation *merely* because others do not, or *merely* because they exploit one particular resource (say, oil) that others do not find where they live. However, adversely affected parties have a valid complaint if (first) they are actually prevented from using

³⁴ Vallentyne, Steiner, and Otsuka (2005) respond to this criticism by tentatively granting the incoherence laid out here, but insist that there is no reason why such coherence should be required. They think this because "there is a very significant difference in the moral status of agents (...) and natural resources" (p 209). For reasons that should have become clear, this strikes me as an unsatisfactory response.

³⁵ This discussion follows Risse (2005). There I also argue that the train of thought just sketched is a refutation of Uncompensated Exclusion, which in turn is part of an attempt to resist Pogge's views of the global political and economic order.

resources in an illegitimate way, or (second) they are harmed in the sense that their interests are thwarted by unilateral acquisition in a manner that runs contrary to their status as co-owners. As far as the first condition is concerned, it is no longer the case that some societies keep other societies from extracting resources (or at any rate such cases are rather exceptional), or that colonial powers own extraction facilities in their colonies. Moreover, many of the poorest countries are resource-rich. This leaves us with the second condition. Note that, in this context, we try to identify a way in which some people's interests are thwarted in a manner inconsistent with their status as co-owners that can be ascribed to the global order rather than to specific countries.

With this point in mind, I submit that the most plausible version of spelling out Uncompensated Exclusion is that the global order harms the poor because the relative economic standing of countries within it is determined by the fact that some possess more useful resources than others, although humankind owns those resources in common. Such a disadvantage for some through unilateral exploitation by others is unacceptable because all are co-owners, and thus violates the ownership-rights of those whose interests are so thwarted. Implicit in that way of spelling out Uncompensated Exclusion is

Resource Significance: Resources are crucial for countries' wealth.

Unless Resource Significance holds, Uncompensated Exclusion fails to show that the global order harms by violating ownership rights. Resource Significance is not a necessary condition for the success of the harm claim made by Uncompensated Exclusion if we adopt either Joint Ownership or Equal Division as the preferred interpretation of Egalitarian Ownership; but it is if we adopt Common Ownership.

Consider now a debate that goes back at least to Adam Smith's *Wealth of Nations*, the dispute about the sources of prosperity and growth. This debate has attracted much attention, especially over the last dozen years or so, and has been explored with all the sophistication that contemporary econometrics makes possible. The following three views appear in the literature (see Risse (2005) for details):

Institutions: Growth and prosperity depend on the quality of institutions, such as stable property rights, rule of law, bureaucratic capacity, appropriate regulatory structures to curtail at least the worst forms of fraud, anti-competitive behavior, and graft, quality and independence of courts, but also cohesiveness of society, existence of trust and social cooperation, and thus overall quality of civil society.

Geography: Growth and prosperity are primarily determined by factors such as location, climate, endowment of resources, disease burden, and thus agricultural productivity, quality of human resources, and transportation costs.

Integrations: Growth and prosperity are primarily determined by world market integration.

Each of these views can account for the importance of factors championed by the others, but each also takes a stance on the deeper causes of prosperity. Institutions, say, is consistent with the claim that geographical factors and market integration matter for growth, but their causality is channeled through their impact on institutions.

Neither Integration nor Institutions supports Resource Significance. If Integration holds, a country's wealth level does not crucially turn on its resource endowment. A country may offer to the market what it has a comparative advantage in doing, which may be the provision of minerals, tourism, manufacturing, or services. A similar argument holds for Institutions. Arguably, Geography does support Resource Significance. Thus one has commit to Geography for Uncompensated Exclusion to show that the global order harms the poor. Again, here I do not take a stance on the truth of these views but merely point out this implication to illustrate what Common Ownership implies.

10. I started with two assumptions: that the resources of the earth are valuable and necessary for all human activities to unfold; and that those resources have come into existence without human interference. In discussing environmental concerns we saw that we also needed to endorse the moral significance of the satisfaction of basic needs, and adopted that point as a third assumption. Finally, by way of ruling out No Ownership we adopted as a fourth starting point a notion of solidarity to bridge the argumentative gap between these three assumptions and Common Ownership.

Although our notion of solidarity is minimal, endorsing it commits us to a certain approach to morality. I have made no attempt to derive common ownership rights from either rationality or reason alone. Instead, in a tradition that includes Rousseau, Hume, Smith, as well as Grotius, we postulated as basic a certain understanding of reasonableness in one's conduct. Common ownership rights thus obtained are "natural," again, because we can justify their possession without reference to conventions, institutions, or transactions individuals have undertaken (such as promises or contracts).

Must we assume anything else to arrive at Common Ownership? For instance, must we enlist a presumption of equality, or a right to a justification? I think not. Within the first-order discourse we have pursued, our four assumptions allow us to say everything we need to say about original ownership. An appeal to equality does not enter, nor does an appeal to a general right to justification. All I have said is consistent with these approaches, as well as a range of other views of acceptability among reasonable persons or views of how individuals have to conceive of themselves and each other to enter into moral discourse. One could see our arguments as instantiations of what such

views amount to in this context - an *instantiation*, rather than a *derivation* from more basic premises for which one needs to argue independently. I do not claim that the idea that individuals are owners of sorts (even if the relevant idea of ownership is rather abstract) has any priority as a fundamental characterization of moral agency over ideas of persons as self-governing or self-authenticating sources of claims, or as possessing any basic moral powers, etc. But I do claim that, given the basic nature of the considerations we have employed, we can be more certain of the adequacy of this account of original ownership than of the relative success of broader characterizations of moral discourse vis-à-vis plausible competitors. How one should spell out ideas of moral agency or acceptability to reasonable persons generally is irrelevant for our purposes.³⁶

A related point is that the ownership approach, of course, has its limitations. For instance, one might wonder about a situation in which we can meet the claims of need most easily by killing one person and taking away his organs. The machinery we have introduced is not sophisticated enough to address such problems. One might worry, then, that whatever moral theory we have to introduce to do so might render the ownership approach superfluous because all the results we can obtain through that approach could then also be obtained without it. But the point of the ownership approach is to theorize about a particular domain of moral inquiry, and to render explicit the moral relevance of the fact that the space that we all need for survival does not exist because of any human being's accomplishments.

³⁶ A debate about such matters has loomed large in the recent German discussion, see Tugendhat (1993), Gosepath (2004) (who defends a presumption of equality), and Forst (2007) (who defends a right to justification as the basic moral right, a right that does not include any egalitarian commitments). Forst (2007), chapter 2 discusses various other approaches to acceptability to reasonable persons.

At a time when problems of genuinely global scope become ever more common (global climate change being the paradigmatic contemporary example), moral theorizing about ownership of the earth is of considerable importance to political philosophy. At the same time, what we can find here might well be less controversial than what we can say about more general approaches to morality. Inquiries about global political philosophy have much to gain from taking the standpoint of humanity's collectively owning the earth more seriously.

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