

# Response to Arneson, de Bres, and Stilz

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I must begin by expressing how gratifying it is that *On Global Justice* would receive such careful attention by three thoughtful colleagues. I will do my best to respond to their questions and objections.

Let me start with Arneson. Since differences between us are large, I shall first say a few things about my basic outlook. Common humanity is one ground of justice. The distinctively human life generates claims, and their form is that of natural rights. However, explorations of how the distinctively human life generates obligations lead only to a rather limited set of rights—basic security and subsistence rights. Inquiries into another nonrelational ground also produce rather limited results. That ground is humanity's collective ownership of the earth. The principle of justice associated with it merely requires an equal opportunity to use natural spaces and resources for the satisfaction of basic needs. In particular, this result is incompatible with any kind of welfarist commitment. The sheer fact that anybody's welfare *as such* would be lowered or raised is not a matter of justice. If people share associations with each other (membership in a state, or being connected by trade, say) we can derive obligations from their shared involvement with these associations. But unless people do indeed share such associations, the obligations that hold among them will be rather limited.

Think of relations as shared practices. These can be rather thick, as in tribal communities, or very thin, as in imperial structures with nonintrusive central control. Where they are thick, they shape who we are, what we can do, and what we possess. Where they are thin, they may still be significant for life prospects and even survival, as is the case with trade structures. Shared practices can in principle be changed, and institutions that direct them can assume different forms. While the range of viable human living arrangements is constrained by evolutionary

factors, there is a far-reaching conventional component to our practices. If we share certain relations with some people, we also share a common humanity with them, and we jointly own the earth. But we share much more with them, and that is why additional requirements of justice arise. That is the basic relationist intuition.

The defining feature of how we have lived on earth for the last several centuries is that there are states. By now they cover the whole habitable earth. Unlike Hobbes and Locke, I do not think states are the uniquely rational living arrangement. Unlike Kant, I do not think joining states is the uniquely defined moral obligation. We might have been duped by state ideology. I am impressed with arguments by right-libertarians who use historical studies and public choice models to argue that alternative modes of organization were available that would have avoided many detrimental effects of living in a system of states, especially warfare. These arguments do not conclusively defeat arguments in support of states, but they create enough doubts to undermine the great project of modern philosophy: to substantiate the unique rational or moral foundation of states.

But that does not mean states should be abandoned, or that states should be abandoned were it not for the havoc this would wreak, as many cosmopolitans believe. As I argue in a part of my book that is not under discussion here, we do not sufficiently understand models of world order that abandon states—do not understand them well enough, that is, for them to be action-guiding. This point, plus the basic ability of states to provide public goods, generates a modest but real justification of states.

Are there principles of justice that apply only within states? For all I have said so far, the answer could still be “no.” How to argue for such principles? Demands of justice are the most stringent demands we make on each other in the moral domain. To the extent that we are talking about distributive justice, these are demands that concern holdings of relative or absolute shares of something. The properties of the population in virtue of which such principles apply are the grounds of justice. Common humanity, for instance, is a ground because the distinctively human life generates such claims. Shared membership in states is also a ground of justice. Characteristic of states is that a complex set of laws is in place that regulates our lives in detail, is coercively enforced, and provides the framework within which intense cooperation generates goods that make our lives possible and enjoyable. Not all states meet this description, but this is the idealized version of the entity that shapes our world and is justified along the lines I

have sketched. But if a given state roughly meets that ideal, particular principles of justice do apply. If it does not, as I argue in chapter 4 of *On Global Justice*, other states have a duty of aid to provide support in building up suitable institutions.

Why would political and legal immediacy matter? Arneson says that “those who see the coercion standardly employed by states as triggering the application of special principles of justice . . . have not provided arguments purporting to show that standard state coercion is one of those cases in which coercion is unjustified unless accompanied by compensation to those disadvantaged by it.” I agree, but not because I think the task is one of showing that people *disadvantaged* by coercion need to be *compensated*. The task is to determine how those things we collectively produce—Rawlsian primary goods, I take it—are to be distributed. Qua members of states we are fundamentally alike, to such an extent in what matters for the provision of goods that inequalities become dubious—not impossible to justify, but a strong justification is needed. A good candidate for such a justification is that the inequality in question benefits everybody.

“Fundamental alikeness” is an equivalence. Political and legal immediacy factor into this equivalence. We could organize our basic structure and legal corpus in numerous ways, with different winners and losers. Our basic structure makes us into the people we are. Its laws are enforced intrusively. The point is not that I deserve compensation for disadvantages. It is that my participation in this collective endeavor is very demanding, is demanding in this way on everybody, and equally so. I can complain if some participants benefit much more than others, since this contradicts our fundamental alikeness. Things are different if we are talking about people who do not share a state but are connected through trade. In that case, there is less we all share.

This argument does not take us all the way to the difference principle, and *On Global Justice* does not argue that it does. My reasoning is consistent with principles that permit more inequality, but also with principles that permit less.

Arneson asks us to suppose a scenario where “all law enforcement was executed by complex, indirect, causal chains, like Rube Goldberg machines.” Then he inquires, rhetorically: “Would this somehow invalidate the claim that membership is a ground for justice? I want to claim the answer is ‘no’.” I agree. But the presence of such machines does not bear on the point that state authorities have direct access to bodies and assets. What distinguishes states from international entities is that states have immediate access to their citizens’ bodies and assets. The police may seize people or confiscate their assets without interference by political

structures that are not part of the state. But this is very different, say, for the World Trade Organization (WTO) or the International Monetary Fund. Their interaction with individuals is mediated through other political structures, namely states. So “directness” does not exclude Rube Goldberg machines, but does exclude intermediary political structures, as the state is intermediary in interactions between individuals and the WTO. As I argue in the book, this immediacy of access to citizens’ bodies and assets is part of what makes the relationship of shared citizenship much more profound and pervasive than relationships that individuals have within other associations (such as the WTO).

Arneson talks about “the grand view of public goods provision” that I endorse and he rejects. He finds no argument in support of that view. The argument comes in the shape of considerations in support of our fundamental likeness as members of a state. He formulates his doubts as follows:

The networks of cooperation are many and various and do not coincide neatly with state borders. Living in San Diego, I am far more dependent for my basic safety on the law abidingness of foreigners in northern Mexico than of fellow Americans living in Maine or the hollows of Kentucky, and I am more reliant on the effectiveness of the law enforcement efforts of northern Mexican states than of law enforcement efforts in much of the United States.

One point here is better directed at other philosophers (for example, Rawls and Thomas Nagel), namely, that international webs of cooperation matter for distributive justice. That they do is a major point developed by the pluralist internationalism in *On Global Justice*.

But Arneson allows for too little relevance of shared membership in a state. When the United States introduced a permanent federal income tax in 1913, this did not affect people in northern Mexico. But it made a difference in San Diego as well as in Maine and the hollows of Kentucky. So, too, for FDR’s New Deal. And when Johnson drafted people to fight in Vietnam, no one from Tijuana was sent, but men from San Diego were, as well as men from Maine and the hollows of Kentucky. How much border control is provided in San Diego is decided at the federal level. Were funding quadrupled or eliminated, much would change in San Diego. But the next time the U.S. government must give account of its immigration policies, it will be to Americans, well, in San Diego, Maine, and the hollows of Kentucky.

Again, the interconnectedness between people in different countries strongly registers on my approach in terms of those grounds of justice that are not limited to people within one country. Moreover, if a denizen of San Diego feels emotional affinities with his neighbors in Tijuana, then saving such a neighbor rather than the visitor from Portland or the tourist from Louisville in an accident would not be something my account resists. But none of that should make us forget how much we structurally share with each other as members of a country. In the United States, our fundamental living arrangements could be changed through a political process, as they have been in the examples I listed. There could even be a constitutional convention to renegotiate our governmental setup. As Americans we are “in something together” in fundamentally important ways. Therefore, people in San Diego should care about relative inequality across the United States in a way that they should not about relative inequality in Mexico, or between the United States and Mexico.

Let me finally turn to Arneson’s “Sally-and-Samantha” case. Arneson’s point is that the “social relations between trading partners do not trigger strong moral requirements, but the neediness and disadvantage level of other people do provide direct and strong moral reasons to improve their condition.” This I deny. Here we come up against the basic relationist case that draws on the point that common humanity triggers some obligations, but to go beyond those we must look at relations. International trade is characterized by market reliance practices. These could be arranged in different ways, and they shape lives. While much less is triggered here than in a state, much more is triggered than it would be in casual exchanges, or through us all being human. In terms of Nozick’s island scenario: things are *dramatically* different once levels of exchange rise to such an extent that international market reliance mechanisms are present.

My view does allow for certain perverse cases of secession. But the presence of other grounds helps here, and a plausible theory of secession must be added in any event.

## RESPONSE TO DE BRES

Let me proceed to de Bres. The situation in the literature on trade has changed through the publication of Aaron James’s book *Fairness in Practice*. James’s approach contrasts substantially with mine. He argues that the overall heap of gains from trade should be divided up equally among participating states, subject

to a participation threshold and after each withdraws from the common pool what it could produce in autarky. James does a terrific job characterizing the trade regime (and thus makes clear, as I would say, why it is a ground of justice).

But while James and I agree on the relationist commitment involved in classifying trade as a ground, my proposed principle of justice in trade is very different from his. This discussion is not well developed in *On Global Justice*. It is partly for this reason and partly because James's book is now available that in the last couple of years I have done much work on trade again, most of it jointly with Gabriel Wollner. Some of that has been to argue against James's alternative. The gist of our position is that approaches of the "equal-division-minus-gains-in-autarky" sort fail because gains from trade that are now possible under autarky are normally themselves the product of past trade exchanges. But, more broadly, we have argued that the whole kind of approach that formulates principles of justice for trade in terms of *substantive* principles dividing up gains from trade leads nowhere. Instead, justice in trade should be conceptualized *procedurally*, and I now think it should be conceptualized in terms of *exploitation*. The two main articles I am referring to are "Critical Notice of Aaron James," which appeared in the *Canadian Journal of Philosophy* (43, no. 3, 2013), and "Three Images of Trade: On the Place of Trade in a Theory of Global Justice" (forthcoming in *Moral Philosophy and Politics*).

This new exploration of exploitation, which proposes a structural account, is also supposed to offer support for my generic proposal about justice in trade, according to which what is required is (and is only) that trade does not come "at the expense of participants," as I put it in the book. What is more, the two recent articles that I just mentioned should also close a major gap, namely, to argue why a procedural approach is appropriate in the first place (and a substantive approach is not).

I accept de Bres's main criticism. She says "there is a lot of space—space that goes unacknowledged in Risse's book—between the position that trade generates full-blown egalitarian requirements, as James argues, and the position that trade generates only the minimal international principle that Risse advocates." That is correct, and my recent work tries to close off that space.

De Bres also rightly takes me to task for under-describing the reach that a principle of justice in trade must have. My principle talks about "contributions," and focuses on those who already participate in trade and not on those who are precluded from doing so. Again, my more recent work attends to this problem. The

key, I believe, is to formulate exploitation broadly enough so that it covers different kinds of unfair advantage-taking among various types of participants in trade, ranging from governments and international organizations to multinational corporations, locally operating companies, and, ultimately, individuals. De Bres correctly notes that a just trade system also requires that the rules governing the system within which these interactions and transactions occur are themselves just. I agree with this, and always have. Unfortunately, the centrality of the notion of “contribution” in my principle does not do justice to this conviction, and therefore must be replaced with a broader formulation. I would also like to point out, however, that my book concludes with an extensive discussion of the WTO. That discussion occurs once another element of my approach is in place—arguments showing that principles of justice entail obligations of account-giving. I apply that to the WTO and ask for far-reaching reforms in the manner in which the WTO includes poorer countries (the details of which are explained in chapter 16 of *On Global Justice*).

De Bres finishes with a broader point about how best to go about formulating a pluralistic theory of global justice. She reports that my strategy is “to start by identifying the features of relationships within the state that seem to generate principles of egalitarian justice, and then to search for those same features in other relationships outside the state.” This is problematic because “one risks missing relational grounds of justice that differ significantly from those that one encounters in the state, and one risks focusing overly on the differences between domestic and transnational structures.” Perhaps there are features of relations I have not considered at all. But as far as I can tell, nonvoluntariness and different modes of cooperation and coercion shape this domain. The sheer insistence that there *could* be other ways of doing this does not help. We would need a concrete proposal first, and then we could explore its merits.

## RESPONSE TO STILZ

Let me finally turn to Stiliz. To begin with, Stiliz doubts that common ownership of the earth can successfully generate some of the rights I claim it generates. Stiliz is correct that rights to elementary education, labor rights, or rights to a minimally adequate standard of living are derivable on my approach only if one is prevented from making a living by using the resources and spaces directly. But since that

condition is the norm in industrialized societies, my argument for those rights does apply widely.

What *revisionist* implications does my approach have? It generates a genuinely global responsibility for a limited set of civil and political as well as social and economic human rights. The global order needs to be reconcilable with individuals' co-ownership status. Thus, individuals need to be endowed with certain rights that protect them against the power of states. But for any given co-owner the problem is not just that her own country might become abusive. Her problem also includes the existence of other states that may refuse her entry if her co-ownership rights are abused at home. Hence, the responsibility for protecting her status lies with the global order as such. We need to rethink sovereignty. A state can make rules on its territory only if it allows a proportionate number of people into its territory and assumes its share of responsibility for how co-owners are faring elsewhere. All this strikes me as highly revisionary, in any sense in which that word is ordinarily used.

What is also revisionary about this approach is that it allows us to think about obligations to future generations as a matter of justice. Humanity is a collective owner, but this owner exists one generation at a time. One can then explore what obligations apply across generations. This also means obligations in the context of climate change are both obligations of justice and obligations that draw on our relationship with the planet. By way of contrast, John Broome's *Climate Matters* argues that obligations of climate change are largely obligations of goodness, not justice. Also by way of contrast, consider Simon Caney's focus on human rights violations generated by climate change, which I think mischaracterizes the nature of that problem.<sup>1</sup>

Stilz wonders why one would want to make ideas of collective ownership central if "real people" care little about access to resources and spaces. For one thing, my conception of common ownership includes an entitlement not to be deprived of the kind of opportunity of access generated by the liberty and claim right that are also part of it. Suppose we live in a society where it is standard that people make a living by toiling on the land and otherwise being engaged with natural resources and spaces. In that case, everybody is entitled to have the opportunity to access such resources and spaces. Suppose now that we live in a society where many or most people make a living without being directly engaged with natural resources and spaces (as is the case in industrialized societies). In that case, since an industrialized economy has been erected in commonly owned space and keeps people



from accessing natural resources and spaces, individuals must be provided with other opportunities to satisfy basic needs. Otherwise, the industrialized economies would violate their status as co-owners of the earth. Therefore, individuals have a disjunctive right either to have the opportunity to use resources and spaces to satisfy basic needs or to be provided with other opportunities that allow them to satisfy basic needs. Surely, people do care about such opportunities. That people do not care about the theory behind the derivation of the requirement that there be such opportunities is unproblematic. Utilitarians would not find a refutation of their theory in the fact that people rarely display fluency with utilitarian calculations. If mine is a “strange crusade,” we would all be guilty, qua philosophers and theorists, of instigating it. My attempt to make reasoning about our relationship with the earth more central to political thinking mirrors an increasing concern about the earth among “real people.”

Another point Stilz raises is how collective ownership engages with current ownership scenarios. If somebody owns a house or a plot, does humanity own it too? In some sense, yes, though it does not mean all 7.2 billion of us must be invited for Thanksgiving at some point, any more than collective ownership implies (as right-libertarians argue) that every drop of oil on the Arab peninsula must be shared out among all of us. What it means—as far as the plot is concerned—is that there is a residual right of necessity, much like what Grotius also recognized. If a famine broke out in the state of New Jersey and salvation lies on the Stilz property, private ownership in that estate would lose all moral relevance. If a famine broke out globally and salvation lies on the Stilz property, the same would be true. In terms of what the literature on ownership calls “incidents,” the manner in which humanity owns a house or plot then amounts to a minor version of *control*.

For reasons that should be clear now, I disagree that “once legitimate property conventions are established, it seems preferable to say that these conventions *supersede* humanity’s collective ownership.” One needs to keep in mind, though, that the sense in which humanity owns anything at the abstract level is very different from how the Stilz property in New Jersey is owned. The connection is much like that between Rawls’s principles of justice and judicial decision-making: there is a four-stage sequence connecting them that passes through a constitutional and a legislative stage. But just as in judicial decision-making it is important to keep alive the connection *to justice*, so in ownership arrangements it is important to keep alive the idea that humanity as a whole has claims to this planet.

Stilz also raises a general concern about how to work with the idea of collective ownership: “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 defend any specific distributive criterion for the earth’s resources and spaces?” This question puzzles me. The setup of my argument, I had hoped, should be clear. Roughly, I proceed as follows. I introduce a few basic assumptions as starting points, especially that human needs matter, that we all need the resources and spaces of the earth to satisfy them, and that the original resources of the earth do not exist due to human accomplishment. The concept of collective ownership of the earth that I derive from those points is that in some sense, any two human beings, no matter when and where they live, have the same claims to resources and spaces. Next I explore various conceptions of collective ownership whose defining feature is respectively how they spell out what it means for any two people to have the same claims in this regard. What speaks for my preferred conception, common ownership, is partly its minimalism—after all, I want to derive natural rights in this way—and partly the weaknesses of prominent contenders.

Stilz also takes me to task for formulating common ownership in terms of basic needs. *Basic* needs I think of as limited to basic physical and mental competence. But Stilz points out that “while we do have an interest in basic needs satisfaction, we also have a fundamental interest in nondominating relationships with others,” and “that people have a fundamental interest in using the earth’s spaces for communal social, cultural, and political practices that they value.” I limit things to the lowest sensible level because I derive natural rights in this way—rights that have claims on others outside of political and economic structures. Since natural rights generate claims regardless of context, keeping the assumptions that enter into such a derivation minimal is essential. Now, “minimal” must mean “minimal” within the range of what is plausible. Perhaps my understanding is below that. But ideas of nondomination as well as social, cultural, and political practices are much more culture-dependent than ideas about basic needs. For conceptual clarity (and, more pragmatically speaking, for global conversations about human rights and humanity’s collective ownership), it is important to avoid areas of contestation as much as possible.

This leads me to my last topic: Stilz’s take on my distinction between principles of justice and principles of reasonable acceptability. Stilz is right that I do not say terribly much about this distinction. But I believe I say enough. After all, introducing something like a category of reasonable acceptability is a conceptual necessity

on my account. Principles of justice I define as the most stringent moral demands. That, too, is a longer story, and some of my recent work has also been dealing with explicating the connection between this way of approaching justice and traditional ways of doing so. And among the philosophers who would readily agree on my characterization of justice as covering the most stringent moral demands are Immanuel Kant and John Stuart Mill.

But if justice includes the most stringent moral demands, other demands of rightness also need to be characterized and somehow named. To that end I use the term “reasonable acceptability.” Their being less stringent means that in cases of conflict they should get less priority. Now, Stilz says, if principles of reasonable acceptability are reasonably acceptable across the board, why would *they* not be the principles of justice? I leave what the foundations for reasonable acceptability would be explicitly and deliberately open, and thus do not do for the general case of reasonable acceptability what I do for justice, to wit, identify certain grounds as the properties of individuals that generate the demands in question. Doing this sort of work for reasonable acceptability as a whole would be tantamount to offering a comprehensive moral theory, which I do not have. But one way in which a moral demand can be less stringent than the demands of justice is by being based to some extent on pragmatic considerations. That much we can safely say without having a comprehensive moral theory.

Consider a scenario I often use to motivate the necessity of thinking about immigration in terms of collective ownership. Suppose by some freak development the population of the United States shrinks to three, everything else remaining the same. On my view, these three would do nothing unjust if they kept out everybody else using sophisticated border surveillance machinery. But that same view would not find anything unjust about people trying to outsmart the mechanisms. As long as no violence is deployed, no injustice occurs on either side. Common ownership is my preferred conception of collective ownership partly because it is the only one among the contenders that generates natural rights and duties in a satisfactory way. Nonetheless, there is something problematic about this scenario of the three Americans keeping the country to themselves even though the wrongness is not an injustice. The wrongness consists in doing something unreasonable, and what’s unreasonable is the lack of proportionality.

But if we try to determine what this lack of proportionality amounts to, we encounter difficulties. What matters is not population density, but relative usefulness for human purposes of three-dimensional spaces. My proposal is to assess this by

way of approximated world-market valuations. This would involve measurements that are not commonly used or even in existence because here we are not interested in measuring economic activities (which are captured by the gross domestic product), but assets and entities that are not normally in circulation on any market (natural spaces and many resources that are not in active use or otherwise for sale). This mechanism is pragmatic in the sense that it overrides many culture-specific valuations. The considerations that enter are not solid enough to generate natural rights. However, they are strong enough to support a moral complaint of sorts, and one that can be communicated interculturally. But given the limitations on the nature of the considerations that enter into this reasoning, one could not ask people across cultures to prioritize these matters over considerations of justice. One could, however, ask them to prioritize such considerations over others that do not assume as much moral relevance.

Stilz asks whether conventions generate any binding duties when they conflict with demands of reasonable conduct. If these conventions conflict with what can be reasonably expected, then this creates moral pressure to produce other conventions, and the pressure is the higher the better off the countries in question are. Stilz rightly points out that this does not offer much in terms of concrete guidance. Well, moral considerations by themselves sometimes generate a policy proposal, but more commonly they do not.

Stilz herself acknowledges something like my distinction between justice and reasonable acceptability. When she mentions her research plans in this domain she says that it “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.” It is this kind of ranking my distinction tries to capture, except that it does so within a multilayered theory of global justice where many considerations must be brought into reflective equilibrium.

#### NOTE

- <sup>1</sup> See, for instance, Simon Caney, “Climate Change, Human Rights and Moral Thresholds,” in *Human Rights and Climate Change* (Cambridge: Cambridge University Press, 2009), Stephen Humphreys, ed., pp. 69–90; and Caney, “Human Rights, Responsibilities and Climate Change,” in *Global Basic Rights* (Oxford: Oxford University Press, 2009), Charles Beitz and Robert Goodin, eds., pp. 227–47.