

On Collective Ownership of the Earth

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An appealing and original aspect of Mathias Risse's book *On Global Justice* is his argument for humanity's collective ownership of the earth.¹ This argument focuses attention on states' claims to govern territory, to control the resources of that territory, and to exclude outsiders. While these boundary claims are distinct from private ownership claims, they too are claims to control scarce goods. As such, they demand evaluation in terms of distributive justice. Risse's collective ownership approach encourages us to see the international system in terms of property relations, and to evaluate these relations according to a principle of distributive justice that could be justified to all humans as the earth's collective owners. This is an exciting idea. Yet, as I argue below, more work needs to be done to develop plausible distribution principles on the basis of this approach.

Humanity's collective ownership of the earth is a complex notion. This is because the idea performs at least three different functions in Risse's argument: first, as an abstract ideal of moral justification; second, as an original natural right; and third, as a continuing legitimacy constraint on property conventions.

At the first level, collective ownership holds that all humans have symmetrical moral status when it comes to justifying principles for the distribution of earth's original spaces and resources (that is, excluding what has been man-made). The basic thought is that *whatever claims to control the earth are made*, they must be compatible with the equal moral status of all human beings, since none of us created these resources, and no one specially deserves them. At this level, collective ownership is simply an abstract moral viewpoint for assessing the legitimacy of specific appropriative claims.

But collective ownership also plays two further roles in Risse's account. In its second role, collective ownership can generate minimal *natural property rights* in a world without any positive property conventions. Risse argues that, prior to the advent of property conventions, we would each have a *natural right*—as the earth's collective owners—to use the planet like a common in order to meet our needs. As Risse formulates it, there is a natural right to “an equal opportunity to satisfy basic needs to the extent that this turns on collectively owned resources” (p. 111).

Risse's argument for natural property rights is quite limited: others are under a duty not to interfere with our use of the earth *only to the extent that such use is necessary to meet basic needs*, which he interprets as physical health and mental competence to choose and deliberate. (One might have hoped for more specificity in Risse's definition here, since it is quite important what this threshold actually amounts to. Our conception of “needs” might be inextricably tied to the level of social and cultural development of the community in which we live, making it hard to define basic needs in naturalistic terms.) Risse holds that we are at liberty to appropriate more than we need, but others have no natural duty to respect more extensive claims. If I fence off more land than is necessary to feed myself and my family, you are at liberty to take it (though I may also permissibly secure it). Beyond the minimal right to use the earth to meet basic needs, resource rights are pure Hobbesian liberties.

It is fine to hold that in the absence of property conventions we could have used the earth like a common to meet basic needs. But what relevance does this argument have for us today? Here Risse posits a third role for common ownership: it operates as a *continuing legitimacy constraint* on property conventions. Risse allows that property conventions may permissibly be instituted, and they may confer rights over external resources more extensive than the natural right of common use. But if those conventions are to be legitimate, he argues, they must ensure the purpose of the original common right is still met. So current property conventions must either (1) grant co-owners the opportunity to use the earth to satisfy basic needs or (2) grant them an opportunity to satisfy basic needs in other ways.

So collective ownership operates on three levels. It is somewhat confusing, however, to describe all three of these roles in terms of humanity's “ownership” of the earth. It does make sense to characterize the natural use-right as a (weak) form of ownership, because some actual incidents of property were conferred on humanity

under this dispensation—for example, rights to (secure) possession and use. But once positive laws and conventions regulating property evolve, in what sense is the world *still* owned by humanity? If I own my house and my backyard under New Jersey law, does humanity own it too? Precisely what incidents of ownership might humanity retain?

Once legitimate property conventions are established, it seems preferable to say that these conventions *supersede* humanity's collective ownership of the earth. I agree with Risse that a necessary condition of property conventions' legitimacy is that other people's claims to the earth be fulfilled as well. But if I *do* own something under legitimate property conventions, then *I* own it; humanity does not. Indeed, the whole purpose of instituting property rules is to provide a legitimate basis for excluding the rest of humanity. At this stage of Risse's argument, it seems preferable to dispense with the language of "collective ownership" and to speak instead of a continuing constraint on the legitimacy of positive property rules. Whatever systems of property are established around the world, they must function at least as well as common use-rights did in serving the important moral purposes those use-rights would once have secured.

But what moral purposes are these, exactly? And how robust a legitimacy constraint on property conventions does Risse's argument impose? Risse holds we ought to interpret the collective ownership constraint in terms of an equal opportunity to use the planet to meet our basic needs. Yet this interpretation is *supplied* by Risse, in the form of an assumption that basic needs matter morally, and that there are no other significant moral interests that bear on the earth's distribution. This interpretation is not clearly implicit in the idea of humanity's collective ownership itself, however. The concept of collective ownership simply holds that we all have equal moral status when it comes to the use and control of our planet. It does not give us a *specific distribution principle*. And here I think Risse faces a serious challenge: How does one vindicate a conception of collective ownership's distributive implications without simply assuming the distribution principle for which one is meant to be arguing?

A natural thought is that if we all have equal moral status vis-à-vis the earth, then any system of rules allowing for its appropriation must be one that no one could reasonably reject. But to reach substantive conclusions about what appropriation rules are in fact justifiable to everyone, we have to make some assumptions about our fundamental interests in the earth. And it seems to me that there could be other fundamental interests beyond the satisfaction of basic needs.

Emphasizing these other interests might lead us to alternative—yet also plausible—distributive principles, which are competitors to Risse’s conception.

First, one might argue that while we do have an interest in basic needs satisfaction, we also have a fundamental interest in nondominating relationships with others. Since substantial inequalities of control over resources can make us dependent on others in ways that enable domination, perhaps common owners could reasonably reject principles that would enable such unequal power relationships. Second, we might argue that people have a fundamental interest in using the earth’s spaces for communal social, cultural, and political practices that they value. Perhaps co-owners could reasonably reject appropriation principles that would allow people to undermine their communal practices, or to prevent their establishment, at least where there were no urgent competing interests at stake.

In addition, an egalitarian might object here that to *really* respect our equal moral standing vis-à-vis the uncreated earth, we must all receive equal shares of resources. Only by dividing a scarce resource equally, they argue, can we express our recognition of the symmetrical moral status of each claimant. We could further debate whether an “equal share” is best interpreted in terms of equal market value, or equal opportunity for well-being, or something else.

Each of these possibilities provides an alternative way of spelling out the *distributive implications* of equal moral status when it comes to appropriation of the earth. So what can Risse say to defend equal opportunity for basic needs satisfaction over potential competitors? This question speaks to a broader methodological concern: How does one move from the very plausible—but quite weak—idea that appropriation of the earth must be consistent with people’s equal moral status, to subsequently defend any specific distributive criterion?

I do not think Risse has fully answered this question. One thing he does say is that the opportunity for basic needs satisfaction exhausts the moral content that collective ownership would have had in a state of nature where no property conventions yet existed (p. 111). All that a global commoner could then have expected was an opportunity to meet his basic needs. He could not have expected, say, an equal share of land. So, by analogy, perhaps this is all that a member of the global community ought to be able to expect today. One cannot ground a natural right to more.

I was not persuaded by this line of thought. First, even if we insist on grounding fair appropriation principles in some primordial scenario, it is not obvious that this is the correct interpretation of the initial situation. Commoners may not

have enjoyed equal shares of the earth, but they would have reaped advantages beyond the opportunity to meet their basic needs. For example, they would have enjoyed a substantial degree of economic independence. And their use of land would have reflected their cultural and political values. So what makes basic needs uniquely relevant here?

A more fundamental objection, however, is this: Why tie the continuing legitimacy of property conventions back to a primordial situation? Perhaps under primitive social conditions the best interpretation of our symmetrical moral status would have been the right to use the entire planet like the Boston Common. At that time it might have been unreasonable for anyone to have rejected this principle, given the then prevailing technology, social conditions, and so on. But times have changed, and perhaps our claims on the earth should change as well. Why not instead ask: What principles regulating appropriation of the earth can be justified to all symmetrically situated human beings *today*? Tying our claims back to an initial scenario keeps them at an artificially low level, since all one could have then done with resources was to eke out a bare subsistence. It also prioritizes the *second* role of common ownership—as a pre-institutional natural right—over its *first* role, as an abstract moral ideal of justification.

Risse might claim, in response, that equal opportunity for basic needs satisfaction is the best interpretation of which distributive principle could not be reasonably rejected *now*. He stresses that basic needs satisfaction is much less controversial than other candidate ideas, like nondomination, political or cultural self-determination, or equality of resources or welfare (p. 118). Would people with different backgrounds reject a more ambitious distributive principle? Perhaps. But without a detailed argument, it is hard to see why. People from different cultures are able to recognize many forms of oppression and exploitation. It is widely agreed that slavery is wrong even when the slave owner meets his slave's basic needs. Demands for political and cultural self-determination have also been pressed by people from very different traditions. So it seems possible that we might spell out a more demanding criterion.

Finally, I am not sure Risse himself really believes that equal opportunity for basic needs satisfaction is the most ambitious distributive principle that could be justified globally. For there are actually two distinct distributive criteria at work in his book. Common ownership not only grounds principles of justice; it also grounds "principles of reasonable conduct." And reasonable conduct turns out to be much more demanding than justice. Demands of reasonable conduct

ask: Under what circumstances can others be “*reasonably expected* to waive their liberty right to resources within, or entry to, a certain portion of three-dimensional space” (p. 125)? Risse maintains that others can reasonably waive these liberties when they dispose of a roughly equal share of earth’s uncreated resources. To capture this idea, he imagines away the social goods that exist in a particular place (such as political institutions or markets), and conceives a possible measure of the value of “unimproved biophysical resources” for “general human purposes,” which he then divides by the number of people living in a territory. If a country is *underusing* its natural resources—that is, if its inhabitants have access to more valuable biophysical space than the global average—then Risse holds that this country is obliged to accept more immigrants, until it reaches a point where its inhabitants are using these resources at the global average. So while *justice* requires only equal opportunity for basic needs satisfaction, *reasonable conduct* requires equal access to the earth’s uncreated resources.

Apparently, then, people are able to recognize demanding distributive criteria, so long as these criteria are formulated as matters of reasonable conduct rather than as matters of justice. But if humanity can be expected to recognize this stricter set of demands, then why shouldn’t *these* be the principles of justice regulating the earth’s appropriation?² Shared recognition of demands of reasonable conduct undermines Risse’s case for his conception of justice, which turns on the idea that people with different backgrounds could reasonably reject principles any stronger than basic needs satisfaction.

Given the importance for Risse’s argument of the distinction between reasonable conduct and justice, he says surprisingly little about it. The distinction bears some resemblance, however, to a distinction in Grotius and other natural lawyers between *perfect* and *imperfect* rights and duties. A *perfect* right exists where someone has a claim against a specific person that it is permissible to enforce. An *imperfect* right exists where it is *fitting* that someone should have something, but she lacks an *enforceable claim* to that thing. Risse’s principles of reasonable conduct fall into a gray area between perfect and imperfect rights. The opportunity to use the earth to meet basic needs is clearly a claim-right that a needy person could permissibly enforce. Yet though reasonable conduct does not generate claim-rights, its demands are apparently enforceable. If we fail to act reasonably, then others can attempt to take our surplus resources, though we can also try to defend our possessions. Thus, if the United States unreasonably excludes migrants at the border, Risse argues that they can attempt to

enter illegally—by force if necessary. Where the demands of reasonable conduct are not met, a needy person and a current possessor have conflicting Hobbesian liberties to control the goods in question.

It is unclear how these demands of reasonable conduct interact with existing property conventions, such as internationally recognized boundaries, or permanent sovereignty over natural resources. Do existing conventions give rise to any binding duties when they conflict with demands of reasonable conduct? All Risse says about this issue is that principles of reasonable conduct might eventually be “integrated” when countries “contribute to the creation of a mutually acceptable global order” (p. 332). But it is hard to know exactly what guidance reasonable conduct gives us in the absence of that order. Moreover, one worries that—absent authoritative institutions—demands of reasonable conduct could lead to a free-for-all, in which each party tries to grab and defend holdings above the needs minimum.

Earlier I objected that Risse fails to offer a suitably compelling defense of his criterion of justice over potential competitors. It was not obvious that equal opportunity for basic needs satisfaction would be chosen over nondomination, or equal opportunity to engage in valued communal practices. But what about his reasonable conduct criterion, that is, equal access to the earth’s natural resources? Can it do better?

Consider two representative individuals, one a member of a nomadic hill tribe in Burma, the other a resident of modern Tokyo. How could we decide whether these two people enjoy an equally valuable share of the earth’s biophysical resources? (Remember that we are abstracting from the social goods in these two places, that is, from political institutions, civil society, or the market.) In terms of sheer quantity, the hill tribesman may have more geographic space available to him than the Tokyo dweller. If we imagine that all built infrastructure and social institutions are removed, however, it seems hard to decide which area is intrinsically more valuable for human purposes. How one values a place depends heavily on the nature of one’s goals, which are often suited to, or reflective of, the region and social milieu in which those goals have emerged. Many economic practices, for example, depend on territory with certain geological or ecological characteristics: it is hard to be a dairy farmer in the Amazon, or a salmon fisherman in Kansas. Cultural practices are similar: consider how sled-dog racing belongs in the Arctic, and surfing in coastal areas, or how religions sometimes incorporate places or natural formations into their rituals of observance. So it

seems difficult to generate a suitable metric for determining equal per capita shares of the earth. Risse himself raises many of these issues (pp. 122–23).

Even if this metric problem could be solved, one also wants to ask: Why should it *matter* that we all have access to an equally valuable share of biophysical space, so long as we can otherwise live a decent, flourishing, and valuable life? Of course, such a life will depend on having *some* space in which to live it, but does that demand an *equally valuable* share of space? Suppose it were to turn out—once the appropriate metric was on hand—that hill tribesmen were enjoying more valuable biophysical space than Tokyo dwellers. Must they allow people from Tokyo to move onto tribal territory? On Risse's view, it seems they would. But imagine that we informed the Tokyo inhabitant of her new right to migrate into mountainous Burma to take up her fair share of space. It seems unlikely she would care.

Why place so much importance on the idea that people should have equal shares of biophysical space, if the people for whom we are theorizing are unlikely to care about it? The central idea animating Risse's analysis is that since no one *morally deserves* uncreated spaces, the only fair thing to do is to share them out on an equal per capita basis. But faced with real people and their projects, an abstract commitment to equally distributing biophysical space seems like a strange crusade, rooted in fascination with a pattern. After all, prospective migrants *want* to settle in New York or Tokyo, not in the relatively underused hinterlands of Burma or Saskatchewan. Would the world be a better place if we all migrated so as to produce the pattern of equal-per-capita-use, with many more people now living in the mountains of Burma, and with many fewer in Tokyo? While it is surely important that everyone has access to a space where one can live a flourishing and valuable life, it seems to me that very little turns on our approximating a pattern of equal access to biophysical resources. Indeed, insofar as achieving that pattern might risk undermining other important social goods—like robust family ties, nondominating relationships, and secure communal practices—the principle of equal per capita shares of the unimproved earth could reasonably be rejected.

So while Risse's common ownership framework is in many ways compelling, neither his principle of justice nor his principle of reasonable conduct strike me as uniquely justified. What might a better alternative look like? It is hard to say with confidence what principles for distributing the earth no one could reasonably reject. But in my view, compelling principles would (a) allow for fundamental interests beyond the opportunity to meet basic needs—going beyond Risse's

principle of justice—yet would also (b) remain more closely tied to values people care about than Risse’s “reasonable conduct” standard.

Risse is right that people have an urgent interest in using the earth to meet their basic needs, and that any good distributive principle should prioritize this interest. But common owners could also reasonably reject principles that failed to accommodate their interests in nondomination and communal self-determination. Taken together, these three interests would generate a more complex set of distributive criteria, in which basic needs function as just one element among others. It also seems plausible to realize these principles in lexical order: thus, claims to basic needs must be fulfilled before claims to nondomination come into play; and claims to nondomination must be guaranteed before the integrity of social, cultural, and political practices are attended to. I hope to develop a defense of such a view in future work.

To conclude, I ask what would the consequences of our acceptance of Risse’s principle of *justice*—that everyone must have an equal opportunity to meet basic needs from the earth—be for current inequalities? Risse thinks of this principle as having substantial revisionist implications. I am not so sure. He claims that we can derive various rights from common ownership under current conditions, including rights to a minimally adequate standard of living, education, and work (p. 137); a right to participate in the labor market; and a right to relocate when common ownership rights are threatened where one currently resides (p. 146). But I doubt that common ownership can successfully generate all these rights. Much depends on how we interpret it. Suppose we gave everyone in the world the disjunctive option of either participating in the modern economy—potentially at exploitative wages—or engaging in subsistence farming on unimproved land. Would this be enough to satisfy common ownership rights? If it would, then common ownership does not necessarily ground rights to elementary education, labor rights, or rights to a minimally adequate standard of living. It grounds these rights only if one is otherwise prevented from engaging in subsistence farming.

If this relatively restrictive reading of common ownership is acceptable, then it is hard to say how many people’s common ownership rights are actually being violated today. Common ownership may generate educational, labor market, subsistence, and relocation rights in highly industrialized contexts—where unimproved land is genuinely unavailable—but these contexts are not especially impoverished ones. Instead, most of the poorest people in the world today are peasants and

subsistence farmers living in unindustrialized countries. The one thing they are *not* lacking is access to the land. Thus, on Risse's approach, there is no international responsibility, on common ownership grounds, to ensure the world's neediest access to education or the labor market, or to guarantee that they can relocate somewhere else. For this reason, I am unconvinced that Risse's common ownership view has any revisionist implications at all.

So while Risse's common ownership argument is highly ambitious, neither his principle of justice with respect to the earth's resources nor his principle of reasonable conduct seems to me to be uniquely justified. I worry that his principles of justice would permit highly unequal and potentially oppressive practices, while his principles of reasonable conduct are, in my view, of questionable importance. Common ownership is an exciting idea, but when it comes to vindicating *specific principles* for the earth's distribution, much work remains to be done.

NOTES

¹ Mathias Risse, *On Global Justice* (Cambridge, Mass.: Harvard University Press, 2012). All parenthetical citations are to this book.

² Chris Armstrong also raises this issue in his perceptive review of Risse's book, "Global Justice between Minimalism and Egalitarianism," *Political Theory* 42, no. 1 (2014), pp. 119–29.