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

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1. *On Global Justice* (OGJ) discusses immigration from the standpoint of humanity's collective ownership of the earth.¹ I formulate an account of proportionate use of collectively owned resources and spaces and submit that a country that under-uses its share ought to admit more immigrants.² One objection is that this approach is disconnected from what motivates migrants: people move to live in a safer environment and to join stronger economies, not to enjoy a share of resources or spaces. Since the structure of OGJ (whose first three parts more or less discuss one ground of justice at a time) subsumes immigration under an exploration of collective ownership, the objection that OGJ overstates the significance of collective ownership for immigration naturally arises.

Indeed, my approach does not – and explicitly does not aim to -- track the motivation of would-be immigrants. What motivates people and why they may proceed are different topics. Still, the relevance of collective ownership of the earth for immigration is worth revisiting. Considerations pertaining to the spatial distribution of people deserve more attention than mainstream thinking about

¹ Many thanks for Avery Kolers for very helpful comments, and to an audience at Sciences Po for good discussion when I presented this paper there in January 2014.

² Oberman (2011) points out there is a consensus in the literature that wealthy countries can choose between allowing people from poor countries to immigrate and to help them where they are. That choice view is indeed widespread, but my view is not part of that consensus. I argue that under-using countries *should* permit immigration. I return to Oberman's view below. The view of immigration in OGJ allows for the articulation of a fine-grained answer to the challenge raised by Oberman's proposed right to stay.

immigration affords them. I am specifically interested in that part of mainstream thinking that explores why states may constrain immigration.³

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

But my response to these authors generates an objection that cuts to the core of my approach. Suppose it is granted that we need a view of the fair distribution of people to articulate a globally acceptable stance on immigration. This does not imply that we should develop such an account in terms of proportionate use of resources and spaces. Other accounts are possible. First of all, one may argue the

³ 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.

⁴ Also to be considered here is Joseph Carens' new book on immigration, though I will not discuss him in any detail if he has nothing to add to his already published views (which is what I presume).

proportionate distribution should involve proportionality vis-à-vis overall wealth, including natural and societal wealth. The argument is that focusing on resources and spaces is unstable. Any new generation has done nothing to create natural resources. Nor have they created the societal wealth bequeathed to them. So all resources are relevantly alike when it comes to entitlements to shares of them.

Yet another account agrees with mine that it is natural resources and spaces with regard to which the distribution of people across the earth should be assessed. But instead of proportionality another manner of assessing that distribution is employed. Kolers (2009) uses the term “ethnogeographic community” to emphasize that communities adopt land-use patterns through which they control and shape space and which in turn shapes their culture. Their conception (“ontology”) of land materializes through acts of bounding, controlling and shaping space. This view permits a global standpoint, which would prescribe whose ontology of land matters in a region, and thereby determine fairness in the distribution of people. I defend my approach against both alternatives. I discuss the differences between societal and natural resources in sections 6 and 7, and Kolers’s account in section 8. Before we get there, section 5 responds to questions and objections raised by Malcolm Bull in a 2013 review of OGJ in the *London Review of Books*. Responding to his concerns will clarify important aspects of my approach. Section 9 concludes.

2. Reflection on immigration is challenging partly because proposed changes in immigration policy are often plausible only if other policies also change. Suppose somebody advises against more immigration because the kind of immigration a

country could expect would decrease wages of low-income workers. This argument assumes that no additional social policy measures are available to aid these workers. Or one might argue that wealthier countries had better not admit more immigrants because their inhabitants already 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.

It is impossible to think about the morality of immigration in isolation. If one reflects on what kind of immigration policy is morally required or permitted one must assess which other aspects of political and economic reality should or could also change. Generally, if philosophy is used to make practical recommendations, one can rarely make a proposal on only one subject. One has to make a set of interconnected proposals, and decide if implementation is possible. If the whole set cannot be implemented, one must see what guidance is available under the circumstances (which might be none). Political philosophy is not of great interest if it is constrained by what is politically possible in the short run. Still, for political thought to bear on reality it must be realistically utopian. It must be constrained by what is politically possible in the long run, or at least by what is economically, biologically or physically possible. It is crucial to be clear on how one sees one's philosophical views constrained through such possibilities, and to be consistent in one's choice of what kind of possibility constrains one's 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 too the world is not as it should be. For some approaches to global justice questions about immigration arise only non-ideally. Immigration can occur only if there are borders. If ideal theory abandons borders, no question about acceptable immigration arises. What such a theory entails for non-ideal cases depends on the nature of the constraints that separate real-life conditions from ideal theory. But 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 for immigration is at most that immigration does not have to be entirely unconstrained.⁵

Is it possible that in ideal theory no moral obligations regarding immigration apply (although states continue to exist)? This will be so if the theory regards immigration as purely *remedial*. Immigration will be remedial if it must be granted to people who do not find adequate living conditions where they live, or if it is seen as a way of aiding development by generating remittances. Remedial immigration does not occur in ideal theory. But immigration should not be viewed as exclusively remedial. Immigration policies problematically limit human freedom. One way of

⁵ Below we discuss Blake's (2013) account of why the state is entitled to constrain immigration. Blake (2001) is stage-setting for the debate about whether anything about shared citizenship in a state makes particular principles of justice applicable only among citizens of a state. Blake answers affirmatively, pointing out that shared citizenship involved subjection to a coercively enforced regime of law. But he has made it clear that this answer says nothing about global obligations, in particular not about whether and to what extent the state can limit immigration. It is Blake (2013) that tells us how he thinks about the state's obligations towards would-be-immigrants.

capturing that thought is Martha Nussbaum's version of the capability approach to human flourishing. She offers a list of capabilities central to dignified life. "Bodily integrity" appears there, and "being able to move freely from place to place" is one instantiation of bodily integrity ((2006), p 76)). An account of global justice that regards immigration as purely remedial would miss this kind of moral significance of immigration.⁶

One might say, alongside Miller (2005), that the right to free movement is not inexhaustible but best captured as a threshold. So a legitimate concern with freedom of movement is fully met if everybody has some space to move around. Concerns with bodily movement would not undermine the claim that a right to immigration is purely remedial. However, in section 3 I also turn to an example of severe underuse of resources under conditions of ideal theory. That kind of example, I believe, shows conclusively that we should not think of immigration as purely remedial.

A theory of global justice should therefore address immigration under both ideal and non-ideal conditions. What such a theory has to say under non-ideal conditions depends on the nature of the deviation from ideal circumstances. Nothing much can be said about it at the abstract level. But without complications of that sort ideal theory can and must address immigration. OGJ does so by resorting to humanity's collective ownership of the earth. Part 1 offers an account of the normative peculiarity of the state, the conditions that make it the case that particular principles of justice only hold among those who share membership in a state. The answer is that those who share such membership are subject to particular

⁶ For the significance of open borders for human freedom, see also Carens (2013), chapter 11.

forms of coercion and expected to participate in a certain form of cooperation. It is under those conditions that far-reaching principles of justice govern the distribution of goods produced under those conditions. But since this kind of answer leaves open what an appropriate response to immigration demands would be, Part 2 turns to collective ownership to fill that lacuna. States may not exclude people from entering if they under-use their share of resources and spaces.

It would be implausible to leave it to the discretion of extraterritorial entities what kind of immigration a state should permit. Such a move 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 if the number of immigrants is non-trivial.⁷ Once we grant that states exist in ideal theory the question is only whether they should have complete discretion in immigration, or whether immigration should be subject to moral constraints justifiable to both the people inside the country and to those outside. It is that second case that 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.⁸

So OGJ proposes a solution to the problem that an account of the normative peculiarity of states does not have a complete account of immigration "built in." This approach integrates the concerns of those whom immigration policies would

⁷ 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).

⁸ "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.

exclude. But this solution is in need of further elaboration. Specifically, it must be defended against other accounts of immigration that build on the normative peculiarity of the state, as well as against other views on how to think about proportionality in the distribution of human beings across the earth.⁹

Immigrants are different from refugees. Refugees are people who, on account of political, legal social or economic circumstances at home, either permanently or temporarily cannot maintain a minimally decent life there and therefore relocate. Often relocation is an outright flight in the face of war or persecution. International law grants refugee status under such circumstances. But it might also be for economic reasons that people cannot make a decent living at home. This could be because of natural disasters, mismanagement or a callous political regime. As opposed to refugees, immigrants wish to relocate although their lives are not in as dire straits. There will be a continuum between clear cases of refuge and immigration. Our topic is immigration, but the line is hard to draw. However, what the cases have in common is that obligations towards refugees and obligations towards immigrants apply at the level of the global order as such.¹⁰

⁹ In light of the fact that, below, we discuss Blake (2013) it is worth recording that some earlier publications that offered that solution were joint with Blake – see Blake and Risse (2007) and (2009).

¹⁰ (1) OGJ offers a particular take on the situation of refugees. Human beings are co-s of the earth. States are permitted to exclude others from their territory only if they (the states) are doing their share to make sure others can make a living where they reside. If people cannot make a living where they reside they cannot be prevented from exercising their liberty rights and move to different location. A case in point is the ongoing refugee crisis in in the Mediterranean, with many Africans trying to reach the EU by first crossing the desert to reach the shores and by then crossing the sea to the Italian island of Lampedusa. Many die in the process. Many of them apparently come from Eritrea, a country that imposes unlimited military service under harsh conditions on its citizens. First of all, qua human beings, these people have a claim to aid against the rest of the world. A duty of assistance in building institutions applies here (OGJ, chapter 4). But this duty comes up against the limits of what is feasible to do about such situations from the outside. Secondly, these people are independently entitled to move to under-using countries. Thirdly, if it is not feasible to offer aid in

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

Let us start with Blake (2013). Blake uses two starting points. First of all, human beings not only have basic human rights, but also rights to the circumstances under which these rights are protected. Second, everybody has a right to avoid unwanted obligations where they have no duty to become obligated. 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 marks out a jurisdiction within which its laws are effective. Somebody who migrates into a jurisdiction obligates its inhabitants to protect her basic human rights. But such an obligation constrains the freedom of the current inhabitants.

building proper institutions, or if it simply does not happen under current political conditions, then those who leave the country, as co-owners of the earth, have a claim against the rest of the world to be permitted to move. (2) Oberman (2011) argues for a "right to stay." His opponents are those who argue that wealthy states have the choice between allowing for more immigration or helping the poor where they are. Oberman insists that there is no such choice: if the poor prefer to stay, they should be supported where they live. As I already pointed out, my view does not endorse such a choice at the level of ideal theory, but as my discussion of the Lampedusa scenario has made clear, such a choice may in fact 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 (which is associated with common humanity as a ground of justice). So if they choose to stay rather than immigrate even though they would be permitted to enter elsewhere, they would still be the beneficiaries of that duty. A potential conflict could occur in cases of substantial over-crowding that hampers development where nonetheless people refuse to leave the country to reach greener pastures elsewhere. But even in such a case a duty of assistance would apply though it would also be acceptable to reduce efforts to support the poor in such a case.

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

People are indeed entitled to an environment where they can exercise basic rights. Once they are admitted to a state, that state ought to make good on that entitlement. But I disagree with Blake about the conditions under which states may reject migrants. One thing to note is that his 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 -- except that 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 the case. But the spirit of his discussion is such that immigration is remedial. Therefore his answer to the question posed must be negative.

A purely remedial theory of immigration is problematic. Let us elaborate on that point in the context of Blake's theory. Consider a scenario I have repeatedly

used to motivate the importance of collective ownership of the earth for immigration. Suppose in the future a mysterious disease shrinks the population of the US to very few people but does not affect other parts of the world. With technological aids these survivors can exclude migrants. Suppose oppression and poverty have been eradicated so Blake would agree that nobody lives under circumstances that entitle her to move. He cannot find anything morally problematic about this situation where the few remaining Americans refuse to share. But this case shows that immigration is not purely remedial. It also makes clear 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.¹¹

But if in ideal theory we should think about immigration in a way that includes a distributional component then non-ideal theory will not entirely lack such a component. It would have to be brought to bear on immigration in conjunction with other constraints pertaining under given conditions. Some 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

¹¹ One might worry that my reasoning in this paragraph is too quick. Perhaps the kind of example I have offered only shows that people have a right to *move across* the territory in question (here, the US), but not to *settle* there. My sense is that my example offers a case where people have a right to settle: within the range of normal human activities there is nothing the few remaining Americans could be doing with the territory that would create a reason to prevent would-be immigrants from settling in the territory instead of just passing through. This is not to say a right to enter territory always has to be identical to a right to settle there.

prospects. The destination country has no special duties towards such people. To the extent that there is a duty to provide such prospects, all countries that could do so have them, and must divide them up. This point applies regardless of whether the people in question are refugees or immigrants.

Suppose some such people arrive in country C. On Blake's account, C is obligated to create circumstances where they can realize their rights. C is not entitled to try to keep them away 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. All such people have a claim against countries like C. C has obligations only as a member of the global order. The would-be immigrants have claims against the global order, not specifically against C.¹² C is a duty-bearer only as part of the global order. It should only shoulder an appropriate share of these responsibilities.

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

¹² Chapter 11 of OGJ explains what it means to have obligations to the global order.

applies to the global order. So this again leads to distributional considerations. Countries must divide up would-be immigrants.¹³

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

My sympathies are with the latter view. But it also matters what, and how much, one would sacrifice if one did more than required under complete compliance, and how morally significant it would be if these supererogatory actions were performed. If one is called upon to do more than required under full compliance, one should make the more of that kind of effort the less of a sacrifice it would be to do so, and the more significant the matter is. So there is a strong obligation for wealthy countries to support refugees who seek to leave a war or drought zone even if others fail to do so and even if one has already done one's share as it would be under ideal circumstances. For instance, during the Second World War, Switzerland had an obligation to accept more Jewish refugees from the

¹³ (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 certain difficulties that could arise if the country where claims to asylum or other claims to entry are accepted were different from the country where people then 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 then get credit when it comes to other kinds of obligations.

surrounding countries than it did.¹⁴ If we are talking about immigrants who clearly do not count as refugees there would be no reason to do so. And then there will intermediate cases.

4. When discussing Blake we have seen that a need for distributional considerations emerged from his own way of deriving obligations to would-be immigrants. Let us turn to accounts that are less hospitable to such duties than Blake's. One such account appears in Wellman (2008). Wellman advocates for a state's right to restrict immigration in terms of *freedom of association*. On his view, a state is not even required to accept refugees. Wellman offers three arguments for this view.

First of all, a right to self-determination entitles countries to associate with others as they see fit. If one denies that legitimate states have such a right, one could not explain why they should not be forced into mergers. For instance, it would presumably be unacceptable 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

¹⁴ In August 1942, Swiss politician Eduard von Steiger notoriously argued that Switzerland was like a small lifeboat that was already "stark besetzt," well-filled, and therefore should not be expected to accept more refugees (Schütt and Pollmann (1987), pp 540f).

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 in virtual space or on an infinite plain, but by occupying parts of a planet with limited spaces and resources that must be shared. My example of the dwindled US population again makes the point. The remaining few do have freedom of association. However, their association must physically occur somewhere. But since for now humanity is limited to this planet, the amount of space that can be claimed by any group that insists on its right freely to associate is limited. Humanity's collective ownership of the earth captures that thought.

Notice how this engages Wellman's arguments. We can ignore the third since it is much like Blake's argument. And indeed, the US should refrain from annexing Canada. That is so, at least in part, because Canadians have the right to associate freely. But that does not imply Canadians may take up as much space as they wish to that end. Both 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.¹⁵

Miller (2005) compares immigration to marriage. There is a right to immigrate, says Miller, but it is like a right to marriage: one needs to find a willing partner. The UDHR reflects Miller's position. Article 13 grants the right to leave, but not the right to enter a particular country, or even to enter *somewhere*. Article 14 merely grants a right to asylum. But the marriage analogy is misleading. Everybody is presumably free to enter marriage or not because what matters is whether the partners see this marriage as an appropriate match. 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.

One might ask what should happen if Canadians refuse to adopt an appropriate immigration policy. Would Americans then be allowed to annex Canada as a punitive measure, or at least a chunk of territory up to a point where Canadians do occupy a proportionately sized 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. It should also be remembered that on my account considerations of proportionate distribution are considerations of reasonable acceptability. What can permissibly be done about

¹⁵ For a very different use of freedom of association in the context of immigration, see Lister (2010). Lister uses that idea to argue that all states must allow a degree of family-based immigration, and that this is a duty owed to its citizens. See White (1997) for general discussion of the connection between freedom of association and the right to exclude.

violations of such matters is more limited than what can permissibly be done about violations of demands of justice.

Things would be different if the US lost much of its territory to climate-change related devastation, to the point that Americans could no longer meet basic needs but Canadians refuse to share their territory. In the 2004 blockbuster *The Day After Tomorrow* climate change suddenly 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 then what counts as proportionate use would change substantially. 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 entirely academic point. In all likelihood, the US will not lose the habitability of much territory to climate change any time soon. But other countries will, especially small island states and low-lying coastal countries. 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 entirely lose control over the policies that shape their country.

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.

This discussion of Blake and Wellman makes the basic point about the importance of the distributional component of immigration. Let me briefly sketch how the same point arises for other authors. Miller (2005) presents two reasons for limiting immigration. First, he insists on the importance of a shared public culture that partly constitutes political identity in a society, 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 the 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 it.

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

5. Next I address some objections raised by Malcolm Bull (2013) in his review in the *London Review of Books*. Bull thinks my account of proportionality is "half-baked:"

What sort of average are we talking about, given that any simple average will be skewed by densely populated small island states? Why should the average be more significant than the relative use-rate between countries? And what if there were eventually only one country above the average? Would there then be only one legitimate destination for all the world's immigrants, even if, blighted by the resource curse (the paradoxical underdevelopment of countries with abundant natural resources), that country were one of the world's poorest nations? However you calculate it, per capita use-rate is going to be very low not just in North America, but also in places like Russia, Saudi Arabia, Venezuela and the Congo, and very high in small wealthy countries like Singapore, the Netherlands and, arguably, the UK. Currently, net migration to many of the countries in the former category is almost zero, while immigrants pour into the latter. Migrants today aren't usually looking to stake out a fertile parcel of land. Most are seeking to share the benefits of recent technological and cultural innovations made in other countries – resources specifically excluded from Risse's calculations. So although his proposal might challenge current immigration policies in North America, it would also permit more restrictive ones in many of the world's other advanced economies, and eventually channel migrants towards the wastes of Siberia and the jungles of the Congo. Even then, immigrants would not necessarily be able to enter the country; it is merely 'a demand of reasonable conduct' that the host country let them in. This would still be the case if, for example, the population of the US shrank to two people able to maintain border controls with electronic equipment. According to Risse, who returns repeatedly to this scenario, would-be immigrants would not be doing anything unjust if they tried to dismantle the surveillance to enter the country, but neither would the two Americans if they redoubled their efforts to keep the immigrants out. So, if there were a famine in the rest of the world, and everyone sought entry to the United States, the two Americans would be entitled to use their robotic guards to detain the rest of the world's population at the border and feed them their ration of natural resources there – an arrangement not unlike the one currently enjoyed by the inhabitants of the Gaza Strip. It would be unreasonable, but it would not be unjust.

I quote Bull at length because he raises questions that deserve answers.¹⁶ Let me respond to them one by one. 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 arguably fits Bahrain, Singapore, Malta,

¹⁶ Bull mischaracterized my account in other ways that I have addressed in a letter to the editor that appeared in Vol. 35, No 7, 11 April 2013. But his account of my immigration proposal is accurate.

Barbados, Taiwan, Mauritius, the Maldives, Tuvalu and Nauru. Suppose each of these is absorbed by a bigger country with higher per-capita use-rate. (Each person in those bigger 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 the absorption) and the absorbed country.

As a result, the average per capita use rate across all countries increases: the average person in the average country now has a higher share of resources and spaces at her disposal. 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. Among other things, this means it is harder to qualify as an under-using country and that under-using countries have to permit less immigration than in the status quo.

Suppose the number of densely populated island states increases instead. Suppose Santa Cruz del Islote declared its independence from Colombia, Hong Kong island from China, and Migingo 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 over-use of resources and spaces, much above world average. The average person in the average country has less at her disposal. It would be easier for a

country to be classified as under-using. Meeting immigration demands would be harder. Under-users must permit more immigration to reach proportionality.

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

Why would this be problematic? One possibility is that small island states attract populations and generate economic success out of proportion to 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 probably not be as intuitively troublesome as Bull may think. The relevant measure is not population density but the value for human purposes of three-dimensional regions. Being an island is disadvantageous if it is a remote place in the path of storms and shunned by fish. But being an island is often distinctly advantageous for proximity to fisheries or seabed resources, opportunities to groom tourism, proximity and access to shipping routes, and because of the fondness people have for living by the water. Often the fact that an area is an island increases its value for human purposes, other things equal. Such islands do not drive up immigration pressure elsewhere.

I am not sure what else could be problematic about small island states, but if it is that sort of thing, we must postpone a verdict on the seriousness of the problem (if any) until a relatively concrete way of assessing proportionate use becomes available. If ultimately small island states do trigger counterintuitive results, one

might either remove them from the calculations to increase the overall plausibility of the results, or decide not to worry too much about such distortions. After all, in light of the general difficulties in seeing through secessions it is unlikely that we will see a significant increase in the number of small island states in the foreseeable future. Climate change pushes for the opposite tendency.

But why, to return to Bull, 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. The natural space where humans reside for now is the earth. That is the space through which we can readily disseminate with our technology. People in A have a grievance only vis-à-vis their share of the whole. This is 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 thus under-using), to continue with Bull, that would be the only destination to which immigrants have a claim. If that country were governed badly, it might 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 takes care of its own security migrates to a badly governed country to exploit resources, or to find a new place to live. They might make arrangements with the government, but

ultimately this change can be expected to harm the locals. However, there are duties of justice that may trump considerations of reasonable acceptability of the sort that would permit more immigration. If immigration undermines a duty of assistance in institution-building, it should be suspended.

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

Bull is right that migrants nowadays usually seek to share the benefits of recent 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. 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. But perhaps Bull's concern is that societal wealth also generates claims to shared ownership. That point I discuss below.

Finally, Bull worries that immigrants may not be able to enter since it is merely a demand of reasonable conduct that hosts let them in. Indeed, in my dwindled-population example, would-be immigrants would not be doing anything

unjust by dismantling surveillance systems that keep them out, but neither would the remaining Americans by redoubling efforts to keep them out. Bull is right that if there were famines in the rest of the world, and everyone sought entry to the US, the Americans would be entitled to use robotic guards to detain the others and feed them their ration of resources at the border.

This would not be unjust but highly unreasonable. One may wonder how much bite it has to say that. Chapter 17 of OGJ discusses how different principles of justice apply to the state. Principles that capture reasonable expectations 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 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 not think this is enough. But even if something were a matter of justice there is a guarantee that it be done only to the extent that those who can make it happen prioritize the relevant measures in their actions. Justice, in that regard, is no different from reasonable conduct. Human beings must bring it about.

6. Anybody who thinks my proposal can be defended 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. The point is not even primarily that immigration tracks societal

wealth rather than natural resources and spaces. The motivation is that for any new generation, natural and societal resources are fundamentally alike: they have not done anything to create either sort. For them, all resources are manna from heaven.

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

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

Societal resources on earth differ from natural resources in three ways. To begin with, they are *somebody's* accomplishment. Secondly, they were generated in social contexts that 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. Contexts that enable the creation of artifacts involve living people differentially. Some are involved in maintaining a culture that permits for the relevant kind of production. Others are not.

Thirdly, the sense in which natural resources and spaces are needed also differs importantly from how societal resources are needed. Any newborn baby will perish without access to resources and spaces, but also if it does not receive basic care and thus becomes a beneficiary of societal resources (if only by availing itself of parental care). But for natural resources we can, and must, naturally describe the sense in which they are needed as including the earth system as a whole. 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 under which human life flourishes it would be inappropriate not to think of the favorable conditions as part of an earth system. The earth as a whole is the natural habitat for human beings as a species. Thus it is the habitable conditions of the earth as such that we need for survival, much as our species has needed them to rise at all.

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

Objectors may still insist that, after all, *for any new generation* societal resources are like natural resources in what matters most: *they have not been created by them*. This is a central moral equivalence between natural and societal resources that does not vanish because of dissimilarities. Suppose Nazaire and Nicholas are born the same day, Nazaire in Haiti, 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 overall heap of (natural resources and spaces + societal resources of US + societal resources of Haiti). But according to OGJ, Nicholas would be raised with entitlements to the societal resources of the US, and Nazaire with entitlements to the societal resources of Haiti. One might emphatically ask: how could this be just?

7. Let us look 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, and qua humans they also become co-owners of the earth. Since neither has done more or less than any other person to create the resources and spaces of the earth, the boys acquire the same claims to resources and spaces that all other humans have had, currently have, and continue to have. If *per impossibile* Nazaire and Nicholas entered a world without any human imprint, they would still have the same claims the day after their birth, and on all subsequent days, though only against each other. But we live in a world with human imprint, where the normal case is that babies receive attention from somebody.

Crucially, 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. To do the best they can in this regard, Nazaire's and Nicholas's parents respectively need help from their communities. Generally for children to get on in life means for them to be raised to function at least reasonably well in their cultural niche. So Nazaire and Nicholas have claims against their parents to raise them in such a way that they can do okay in the cultural niche they will likely inhabit.¹⁷

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 are fading away from it. Yet others are growing into it. Humans naturally live in communities, and growing members have claims not only against their parents to receive care. They also have claims against their communities to be supportive throughout this socialization. Often young humans grow into different communities simultaneously, perhaps a religious group, a linguistic group (or two) and a political group. All of them have collective obligations to be appropriately supportive. 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 choices they made. 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 that we noted earlier. First of all, societal resources are somebody's

¹⁷ For the importance of the fact that, at birth, children enter a social world, see also Carens (2013), chapter 2.

accomplishment, whereas natural resources and spaces exist independently of human accomplishment. But since human creations are somebody's accomplishment, different members of a new generation 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 differential claims to societal resources. For a newborn child this is the case via claims against parents and communities.

The second difference is that societal resources (on earth) are generated in particular contexts that often persist in some way and thus involve people differentially. This claim is not true of relics of earlier civilizations found in excavations, or of antics that continue to circulate but can no longer be 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 those two acquire differential entitlements via claims against parents. Those do not hold different shares of manna from heaven but of human-made products that require a cultural context to be made. Anything humans make requires some skill, some understanding, and often a certain infrastructure. Frequently it takes considerable skill, much understanding, and a sophisticated infrastructure. To a large extent it is the cultural context that encourages or discourages the development of particular capacities. This is why trade is often productive on all sides: each side gets to take advantage of what it can do best (relative to its abilities) to acquire goods and services others are best at providing.

But cultural contexts require maintenance and development. As Nazaire's and Nicholas's parents and their communities fulfill their obligations to raise children to be functioning members of their community, they ipso facto socialize them into becoming capable of playing some role in maintaining and developing their cultural practices. Early on they will receive a lot (which is owed to them, as we noted). But as time passes they will be expected to take over responsibilities. This process unfolds in multifarious ways. In some cases it fails altogether. But in most cases these efforts meet with some success.

Eventually Nazaire and Nicholas are expected to assume obligations towards the community that has hopefully discharged its obligations towards them. This also means they will start participating in a shared stewardship of the cultural resources of their respective society and hold a claim to those resources that members of the community share with each other, but not with those who are not part of that culture. In the course of their upbringing, Nazaire and Nicholas acquire stakes in different cultural contexts that enable the creation of different human products.

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 makes 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 against their environment. They can protest if their environment favors some who have been raised in it much more than it favors others. For instance, they can complain about inequality of opportunity in education, or against excessive inequalities in the distribution of goods. But these are complaints against their respective communities, not against the community of the other.

So appearances notwithstanding, at birth Nazaire and Nicholas acquire very different claims. That is because they acquire claims against their parents, who are generally situated very differently. Our discussion has also shown that natural and societal resources are very different when it comes to entitlements children acquire at birth. Any two children do not differ at birth when it comes to entitlements to natural resources. But they do when it comes to entitlements to societal resources. I have selected my two characters from Haiti and the US to make this 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. 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.

8. So societal resources differ from natural resources in morally significant ways. Since we have seen that two humans readily have differential claims to societal resources, those can be excluded from the collectively owned pool.¹⁸ However, there is another line of objection to which we must turn. That line agrees that it is only natural resources and spaces with regard to which we should determine fairness in the distribution of people across the earth. But instead of proportionality a different manner of assessing that distribution should be used, one that focuses on the multifarious ways in which spaces and resources are integrated into cultures.

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

¹⁸ A related question is under what conditions refinements applied to natural resources also become part of the common pool. OGJ, chapter 7, discusses that matter.

and shaping space. So 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 example of a non-mainstream ethnogeographic community is the Bedouins. What is distinctive about them is not religion, ethnicity or language, but the way they interact with the land.

An ethnogeographic community can lay claim to a region to the exclusion of others if it has demonstrably achieved plenitude in that region and if there is no competing right of that sort to the territory. Plenitude may be empirical or intentional. Empirical plenitude captures the internal diversity and complexity of regional land-use patterns, and how they differ from such patterns elsewhere. Intentional plenitude captures the projects that agents have with regard to enhancing or maintaining empirical plenitude in a region. A community achieves plenitude if by their standards their land-use patterns push the use of the land to its limits. 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 is not concerned with immigration directly. Still, his view generates a global standpoint to think about immigration. That standpoint prescribes whose ontology of land matters in a region, and thereby also tells us when the distribution of people across is fair. If a community achieves plenitude by its 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. 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 very sensible in many ways. He demonstrates how natural it is to make room for attachment to one's native region also in an account of immigration. People are not merely deeply attached to the land on which they make their lives, but people and regions stand in 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 mountainous regions, by the sea, or in the desert, and it matters whether the climate is harsh or moderate. It matters whether people reside in wide-open spaces or in tough terrain that limits unimpeded movement to confined areas. It also matters if life is shaped by an ongoing struggle to bring water to the house, by efforts to shelter from storms, by challenges of fending off water-related diseases, the hardship caused by infertile soils or by the fortunate absence of all of these. Just how all this matters depends on many factors – Montesquieu and Rousseau famously thought one way in which it matters is appropriateness of forms of government -- but all this is too large a topic for us to explore. But through such challenges, people also shape the land in their own image, and over generations develop an intense interactive relationship with it.

Location matters in many ways as well. Certain regions have been staging areas for armies over millennia because geographical factors limit where an army can pass. Some regions have been able to produce goods that proved so irresistible that others would make hazardous journeys to acquire them, and project force around the world to conquer territories where they are produced. Other regions

have proved inhospitable to foreigners, strategically remote, or without potential to produce goods that others desire. These factors too matter deeply for shaping a people's trajectory, and in turn create highly differential opportunities or necessities for them to interact with their natural environment.

Unsurprisingly, attachments to 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 land to which they have grown accustomed to seek better prospects, they normally do so with a heavy heart (unless perhaps they have been pervasively treated there as inferiors so that their subordination has become associated with the land). If people are forced off land that has been formative to their character, this frequently is a reason for ongoing hostility or at least mournful reminiscence. History is replete with episodes of violent displacements, not least of all the 20th century. Many readers will have encountered individual fates produced by these upheavals, personally or through testimony or in reality-inspired fiction. Separation from the native land always features prominently in such accounts.

In many ways, Kolars' 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 being shaped by the region they occupy and vice versa, or explore the importance of that process. But my account also offers no resistance to such accounts. There is nothing problematic from the standpoint of justice for people to settle down somewhere and preclude

others from taking up the same territory. Nonetheless, such takings occur on a shared planet. It is that thought that my theory articulates.¹⁹

A major target for Kolers is the “Anglo-American ethnogeography” he claims has been adopted by most mainstream Anglo-American philosopher in recent centuries. This ethnogeography

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

My account differs from this characterization and does not advocate for an Anglo-American ethnogeography. My guiding idea is that we need to assess the value for human purposes of three-dimensional parts of the world. That can sensibly be done only if we do not ignore forms of value that are not commonly priced on markets.

At the same time, my account proposes non-standard evaluations that *expand* market perspectives bringing more aspects 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

¹⁹ 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 will be possible only if considers 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 of their lives does not become even worse through relocation to an area that does not support their life patterns or by breaking them apart. But this will not in general mean that they can *all* relocate together. Kolers (2012) argues (against both Risse (2009) and 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.

need comparability across groups to regulate immigration. However, my proposed measure of proportionate use is pragmatic. My argument against the Equal Division conception of collective ownership in chapter 6 of OGJ is that its defenders need a measure for comparing bundles of resources and spaces of the earth that is beyond reasonable contestation, but that such a measure is unavailable for substantive (not merely epistemic) reasons. So I use this kind of measure only as a rough guide to obtain an assessment of when would-be immigrants can be fairly rejected.

Still, we need such a measure to assess when claims to spaces and resources unacceptably infringe upon claims of others. Kolers allows for some to occupy rather disproportionately large regions if this fits their ontology. Or, to articulate the concern without talking about a notion of proportionality alien to Kolers' account, he allows groups to take up space regardless of how their claims bear on those of others. To be sure, he does address the case where different ethnogeographies make claims to the same territory, offering helpful advice. But it would be hard to see how, on his account, a group of people who live elsewhere could have a claim to entry simply because of their currently highly crowded situation.²⁰

Also notice that these ontologies of land have often been acquired at times when many fewer humans existed and thus when demands on shared spaces and

²⁰ [This footnote is still under discussion with Avery Kolers.] We need to be careful here. Kolers does have an account of how a group of people who live in place A could have a claim to territory in B (Kolers (2012)). If (1) A is empirically full by their (people of A's) lights; (2) B is not empirically full by their (people of B's) lights; and (3) they (people in A) achieve intentional plenitude (i.e. they have concrete plans for achieving and maintaining empirical plenitude) in B without emptying it of people or things that -- by their own (B's) lights -- are already there; then (4) people in A have a prima facie territorial claim to B. This account allows territorial expansion, but also restricts it. But to my mind the critical case would be if (2) is not satisfied. That is where the problem reenters that some groups could occupy an inordinate share of resources and spaces regardless of overcrowding elsewhere.

resources were more limited. "In the nineteenth and twentieth century," writes H.G. Wells at the very beginning of his *The Shape of Things to Come*,

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. ((1933), p 17)

Wells is right, and for this reason ontologies acquired antecedently are of restricted reach in our era of high-density populations, a tendency exacerbated by the threat posed by climate change to human living spaces. To be sure, my account is much less hospitable than Kolers's to claims specifically of indigenous populations whose ontology of land differs from the Anglo-American ethnogeography (which, again, is in turn rather different from my proposal). But these normally are among the ontologies that have developed at times when many fewer people had claims to spaces and resources.

The claims of such ethnogeographies 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 that must be *accommodated*. I propose to treat such patterns in a manner 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 in some ways. For the problems we face in this century, this is a key perspective.

One may object that it is misguided to single out indigenous ontologies as the ones that likely have to shift due to high populations. The earth may be *overpopulated*, the objector may say, but not because it is *overcrowded*. It is overpopulated because of excess consumption. Overpopulation is generated by multiplying population with consumption. It is the industrialized countries that overconsume. Therefore we should single out the Anglo-American ethnogeography as one that was developed when there were many fewer people and that now has to change to accommodate the fact of high population.

But these perspectives do not contradict each other. Just about all ethnogeographies must be reconsidered in the present era, some because they make claims to inordinate amounts of space and resources, and some, including the Anglo-American ethnogeography, because they take a misguided attitude towards environmental protection. Both points can be recognized from what I just called a key perspective for the problems of this century.

9. I have argued for, and elaborated on, the significance of humanity's collective ownership of the earth for immigration. My three major points are as follows:

1. Contrary to philosophers who believe they can supplement an account of the normative peculiarity of the state with an account of immigration that does not take a global standpoint, I argue that we need such a standpoint to articulate 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 that the common pool includes societal resources, I

argue that that pool should exclude societal resources. Societal resources differ importantly from natural ones.

3. Contrary to Kolers (2009), 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.

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