

## Article

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"Reply to Abizadeh, Chung and Farrelly"

Mathias Risse

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## REPLY TO ABIZADEH, CHUNG AND FARRELLY

MATHIAS RISSE

HARVARD UNIVERSITY

It is a great honor that my book has received such sustained attention by some of my esteemed fellow travellers. Arash Abizadeh, Ryoa Chung and Colin Farrelly focus on different parts of my book, Abizadeh on the second<sup>1</sup>, Farrelly on the third<sup>2</sup>, and Chung on the fourth<sup>3</sup>. I respond to them in that order.

To all major points raised by Abizadeh, my response is that the book already addresses the matter. Abizadeh often omits central bits of my argument or makes a caricature of them, to such an extent that my position is not addressed at all. Abizadeh may have found my discussions unpersuasive and ignores them for that reason. I do not mean to be taciturn, but since indeed these discussions are not taken up, I can do little more than to refer to the relevant passages.

Abizadeh writes that “claiming that there is an inalienable, indefeasible right to use original resources to satisfy one’s basic needs might just be interpreted as claiming that there is a *constraint* of justice on any conventional property regime.” I agree. I also agree that, as he adds, “[o]ne can say this without saying that the constraint constitutes a type of ownership, and one can say it while further insisting that there is no natural ownership of anything, i.e., that all property is conventional.” One *can* do all this. But I explain why nonetheless it is sensible to think of the earth as collectively owned in a natural-rights sense. I do so in chapter 6, second paragraph of p. 113, and also at the beginning of chapter 7, pp. 130-131. One reason is that we increasingly face problems that concern humanity’s way of dealing with this planet as a whole. An appropriately non-chauvinistic way of developing humanity’s collective ownership is one way of capturing the importance of that kind of problem, and thus makes the planet as such and our relationship with it central to political philosophy. “Appropriately non-chauvinistic” means that the emphasis must be on the symmetry of claims across all human beings (and across generations), rather than any kind of dominion over the rest of nature. The fruitfulness of that approach would then have to be judged by the kind of work that I submit it can do. Part 2 of my book applies the topic of humanity’s collective ownership of the earth to problems such as immigration, human rights, obligations to future generations and climate change.

A second reason is that claims of need are frequently frustratingly amorphous. They are often usefully supplemented by the consideration that what we require to meet basic needs are resources and spaces that are nobody's accomplishment. That thought is again well-captured in terms of appropriately understood natural ownership rights. A third reason is that ownership of resources and spaces is a rather central human concern. Conventional legal systems regulate ownership. However, that fact raises the question of whether such conventional legal systems can themselves be justified by pre-conventional considerations. Abizadeh does not address any of these considerations. I do not know what he would make of them.

Abizadeh argues that I implicitly admit that talk of collective ownership is not warranted. After all, I concede that a version of No Ownership is also plausible, to wit, one that endorses provisos that make that view identical to Common Ownership in what it permits and forbids. But anybody who accepts my reasons for wanting to talk about collective ownership would draw a different conclusion. They would think defenders of No Ownership with provisos that make the theory identical to mine in the relevant sense do in fact accept that in some sense humanity collectively owns the earth. The point is obscured because Abizadeh never addresses my reasons for resorting to talk about collective ownership.

Abizadeh then explores one incident of ownership, the right to exclude. He wonders who would be excluded, insisting that somebody must be. What I say on this matter is that in the limit case of humanity as an owner, ownership loses this feature (fn. 3, p. 378; see also fn. 9 on p. 379). One may say this view comes with problems of its own. I am sure it does. But it amounts to a conceptual position untouched by Abizadeh's criticism.

I conceive of collective ownership as a view about the relationship among human beings that can readily integrate plausible accounts of environmental ethics (p. 119). To the extent that a version of anthropocentrism needs to be defended, at this stage of my argument (in chapter 6) I assume that case has been made. I discuss the distinctively human life, and its normative relevance, at length in chapter 4. The view on the standing of human life vis-à-vis the rest of nature that I adopt in section 5 of chapter 6 is what Bernard Williams calls "enlightened anthropocentrism". If Abizadeh thinks this is an inflated view (as he seems to do), he should explain why. Enlightened anthropocentrism makes room for many ways of valuing nature, but also takes seriously the fact that valuing must occur within the confines of human life. At the very least Abizadeh should recognize that that is my view. As it is, his claim that I make "inflated assumptions about human beings' claims against the non-human world" bears no connection to what I say.

I discuss deep ecology, among other views, in chapter 6 to point out that, while my version of collective ownership of the earth (unlike many of its 17<sup>th</sup> century cousins) is compatible with many views on environmental ethics, it is not compatible with all of them. I thereby argue against a potential charge of

trivialization. I think it is beyond doubt that deep ecology is an extreme form of environmental ethics (as I'm confident even Arne Naess would agree). I am not sure why Abizadeh takes me to task for calling it that ("name-calling"). Deep ecology is not refuted by being characterized in that way. But I neither think nor claim it is. That should already be clear from the fact that I use that formulation only in the paragraph that sums up my discussion in section 5 of chapter 6.

At a later stage, Abizadeh mischaracterizes my argument against Equal Division. I do owe defenders of Equal Division a substantive response, as Abizadeh insists, not merely an epistemic one. But what I offer in section 7 of chapter 6 (continued at the beginning of section 4 in chapter 8) is a substantive argument. The point is not about precision, or about what we can find out or agree on. Any conception of collective ownership needs to be defended through a natural-rights strategy. For reasons of principle (see second paragraph on p. 123) no such strategy is available to defenders of Equal Division. The point is that the kind of measure that is crucially needed here does not exist, not that we have no good way of figuring out what it is. Ultimately I might be wrong about this, but if so, it would not be because I do not even offer the right sort of argument.

Finally, Abizadeh makes it sound as if I am not offering any argument against Joint Ownership that takes the position seriously. I do. It begins in the second full paragraph on p. 121 and ends in the middle of p. 122, at the end of section 6 of chapter 6. The starting point of that argument is to model an original position where all parties are joint owners and seek to agree on principles under which all may acquire resources and spaces without unanimity in particular acts. In the original position, this is to ask what permissions it is reasonable both to give and to receive. I argue then that, under those assumptions, it is actually Common Ownership that would have to emerge as the solution. The argument I give to that effect may ultimately fail. But when one reads Abizadeh, one would never think this argument even exists.

Abizadeh ends his comments in the following way:

To treat persons as free and equal while coercively exercising political power requires not using that power against individuals structurally to entrench absolute levels of *poverty* or relative material *inequality*. It is to Risse's credit that the "international pluralism" he defends in his book makes room for claims about inequality at the global level, even if they are not grounded in his claims about Common Ownership.

He says this in an intellectually conciliatory spirit. But here too I must say I do not recognize my view. The first sentence captures a commitment that (as far as material inequality at the global level is concerned) I do not share. At the beginning of Chapter 15 I spell out what my theory implies for global inequality. And that is probably much less to Abizadeh's liking than his concluding statement suggests.

Let me move on to Farrelly. Farrelly comments on Part 3 of my book. He begins by expressing uneasiness about philosophers addressing global justice. He suggests that other questions are properly in the domain of political philosophers, but matters of global justice are not. Theorizing about global justice, after all, means theorizing about global politics. But doing so carries the philosopher's tendency to grandiose theorizing to an untenable extreme. I cannot help but recall here a brief review of *On Global Justice* in *Times Higher Education* (29 November 2012). Conor Gearty, an LSE-based human rights lawyer, finished up as follows:

Like Joyce and Nietzsche (or is that Nietzsche?) you need to be really convinced that there is something there to make yourself persevere. I doubt I'd have done so, to be honest, without the stimulus of having to write this review. And at the end you ask, "Did I understand it?" and then think, "Even if I did, and he is right, what difference can (yet another) set of self-contained right answers about justice by a bright university guy make?"

When this was first posted, two comments appeared. (I can no longer find them online.) One came from another human rights lawyer who wholeheartedly endorsed the tenor of Gearty's review (apparently without having read a line of my book), making it sound as if the publication of books like mine could be the ruin of higher education properly understood. The second comment was very short, pointing out merely that Gearty apparently disliked normative theory and took it out on my book. That is where the comments ended. Presumably that was because this topic never attracted much interest. But it also seemed to me quite apt that this was the last comment. (And, no, it is not "Nietzsche".)

Farrelly's approach is more thought-provoking because he does not throw out the whole project of normative reflection. Instead he wonders whether specifically global justice is not simply too much for any sensible philosopher to take on. Will it not always be true that any answer, no matter how worthy of discussion, will have to omit many topics? Will it not be true as well that, no matter how plausible bits and pieces are, there will always be another author who comes up with another approach that will be very different in outlook and detail but can muster about the same amount of plausibility?

The best defense I have is that the questions I address in my book simply arise, and arise, in the first instance, as practical political matters. Should we allow for more immigration, and if so, what should guide us? Our own self-interest as a country, or the desire to meet some moral obligations? Who should do how much about climate change? Can we justify human rights standards to people who say that, in their culture, ideas about rights have no traction (but who nonetheless wish to receive certain aid packages, say, from the European Union, which nowadays makes them dependent on human rights standards)? Does trade trigger moral obligations, or is it a voluntary exchange that any participant can engage in or walk away from?

Most reflective newspaper readers sometimes think about such questions. Sensible answers to these questions have theories behind them, and we get to those theories by pushing the reflection further. Few people will wonder about whether their answers to these different questions sum up to an overall coherent and plausible theory. But those who do, before they know it, do think about “global justice.” In an increasingly interconnected world the topic has become inescapable. Aristotle wrote about the polis because that was (most of) his social world. Hobbes wrote about the state because that was (most of) his. Today our social world is global. So that is where political philosophy must engage. We need visions for where to go from here. It is the job of political philosophy to provide them.

In principle, political philosophy should be able to provide guidance to the decision maker, and I think my theory has some potential for offering it. Perhaps not in this book, which does not have the kind of format decision makers appreciate. But I have already made another attempt at communicating, in my textbook *Global Political Philosophy*. And to be sure, academic discourse is not a race: political philosophers do not generally seek to put human rights lawyers out of business, nor do we normally think everybody should spend a substantial amount of time dwelling on our questions. People climb Mount Everest just because it is there, and they rob banks because that is where the money is. Surely comprehensive reflection on some of the world’s most urgent normative issues is doing okay by comparison. And not just by comparison.

Let me also be clear that I am eager not to overstate the role of philosophy in the context of “global justice.” As a political philosopher based at a school of public policy I am deeply humbled by what practical people can do to improve the plight of the poor, and I am utterly persuaded by the relevance of social science inquiry into just about anything. But nonetheless Farrelly writes that I am assuming (and that my field is assuming) that global justice is *first and foremost* a philosophical problem. There is no such claim in my book (or on my mind). For reasons already explained I think philosophical reflection on the kind of normative issues that arise in our time at the global level is important. Saying *that* is enough to make a book like mine legitimate, to say the least. But saying *that* requires no comparative judgment about other endeavors that can also credibly claim that they are concerned with global justice. We do not need to compete for significance here.

Farrelly specifically articulates some criticism of my treatment of intellectual property and labor rights. His criticism is an instantiation of his larger claim. My treatment of these subjects, especially of intellectual property, he says, illustrates why philosophy does not have anything important to contribute to the most substantive issues that arise in these fields. Let me concede one point. My most important envisaged opponent is somebody who says that my pluralism is not genuine because it collapses into some kind of cosmopolitanism or (more likely) statism. To discourage that kind of criticism I try to show the fruitfulness of my view, by showing what kind of work different grounds of justice do, and also by showing how to put my somewhat complex theory of human rights to work. The-

before I approach the problems to which I apply my theory from the standpoint of that theory. For instance, I discuss immigration from the standpoint of collective ownership to show that it bears on immigration. I do not think nothing else of interest could be said about immigration. A similar point also applies to intellectual property and labor rights.

That said, I believe my theory has important things to say about both subjects. I will not address labor rights since I take Farrelly's main point, that there is merit to investigating whether my approach would not sit rather well with the basic income approach. As far as intellectual property is concerned, Farrelly points out that a more solid ground (than what I am offering) for justifying intellectual property would be utility or efficiency. But in light of this move, it seems as if Farrelly's discontent is not so much about applying philosophy to this topic, but about how to do it. My approach is non-consequentialist. I do not argue for that approach but take it as a starting point. A utilitarian analysis of intellectual property is no default for me. I think there is an important role for rights to play here.

But why would one draw on Grotius' discussion of water in this context? Recall that among rights-oriented approaches to intellectual property the dominant one is the Lockean. Locke's idea that appropriation to the exclusion of others was acceptable where "enough and as good" was left to everybody else did not seem to apply anywhere with as much plausibility as it did to the domain of ideas. I think of something, claim it as mine, and since there are infinitely many other ideas, you are not being made worse off by my appropriation.

And this is where we should turn to Grotius for a better theory. Unlike Locke, Grotius distinguishes between parts of the earth that can be acquired (mostly the land) and parts of the earth that should be left in common property (in particular the seas). Locke offers no extensive discussion of this theme. So the only way in which intellectual property theorists can get inspiration from Locke is by looking at what he says about appropriation. But the analogy in the domain of ideas should not be to land (which can be appropriated) but to water (which cannot). The transfer to intellectual property should not be of the mechanism by which something *can* be appropriated, but of the reasons that show that something *cannot* be appropriated, or that, in the end, at least show that legitimate appropriation is possible only within constraints. Locke offers no foothold for this view, but Grotius does. Given what is sometimes called the totemic status of the Lockean view in rights-based approaches to intellectual property, this strikes me as an important matter. If I am right, much rights-based thinking about intellectual property has been *dramatically* misguided because it got its inspiration from the wrong philosopher.

But why, one might ask nonetheless, do I have to treat these topics in this book? The reason is that they actually can be treated within the confines of my theory of human rights. Thus these topics also serve to illustrate the workings of that theory.

At the substantive level, Farrelly argues that one can see that my Grotian move is unhelpful in the discussion of Grotius' second point about the sea, that "everybody benefits from leaving the seas unappropriated." Farrelly says that making this move basically sweeps away all the interesting issues, say, in the debate about patents. After all, the issue there is precisely how much protection should be given so that inventors do not feel they have more to lose than to gain by coming forward with their findings. Farrelly concedes that I touch on "the really pertinent issues with respect to intellectual property, namely, compensation and incentives." But once that is said, the best I can do is to remind readers of the structure of my argument.

In the case of the sea Grotius proceeds in two steps. In a first step he establishes that there is a presumption in favor of leaving things in common. That presumption draws on the divine donation of the earth to humanity. So there need to be good reasons for anything to be taken out of common property. Grotius explains why this presumption against appropriation cannot be overcome for the sea. One reason is that keeping the sea in common ownership is to everybody's advantage. These various conditions that for the sea are meant to keep the original presumption are also plausible for the domain of ideas. But once one sees that, one must ask whether there could be anything like a presumption in favor of an original situation of common ownership of ideas, which would then render (but which is also *needed* to render) these Grotian considerations applicable.

It is at that moment that I start investigating the ontological nature of ideas (to see whether there is such a presumption). It is also at that moment that ideas about fair compensation and incentives need to be given their due. To make a long story short, in the end the Grotian considerations are qualified in precisely the way Farrelly thinks they should be. Big questions remain for how to think of fair compensation and incentives. My theory has no resources to answer these questions. What it does do, however, is establish that considerations of fair compensation and incentives are the *only* relevant ones when it comes to delineating private rights to ideas. What one cannot do is point out that one should have unlimited property rights simply because one created some ideas (if that is what we do with ideas), or because one did not appropriate anything that would deprive anybody else of the opportunity to do just the same for other ideas (if *that* is what we do with ideas). So certain avenues of arguing for private property that are wide open on other rights-based approaches to intellectual property are now blocked. That is no small matter although Farrelly is right that much is left open thereby.

Let me finally turn to Chung, who deals with Part 4 of my book. Chung starts by stating that, in light of her "mild realist assumptions according to which states remain the most important actors in international relations," it is puzzling that I would devote so much efforts in chapters 15 and 16 to justifying that, in the current state of affairs, world order and global justice cannot be thought beyond the state system. Let me explain why I go to such length to do so.

By the time we come to the end of the third part of my book, the five grounds of justice that are on my agenda have been explored. According to my view, pluralist internationalism, particularly strong principles apply only within states. Weaker ones are associated with other grounds. However, the features of the world that create this situation – that there are multiple institutions where immediacy and reciprocity apply but no global institutions with these properties – exist only contingently. If the state system ceased to exist, and were replaced with a world with no states, then the global principles would be the only principles of justice that apply. If the state system were replaced with global institutions that are much like states today, then the difference principle would apply globally. Crucially, if *in addition* it would be morally desirable for the system of states to cease to exist (in either of these ways), then my theory could not be our ideal of justice. Instead, that ideal would be the vision of global justice for whose sake states should be abolished.

It is for that reason that we must ask whether we can establish that it would be morally desirable for the state system to cease to exist. Is it true that there morally ought to be no states or a global state rather than a state system? Answering that question is also relevant to answering two questions about justification from chapter 1: whether states can be justified to people respectively excluded by them; and whether the whole system of states and global political and economic institutions can be justified to those living under them. If there ought to be no state system, then it cannot be justified.

Chung's realist starting point should give her no reassurance as far as these questions are concerned. What is at stake is whether my theory is non-ideal in the sense that it can only make a world as good as possible about which we nonetheless already know that it is morally second-best (compared to a different ideal that we understand but for practical reasons cannot reach), or whether it is indeed an ideal theory. It is meant to be an ideal theory, in the sense of a Rawlsian *realistic utopia*. A realistic utopia is relative to a time. What is realistically utopian now may differ from what is generations later. I argue in chapters 15 and 16 that it is not now part of a realistic utopia to dismantle states. What is part of such a utopia are efforts at global problem solving that require coordination among and considerable reforms within states, which in due course may alter what we can consider a realistic utopia.

Rawls cannot sharply delineate realistic from non-realistic utopias. Nor can I. Nonetheless, anarchism and views of world order that completely dismantle the system of multiple states in favor of other organizational structures (including a world state) are clearly inaccessible. The change they demand is too radical, in any event for now. Nor can we credibly assert that we should gradually approximate this goal because we do not understand the goal itself well enough to aspire at such a step-by-step approximation. What is conceivable, in line with what I have just stated, is that at some point in the future a world without states does become a realistic utopia.

Chapter 15 and 16 argue in two steps that my theory is an ideal theory in the sense explained rather than a non-ideal theory. The overall goal is to block the move towards the conclusion that there ought to be no system of states and thus no global order. If I can show that, then I think I can show that my theory of justice is this kind of ideal theory. In a first step chapter 15 considers several arguments that find moral flaws in the system of states. I explore four strategies one might deploy (a) to identify moral flaws of the state system, and (b) to use these flaws to conclude that there ought to be no system of states and thus no global order. And this is also where the book connects to my earlier work on Thomas Pogge.

Some of these strategies fail to identify flaws of the state system as such, but not all do. There is a sense in which the global order wrongfully harms the poor that emerges from this discussion, by not doing enough to satisfy the duties of justice that my theory generates, and because institutions in former colonies have often emerged from a history in which the range of available options was formed enduringly by concerns other than the well-being of the colonized.

At the end of chapter 15 our question is whether the rectification of the acknowledged deficiencies requires either a world state or no states, or whether in any event either version of a political arrangement that does away with a state system would do better in the realization of justice. But that question we can only answer if we have a credible idea of what a world without states would look like. Chapter 16 argues that we do not have such an idea.

Chapter 16 offers a sweeping objection to any attempt to argue towards the conclusion that the state system ought to cease to exist (and formulates this objection in a framework of an account of what it is to *justify* a system of states). Chapter 16 finds that we are not entitled to conclude that there ought to be no states, but nor can we secure a justice-based rationale for their existence. There remains a nagging doubt about whether there ought to be states at all; nevertheless, morally and not merely pragmatically speaking, we ought not to abandon states now, nor ought we to aspire to do so eventually.

Now Chung is quite right that

even if we could demonstrate without a doubt or statistics disputes concerning absolute and relative numbers (however important they may be) that the state system, such as we know it today, does cause harm to the global poor, this would not invalidate, in my view, the claim that the state system remains an inescapable feature of the world order and that any serious attempt to remedy inequality and poverty must internalize this salient feature of international affairs within its justification and ascription of duties of global justice.

The antecedent would indeed not invalidate the consequent as stated here. But that never was the subject of my investigation. What is at stake is the moral desirability of the state system, not whether it will remain a fixture of our world.

At some point, as one ponders this desirability, the question of “compared to what”? turns out to assume a central role. Chung asks why I “pursue this contentious line of argument when a more pragmatic, factual account of the salient features of the world order would suffice to justify the accuracy of pluralist internationalism.” The answer is: because I am not proposing pluralist internationalism as a non-ideal theory, but as the intellectually available kind of ideal theory.

One thing should be added for the record. Chung notes that since

a key debate over the distinction between ideal and non-ideal theory is currently going on in the domain of political theory, the complete absence of reference to the numerous scholarly publications on the subject seems a relevant weakness of Risse’s new book, particularly with regard to the point of view outlined in chapter 16.

It is not true that there is a “complete absence” of this kind of reference. It is just that this topic is not addressed as late as chapters 15 and 16, but much earlier. See chapter 2, pp. 29-30, and especially the extensive footnote 6 on pp. 366-367. The index also duly records the “ideal-non-ideal theory” topic.

I am not sure why Chung disagrees with my discussion of colonialism. She quotes me as saying that one would need to show that there is persisting injustice rooted in colonialism to establish the claim that it is because of the colonial past that the global order wrongfully harms the poor. But Chung quotes this as if it were my conclusion. It is not: it is one step in a multi-level investigation that ends with this conclusion:

Past violence has not only produced ill-gotten gains. It has also created difficulties in making good on the duty of assistance. To the extent that past violence constitutes a link between ill-gotten gains and difficulties in satisfying this duty, there is a *compensatory* aspect to that duty. Chapter 4 stressed that it is hard to judge how demanding that duty is. Duties in virtue of common humanity involve a considerable *boundary problem* because we can ascertain their demandingness only in terms of the normative significance of common humanity. It is in light of this compensatory aspect of this duty that in many cases where doubts arise if certain measures are required, we should decide *in favor of so counting them*. (p. 265)

In the eyes of some this might be not be enough. I address some such concerns afterwards. But Chung does not track my discussion to its end.

About chapter 16, Chung’s worry is that it goes way too far. She asks whether we should “endorse pluralist internationalism forever until the end of times because we cannot, at the present moment, imagine John Lennon’s utopian aspirations? Indeed, this seems to be his conclusion.” But it is not. I have no view on whether pluralist internationalism should be our ideal view of justice forever. But

it should be for now. I propose it as a realistic utopia. I argue that any vision that gives up on states entirely cannot be sufficiently well-theorized to be action-guiding.

This by itself does not mean utopian thinking has no role to play. It is fine to offer utopian visions that differ importantly from ours and use one's imagination to build a whole world around such ideas. One just needs to be alert to what this kind of work can accomplish. It could be beautiful fiction. It could make us think about certain features of our world by introducing us to an imagined world that is different from ours especially in the relevant regards. But if we cannot show why the world that we will then construct around particular issues with regard to which we wish to bring about a change would look *this* way rather than some other way, then we have not been given an action-guiding political utopia that we can use to formulate a competing ideal to my proposed ideal of making the world of states as good as we can. And that is my complaint about much of the existing cosmopolitan literature. Too much of it talks as if some other ideal of world-order were readily available, and that the only reasons why we should not adopt it now or try to reach it are practical in nature. Matters are much more complicated.

## NOTES

- <sup>1</sup> Arash Abizadeh, “A Critique Of The ‘Common Ownership Of The Earth’ Thesis”, *Les Ateliers de l'éthique/The Ethics Forum*, volume 8, numéro 2, 2013, pp. 33-40.
- <sup>2</sup> Colin Farrelly, “Commentary On Part 3: International Political And Economic Structures”, *Les Ateliers de l'éthique/The Ethics Forum*, volume 8, numéro 2, 2013, pp. 41-52.
- <sup>3</sup> Ryoa Chung, “Pluralist Internationalism In Our Time”, *Les Ateliers de l'éthique/The Ethics Forum*, volume 8, numéro 2, 2013, pp. 53-61.