

The Grounds of Justice

An Inquiry about the State in Global Perspective

Mathias Risse, Harvard University

July 1, 2009

(under contract with Princeton University Press)

Abstract: This book formulates a view of justice at the global level “in between” the two standard views, that principles of justice either only apply within states, or apply to all human beings regardless of their state membership. There is no single justice-relationship that any two individuals either do or do not stand in. Instead, principles of justice respectively regulate the distribution of certain goods among those who share particular conditions and considerations in virtue of which a justification of the distribution of those goods is owed to them. These conditions and considerations are the “grounds” of justice. The book is organized around three major themes: a reconsideration of the state in light of increasing global political and economic interconnectedness; humanity’s collective ownership of the earth; and international political and economic structures. The grounds of justice discussed in the process are shared citizenship in a state; common humanity; collective ownership of the earth; shared membership in the global political and economic order; and shared subjection to the global trade regime. Topics in global justice that treated within this approach include the justifiability and normative peculiarity of the state in an age of globalization; the question of what is owed to individuals in virtue of being human; the epistemic limitations of reflections about the global order; the question of whether the global order harms the poor; fairness in trade; immigration; human rights; obligations to future generations; and obligations arising from climate change. The focus of my inquiry is the state, whose fundamental moral importance my approach vindicates, but also substantially qualifies. The emphasis throughout is on justifying the state to those respectively *excluded* from it. As far as the focus on the state is concerned, my work is aligned (e.g.) with that of J. Rawls and D. Miller, but differs from them especially in its emphasis on collective ownership, by supporting further-reaching duties outside of shared membership in a state based on other grounds of justice, and, as matter of general philosophical outlook, by seeking to justify states not merely to those respectively included in them, but also to those excluded. As far as the support for such duties and that goal of justifications of states are concerned, my work is aligned with that of cosmopolitans such as C. Beitz, T. Pogge, and S. Caney, but differs from them again in its emphasis on collective ownership as well as in its vindication of the moral significance of the state. By acknowledging different grounds of justice, the view central to this book (“pluralist internationalism”) preserves valid insights from all those approaches, but also substantially diverges from each.

1. In an age of increasing global interconnectedness an urgent philosophical question (and one that drives much of contemporary political philosophy) becomes whether principles of justice apply not only within, but also across states. We must reassess the *grounds of justice*. These “grounds” are norm-generating considerations or conditions that render demands of justice applicable and thus require a justification of the distribution of some goods to a set of individuals. Until recently, much political thought assumed that principles of justice only held within states (so those grounds would consist in features of shared membership in a state). Even where this was not assumed, little effort was made to assess what justice demanded among those who did not share a state. A competing view that has now gained prominence insists that the grounds of justice consist in common humanity or shared involvement in (or subjection to) a global political and economic system. In contrast to both approaches, I deny that there is a single justice-relationship that any two individuals either do or do not stand in. Instead, I develop a pluralist approach to the grounds of justice. There are different grounds on which individuals can make demands on each other that bear on the distribution of certain goods and generate different distributive principles that should count as principles *of justice*. My approach accords special normative importance to the state (supports its “normative peculiarity”), but also views the state as constrained and even shaped by grounds of justice other than shared membership in a state. My approach vindicates, but also substantially qualifies the moral significance of the state within global justice.

Distinctive of my approach is also that one ground of justice is humanity’s collective ownership of the earth. Thereby I revitalize and secularize an approach dominant in the 17th century that has never again reached as much prominence, and, except for the revival of left-libertarianism, has almost dropped out of sight since the Rawlsian Renaissance of political philosophy. Suppose the US population shrank to two, capable, however, of controlling borders through electronic equipment. Surely they should permit immigration. If so, we should theorize about the space humanity jointly inhabits, and about what entitlements there can be to parts of it. Such theorizing takes us to a suitable notion of collective ownership of the earth. In the 17th century, the motivation for this approach was obvious: the Bible states that God gave the earth to humankind in common. Many questions could be addressed through an interpretation of

that gift, such as concerns about the possibility of owning the sea and the conditions under which territory could legitimately be claimed. Philosophers such as Grotius, Locke, and Pufendorf saw questions of collective ownership as central to their work. This approach is also present in international law, where for about forty years the term “common heritage of mankind” has been applied to the high seas, the ocean floor, Antarctica, and Outer Space. Central questions include how to make sense of this ownership status without recourse to a divine gift, and how to select the philosophically preferred one from among different versions of it. Immigration is one topic to which this approach applies. Less obvious ones include human rights, as well as obligations towards future generations and obligations arising from climate change. At this stage, not only do we face problems of global reach, but humanity as a whole confronts problems that have put our planet as such in peril. It is therefore only appropriate to find a suitable place in moral and political philosophy for theorizing about all human beings’ symmetrical claims to the earth

2. Let me explain in more detail how we proceed in this book, and thus in particular also how the collective ownership approach is embedded into a reassessment of the normative peculiarity of the state in an age of increasing interconnectedness. Consider some distinctions that characterize much of the current debate but that my view will transcend. “Relationists” about the grounds of justice apply principles of justice only among individuals who stand in a certain practice-mediated relation; “non-relationists” account for principles of justice without recourse to such relations. “Globalists” are relationists who think the relevant relation holds among all human beings; “internationalists” think it holds among those who share a state. Internationalists endorse what I call the normative peculiarity of the state; globalists and non-relationists deny it.

Internationalists tend to hold that principles of justice do not apply unless a certain condition holds, typically either a form of coerciveness or reciprocity/cooperation. Principles of justice then either apply, or they do not. Yet the project of formulating internationalism by way of identifying a single such necessary condition that the relation of sharing a state satisfies, but other relations (such as being subject to the WTO) do not, fails. The grounds of justice are not as easy to capture as this debate about a single

necessary condition suggests. Different conditions create redistributive demands, and these conditions might occur in degrees or otherwise take on different forms. (Coerciveness might be more or less profound or pervasive, and similarly for forms of cooperation.) A new distinction becomes available, one between *monist* (or *non-graded*), *graded*, and *pluralist* internationalism.

Monist, or non-graded, internationalism holds that principles of justice either do or do not apply, and do apply within states. Some properties of membership in the state are both necessary and sufficient to be the grounds of justice. Graded internationalism holds such principles are based on a range of considerations that determine what individuals or political entities owe to each other, considerations that apply differentially depending on the shared political and economic arrangements. There are different grounds of justice, each with its own necessary and sufficient conditions of applicability, and they include conditions that are stronger or weaker variants of each other, with the state emerging as a boundary case where all these considerations apply. Yet distributively relevant conditions not be restricted to relations that hold within political and economic arrangements (where the term “distributive” is broadly conceived, to have in its scope measures such as transfers, interventions, permissions for people to move, etc.), and not all such conditions may be weakened versions of relations that hold within states. Some grounds on which individuals can make demands upon each other may be shared participation in practice-mediated relationships, others may be of a different sort (such as shared ownership of the earth). We have now arrived at pluralist internationalism, the view this book develops. Pluralist internationalism accommodates both grounds of justice that are relational in nature and those that are not. Thus it transcends the dichotomy between relationism and non-relationism.

This book begins with a discussion of the state (Part 1, Chapters 1-6), then explores the collective ownership status of the earth (Part 2, Chapters 7-12), and finally turns to international structures, that is, the global order and the international trade regime (Part 3, Chapters 13-17). In the process, we altogether discuss five different grounds of justice: shared citizenship in a state; common humanity; collective ownership of the earth; shared membership in the global political and economic order; and shared subjection to the global trade regime. In the course of the book, we also successively

develop an approach to human rights in a manner that progresses across its three parts. We address the subject first in Chapter 4, where I introduce a conception of human rights that individuals have in virtue of being human. In preparation for our later discussion, I there also offer an argument for pluralism about conceptions of human rights. In Chapter 10, we begin work towards a different conception of human rights that understands such rights as membership rights in the global order, and specifically discuss humanity's collective ownership of the earth as one (as I will say) "source" from which such rights can be obtained. In Chapter 15, we continue the systematic work on this conception, and in particular there also argue that common humanity can also be integrated into this conception. Chapters 16 and 17 explore how this conception can make sense of particular potential rights *as* human rights.

Part 1, then, explores the relation of shared membership in a state and assesses its normative significance. Chapter 1 offers a general introduction to the philosophical problems behind an exploration of the "grounds of justice" and introduces the basic positions that shape our investigation throughout. Chapter 2 develops pluralist internationalism through an engagement among different versions of internationalism. Chapter 3 offers an account of the normative relevance of shared membership in a state and defends it against the globalist. Chapter 4 explores what we owe to each other because of our shared humanity. We formulate a response in terms of a conception of human rights that individuals hold in virtue of being human (and thereby also register shared humanity as a ground of justice). This chapter also defends pluralist internationalism against the non-relationist by rebutting the view that common humanity plays a further-reaching role in global justice than what we just allowed. Chapter 5 asks whether there ought to be states in the first place, by way of exploring limitations on reflections about global justice that are epistemic and justificatory in nature. I offer a weakly affirmative response to that question. Chapter 6, finally, takes up a question that has recently gain prominence, whether the global order harms the poor, which is a question that essentially turns on an assessment of the justifiability of the state and thus of a system of states. So the two grounds of justice we discuss in Part 1 are shared membership in a state and common humanity.

Part 2 explores humanity's collectively owning the earth as a ground of justice. Since this approach is now uncommon, Chapter 7 begins with a historical introduction by way of exploring how its major protagonist, Hugo Grotius, put it to work. The work of Grotius is a major inspiration for our inquiry; his work will be important throughout this part of the book, but especially in Chapter 12 and also again in Chapter 17 in Part 3. Chapter 8 develops systematically the idea that humanity collectively owns the earth, selecting a conception of it that I call Common Ownership. Chapter 9 applies this approach to questions of immigration, arguing that states must allow immigration to the extent that they are under-using their share of commonly owned three-dimensional space. Chapter 10 begins work on a conception of human rights as membership rights in the global order in which the ownership approach plays a central role. This is a conception of human rights different from the one in Chapter 4. Chapter 11 explores how the Common Ownership approach illuminates our obligations towards future generations, providing philosophical foundations to the idea of sustainability. Chapter 12 explores the implications of Common Ownership for obligations arising from climate change.

Finally, after discussing the state in Part 1 and collective ownership of the earth in Part 2, Part 3 turns to international political and economic structures, discussing two remaining grounds of justice, shared involvement in the global international system and shared membership in the global order. Chapter 13 explores which obligations countries have in virtue of being involved with systematic trade relations with others. Chapter 14 looks at the World Trade Organization and assesses how considerations of justice and legitimacy apply to this organization. Chapter 15 resumes the discussion of human rights that we started in Chapters 4 and 10, by offering a systematic account of human rights as membership rights in the global order. Whereas Chapter 10 already introduced one source from which we can derive membership rights in the global order (collective ownership), this chapter explores what other sources there are. (Two of the *sources* from which human rights as understood by this conception can be derived also are *grounds* of justice: collective ownership and common humanity.) Further developing this conception, Chapter 16 assesses whether labor rights count as human rights. Chapter 17, finally, explores whether there is a human right to essential pharmaceuticals. The epilogue concludes by reflecting on the view of global justice that emerges in this book.

Pluralist internationalism defends an in-principle justifiability of the state that holds up despite increasing political and economic interconnectedness. The “in-principle” qualification (which generates the research agenda that this book works through) must be seen both in terms of epistemological and justificatory constraints that curtail our ability to answer the question of whether there ought to be states, and (quantitatively much more important in this book) in terms of far-reaching distributive considerations that hold because of other grounds of justice that individuals share who do not share a state. It is also because of these epistemic and justificatory constraints that I *begin* with the state and *then* explore other distributively relevant grounds that constrain it. What emerges is an overall view of the state under the political conditions of the 21st century, foundational in outlook but also concerned with many urgent practical questions that drive contemporary political philosophy. This approach not only delivers a justification of (certain) states to those respectively included in them, but also a justification of a system of states that addresses those respectively excluded from particular states they would like to enter. (Think of the Mexican wishing to enter the United States at the South-Western border.)

3. I will now present the project chapter by chapter. I will indicate how far the work on the respective chapter has progressed.

Part 1: Reconsidering the State

[Chapters 1, 2, and 3 draw on Risse (2006) and Risse (In Progress/a). Chapter 4 uses some material from Risse (2005b). Chapters 3 and 4 use some material from Risse (2008b). Chapter 6 draws on Risse (2005a) and Risse (2005c). All these chapters currently exist as advanced drafts.]

Chapter 1: Introduction – Inquiring about the State in Global Perspective

This introductory chapter introduces the basic questions that give rise to this book project by explaining the concerns behind asking about “the grounds of justice.” The chapter explains what “grounds” of justice are; introduces and explores the basic positions on the grounds of justice; introduces the task of seeking a justification of the state to those respectively excluded from it; and explains how the distinctions introduced here fit in

with traditional concerns of a theory of distributive justice. The chapter also offers a general overview of this book.

Chapter 2: Pluralist Internationalism

This chapter develops pluralist internationalism by way of a discussion of two other forms of internationalism, to wit, coercion-based and reciprocity-based internationalism. Both of those are versions of monist or non-graded internationalism. Both seek to identify a single necessary condition for the applicability of principles of justice, identifying this condition as the presence of either coercion or reciprocity, respectively. However, I argue that this search for a single necessary condition of justice fails, and so the stage is set for graded internationalism and pluralist internationalism. The chapter explains how pluralist internationalism offers a view of justice at the global level “in between” the two standard views, that principles of justice either only apply within states, or apply to all human beings regardless of state membership. This chapter is to some extent programmatic: while monist internationalism can be rebutted, the success of my preferred alternative depends on how the view can be developed in the remainder of this book.

Chapter 3: Immediacy and Reciprocity: The Moral Relevance of Shared Membership in a State

This chapter develops pluralist internationalism primarily by engaging the globalist. The chapter begins by exploring the relationship of shared membership in a state that stands at the core of pluralist internationalism and assesses just what is the foundation of the normative peculiarity of the state. Central to this account are the notions of political and legal immediacy, which characterize the particular character of the coercion exercised by states. The legal aspect of the immediacy of the relationship between a state and its citizens consists in the directness and pervasiveness of its law enforcement. Its political aspect consists in the crucial importance of the environment provided by the state for the realization of basic moral rights (thus capturing the profundity of that relationship). Central to our account of the normative peculiarity of the state also is an elaboration of the notion of reciprocity. To this end we turn to Rawls, who assigns a crucial role to that notion. The accounts of immediacy and reciprocity merge readily. We further explore the

richness of this relationship of shared membership by demonstrating how this relationship gives rise to a particular currency of distributive justice, Rawlsian social primary goods, as well as by showing that this relationship also leads to a particular conception of responsibility. We contrast this approach to the normative peculiarity of the state with nationalism. Finally, we engage with globalism, and show that the most plausible principles of justice that apply within states are stronger than principles of justice that apply across the global order.

Chapter 4: What is Owed to People in Virtue of Being Human? The Institutional Stance, Non-Relationism and the Institutional Stance

This chapter integrates three rather different themes, sufficiently distinct and requiring enough attention separately each to be treated in their own part of this chapter, but intertwined by each contributing its share to a response to non-relationism that pluralist internationalism needs to offer. First, we discuss the institutional stance on development. Second, we discuss the notion of a conception of human rights, argue in support of pluralism about such conceptions; and sketch a conception of human rights built around the idea of common humanity (which is the second ground of justice we introduce in this book, after shared membership in a state) This second theme is tied to the first via an instrumental argument (“what we owe to each other in virtue of shared humanity requires good institutions”). Finally, this chapter offers an engagement with the non-relationist, to argue that no more expansive understanding of the role of common humanity in an account of global justice is plausible. The main goal of this chapter is to argue that the claims of common humanity are exhausted by an account of human rights that delivers a duty of assistance in building institutions.

Chapter 5: Imagine There’s No Countries: A Reply to John Lennon

Despite increasing global interconnectedness, shared membership in states remains morally relevant. At the same time states are historically contingent forms of political organization with considerable drawbacks. Once we have clarified the state’s normative peculiarity and delineated it against both globalists and non-relationist, the historical contingency and the drawbacks of the state come in view when we explore how to

respond to another question central to the normative evaluation of states, whether there ought to be states in the first place. One could answer affirmatively, negatively, or in a manner that finds the question problematic. My response is of the latter sort, but entails that, since ours is a world of states, we should try to make this world as good as possible, rather than to aspire at a world with a fundamentally different political structure. Together with the account of the state's normative peculiarity developed in Chapter 3 and continued in Chapter 4, this view aims to get into focus both the moral relevance and the historical contingency of the state. An appeal to the Rawlsian notion of realistic utopia enters this account at an important point. To explain the Lennon-reference: "Imagine there's no countries" - this is how the second stanza of one of the most famous songs of recent times begins. "You may say I'm a dreamer," sings John Lennon, "But I'm not the only one/I hope someday you'll join us," suggesting that reaching a stage without certain alleged evils is realistic enough to be action-guiding. Yet Lennon's is not a dream in which we ought to join. General reflection on utopian thinking reveal that we cannot imagine what he asks us to imagine in any action-guiding way.

Chapter 6: How Does the Global Order Harm the Poor?

The question of whether the global order hams the poor has recently gained prominence, especially through the work of Thomas Pogge, and some facets emerge naturally from the discussion in the preceding chapters. Different senses of harm need to be distinguished, as well as different ways in which the notion of wrongdoing can be related to them. Having done that, this chapter deals with three ways of articulating the thesis that the global order harms the poor. First, we address the question of whether the sheer existence of the global order per se, which in particular is a system of states, is harmful to or wrongs its weakest inhabitants, the global poor. This now draws directly on the account of the justifiability of states we have developed thus far, and we reject the different versions of this argument. Second, we discuss an argument that the global order harms the poor by adopting a set of institutions that predictably and avoidably does not as much for the poor as a realizable alternative set of institutions would. I argue that, given the Institutional Thesis, there is a sense in which the global order harms and wrongs the poor. Yet this sense is rather different from what Pogge argues, who is the main protagonist of this

argument. Finally, we discuss the argument that global poverty statistics speak for themselves, indicting the global order of harming the poor. However, whether global poverty statistics indict the global order depends on what threshold of harm one adopts, and I argue that according to the only intelligible benchmark, the global order does not harm the poor.

Part 2: Collective Ownership of the Earth

[Chapters 7-12 already exist in fairly well-developed versions. The immigration material draws on Risse (2008c); Risse (2007b); and Risse (2009c). The human rights material draws on Risse (In Progress/ b), Risse (2009a), and Risse (2009b). Chapter 8 uses some material from Risse (2005a) and Risse (2004).]

Chapter 7: Hugo Grotius and Global Public Reason: Common Ownership as a Non-Parochial Standpoint

Much early modern political thought was preoccupied with considerations of ownership of the earth, in the context of providing justifications for European expansionism at a time when tight religious unity no longer provided them. Yet it is *De Jure Belli ac Pacis* that, like no other major work of political thought, made such considerations central to the relations among both individuals and political entities. Grotius' concern is with the "differences of those who do not acknowledge one common Civil Right whereby they may and ought to be decided" – differences he addresses by developing a standpoint of collective ownership of the earth, which provides what in Rawlsian language one may call a free-standing political view for the regulation of international affairs. As part of this endeavor, Grotius elaborates on most of the questions the present book is concerned with. Grotius wrote during a time of transition toward a society of states from a period that, in Europe, had endorsed ideas of a great society of humanity. Our own age is characterized by a movement in the opposite direction, and so it should not be surprising that Grotius' ideas turn out to be illuminating.

Chapter 8: Original Ownership of the Earth: A Contemporary Approach

Because of its reliance on the Bible the 17th century approach to collective ownership must be rethought to be applicable today. This chapter develops the ownership approach systematically, without any recourse to a divine gift. We identify the basic intuitions one needs to accept to find this approach plausible. This chapter takes care to develop the ownership approach in a manner that does not fall prey to obvious worries that this approach is too materialistic, misconceives our relationship to nature, makes too much of an idea of ownership that would presuppose a civil law, etc. The chapter also seeks to identify a proper place for reflection on the ownership status of the earth within moral and political theory. The chapter first develops a general view of ownership of the earth called Egalitarian Ownership, and then distinguished among several conceptions of it. These conceptions differ in terms of how they spell out the idea that any two individuals have symmetrical claims to the resources of the earth articulated by Egalitarian Ownership. The lion's share of the argumentative work in this chapter is spent on defending a particular conception that I call Common Ownership as the philosophically preferred one. Collective ownership of the earth, after shared membership in a state and common humanity, is the third ground of justice we encounter in this book.

Chapter 9: Immigration and Original Ownership of the Earth

If indeed the earth is originally commonly owned, how much immigration countries can be reasonably expected to permit must depend, to some extent, on the intensity of use their share of the commonly owned space is put to, as compared to other regions. This chapter seeks to develop the idea of relative over- and under-use of resources and to discuss considerations bearing on immigration in terms of it. Difficulties that must be addressed include getting a sense of how to think about the overall value for human purposes of three-dimensional space (a task that cannot be completed here because the relevant empirical work is lacking), as well as getting a sense of how to separate the value of human improvements added to commonly owned resources from the value of these resources themselves. That measure of relative over- and under-use must be defended against other possible way of thinking about immigration by way of reference to commonly owned space, as well as against objections that emphasize the importance of culture for immigration policy as against the sort of consideration developed here.

Chapter 10: Towards a Contingent Derivation of Human Rights

This chapter begins the development of a conception of human rights as membership rights in the global order. One of the sources from which such membership rights are derived is collective ownership of the earth. That is, human rights derived from this source emerge as guarantees that the imposition of the global order is acceptable to co-owners, in a manner parallel to how principles of domestic justice make political associations of a different sort (states) acceptable to such citizens. The idea is that the imposition of a system of states imposes particular problems on co-owners, both because given states themselves assemble so much power that they can threaten the exercise of such rights, and because other states can restrict exit options for individuals thus threatened. The problem thus created for individuals exists because of the existence of a *system* of states on commonly owned land. Accounting for human rights in this way has a number of theoretical virtues: in this manner, we can define a standpoint of neutrality, a non-parochial standpoint, as well as one that makes clear why the language of rights and duties is appropriate in this context, rather than, say, the language of goals. The list of human rights that can be obtained in this way is rather small. However, in Chapter 15 we continue the development of this conception of human rights by discussing other sources from which human rights understood as membership rights in the global order can be derived.

Chapter 11: *But the Earth Abideth For Ever*: Common Ownership and Obligations to Future Generations

This chapter looks at how future generations should be taken into consideration from the standpoint of common ownership and thus provides philosophical foundations for the idea of “sustainability.” The ownership approach offers a partial account of the sources of legitimate expectations of such generations. As far as the ownership approach is concerned, what constitutes the morally relevant relationship among generations is, merely, that they successively occupy the same space to which no individual has a privileged claim. It is this *asymmetrical capacity to shape the natural world* that holds across generations that is the source of legitimate expectations future generations have

against us. This account is decidedly deflationary and does not allow us to say as much about duties to future generations as one may have hoped for. As far as the *contents* of these expectations are concerned, the basic point is that current generations must not take undue advantage of their status as earlier comers. The current generations owes it to future generations to leave behind institutions within which they can realize human rights. Moreover, to the extent that within current institutions plans are made or policies adopted that affect future generations, those generations can legitimately expect that this be done in such a way that their ability to meet basic needs is taken into account. Finally, this chapter argues that a form of sustainability (“strong sustainability, including an understanding of intergenerational equality”) emerges as a proposal successive generations can be reasonably expected to accept, parallel to what we said about the account of proportionate use in Chapter 9.

Chapter 12: Climate Change and Common Ownership of the Earth

Climate change lends itself to a discussion in terms of the ownership approach: these changes in weather patterns occur at the *global* level, and thus affect the very object that humanity collectively owns. In this chapter we specifically address questions about the distribution of burdens that arise from adaptation to and mitigation of climate change. We first return to Grotius to look at his discussion of the “freedom of the seas” and then discuss the topic of ownership of *parts* of the earth systematically from the non-theological standpoint of Common Ownership. Going beyond Grotius, we find that there are three, rather than two, different ownership statuses parts of the earth can have. It turns out that the atmosphere has a third, intermediate ownership status (intermediate, that is, vis-à-vis ownership at the exclusion of others and common ownership). The standpoint of Common Ownership allows us to see the question about the distribution of burdens from climate change as a particular kind of moral problem. The remainder of this chapter then explores different ways of thinking about the question about the fair division of the relevant burdens to which we are led in this way. Neither an equal per-capita approach nor a principle of accountability for historical emissions is acceptable (at least none that actually finds fault with past emitters, before a certain stage). This leaves us with

principles that combine proposals in terms of who is best able to pay with proposals in term of current per-capita emissions.

Part 3: International Economic and Political Structures

[This part of the book is currently in progress, but four of its five chapters draw on work that was published earlier. The material on trade draws on Risse (2007a) and Risse (2008a). Chapter 14 adds a discussion of the WTO, by way of assessing its legitimacy as an international organization. Chapter 15 draws on Risse (In Progress/b), Chapter 16 on Risse (2009a), and Chapter 17 on Risse (forthcoming).

Chapter 13: Fairness in Trade: Obligations among Countries

Standard economic theory teaches that trade benefits all countries involved, at least in the long run. Trade also raises fairness questions. First, suppose A trades with B while parts of A's population are oppressed. Do the oppressed in A have a complaint in fairness against B? Should B cease to trade? Second, suppose because of oppression or lower social standards, A's products are cheaper than B's. Can industries in B legitimately insist that their government take measures to help them compete? The Pauper-Labor Argument makes that case, and many economists enjoy dismissing it in undergraduate classes. Third, suppose A subsidizes its industries. If this lowers world market prices, does B have a fairness complaint against A? Ought countries consider how trade policies affect others? I argue that in light of the sort of practice constituted by international trade, the oppressed in A do have a complaint in fairness against B. I also argue that the Pauper Labor argument succeeds. Subsidies raise intricate philosophical (as well as political and economic) issues, and I explore under what conditions states are justified in paying them to their producers. This chapter is organized as an argument that begins with what I call the Strong Westphalian View, according to which states only have to acknowledge rather minimal duties in fairness towards others. Positive responses to the first two questions raised in the preceding chapter lead to the Moderate Westphalian view, whereas this discussion of subsidies leaves us with the Weak Westphalian View, which incorporates affirmative answers to all three questions.

Chapter 14: The WTO – A Study of the Legitimacy of an International Organization

[Chapter yet to be written -- I argue that weaker versions of the conditions that determined the normative peculiarity of the state apply to the world trade regime. I explore the extent to which principles of justice are applicable to this organization. What kind of legitimacy does such an organization have? How should one think about justice and legitimacy when applied to an international organization?]

Chapter 15: Human Rights as Membership Rights in the Global Order

Chapters 4 and 10 already discussed the subject of human rights. This chapter continues the work done in Chapter 10 on the conception of human rights as membership rights in the global order. Membership rights derived from collective ownership as a source offer guarantees that the imposition of the global order, and its presence in commonly owned space, is acceptable to co-owners of the earth. Yet there are sources from which to obtain such membership rights *other than* collective ownership. This chapter seeks to develop this view of human rights as global membership rights further primarily by taking a closer look at these other sources. One other such source is common humanity. So while in Chapter 4 we introduced a conception of human rights centered around the idea of common humanity as an independent conception, common humanity can also be integrated into this conception of human rights as membership rights in the global order.

Chapter 16: Arguing for Human Rights: Labor Rights

This chapter puts the resources of the conception of human rights as membership rights in the global order to use (and thus illustrates how this can be done) by exploring whether labor rights should be considered human rights. We begin by justifying (or at any rate, explaining) the existence of labor rights on the list of human rights, and by articulating some philosophical objections to their presence there. The primary goal of this chapter, then, is to assess how labor rights register on this particular conception of human rights.

Chapter 17: Arguing for Human Rights: Essential Pharmaceuticals

Again using the resources of the conception of human rights as membership rights in the global order, I argue that there is a human right to vital pharmaceuticals, not in the sense that anybody has a claim right to the provision of pharmaceuticals that are not yet available, but in the sense that access to pharmaceuticals must not be limited by means of overly strong private intellectual property right (where the meaning of what counts as “overly strong” will be developed in this chapter). My argument in support of such a human right draws on foundational considerations about intellectual property. My analysis is driven by exploring parallels between a Global Common and an Intellectual Common, to both of which all of humanity would have symmetrical ownership rights.

Epilogue: The Grounds of Justice

[To be added – reflection on what the book has accomplished]

Literature

My own writings on the subject:

Risse, Mathias. In Progress/a. “The Grounds of Justice.” Available as a Kennedy School of Government working paper (RWP07-048)

Risse, Mathias. In Progress/b. “Human Rights as Membership Rights in the Global Order.” Available as Kennedy School of Government working paper (RWP08-006)

Risse, Mathias. Forthcoming. “Is there a Human Right to Essential Pharmaceuticals? The Global Common, the Intellectual Common, and the Possibility of Private Intellectual Property,” in *Global Justice and Bioethics*, edited by Ezekiel Emanuel and Joseph Millum (Oxford University Press)

Risse, Mathias. 2009a. “A Right to Work? A Right to Leisure? Labor Rights as Human Rights,” *Journal of Law and Ethics of Human Rights* 3 (1): pp 1-41

Risse, Mathias. 2009b. “Common Ownership of the Earth as a Non-Parochial Standpoint: A Contingent Derivation of Human Rights,” *European Journal of Philosophy* 17 (2): pp 277-304

Risse, Mathias. 2009c. "Immigration and Original Ownership of the Earth" (co-authored with Michael Blake), *Notre Dame Journal of Law, Ethics, and Public Policy* Vol. 23 (1) (special issue on immigration), pp 133-167

Risse, Mathias. 2008a. "Fairness in Trade II: Export Subsidies and the Fair Trade Movement," *Politics, Philosophy, and Economics* 7 (1): pp 29-56 (joint work with Malgorzata Kurjanska)

Risse, Mathias. 2008b. "Two Models of Equality and Responsibility." *Canadian Journal of Philosophy* 38 (2): pp 165-201 (co-authored with Michael Blake)

Risse, Mathias. 2008c. "On the Morality of Immigration," *Ethics and International Affairs* 22 (1): pp 25-33

Risse, Mathias. 2007a. "Fairness in Trade I: Obligation from Trading and the Pauper Labor Argument," *Politics, Philosophy, and Economics* 6 (3): pp 355-377

Risse, Mathias. 2007b. "Migration, Territoriality, and Culture." In *New Waves in Applied Ethics*, Ashgate (ed. Jesper Ryberg, Thomas Petersen, Clark Wolf): pp 153-183 (joint with Michael Blake)

Risse, Mathias. 2006. "What to Say about the State." *Social Theory and Practice*, Vol, 32 (4): pp 671-698

Risse, Mathias. 2005a. "How Does the Global Order Harm the Poor?," *Philosophy and Public Affairs* 33 (4): pp 349-376

Risse, Mathias. 2005b. "What We Owe to the Global Poor," *The Journal of Ethics*, Vol. 9, No. 1-2, pp 81-117

also in: Current Debates in Global Justice, ed. by G. Brock and D. Moellendorff (New York: Springer, 2005)

Risse, Mathias, 2005c. "Do We Owe the Poor Assistance or Rectification?," *Ethics and International Affairs*, Vol. 19, No. 1, pp 9-18

Risse, Mathias. 2004. "Does Left-Libertarianism Have Coherent Foundations?" *Politics, Philosophy, and Economics*, Vol. 3, No. 3, pp 337-365

Selected General Bibliography:

Arneson, Richard. 2008. "Rawls, Responsibility, and Distributive Justice." In Maurice Salles and John Weymark (eds.), *Justice, Political Liberalism, and*

Utilitarianism: Themes from Harsanyi and Rawls. Cambridge: Cambridge University Press

Beitz, Charles. 1979. (2nd edition 1999). *Political Theory and International Relations*. Princeton: Princeton University Press

Beitz, Charles. 2001. "Human Rights as a Common Concern." *American Political Science Review* 95 (2): pp 269-282

Blake, Michael. 2001. "Distributive Justice, State Coercion, and Autonomy." *Philosophy and Public Affairs* 30: 257-297

Buckle, Stephen. 1991. *Natural Law and the Theory of Property. Grotius to Hume*. Oxford: Clarendon

Caney, Simon. 2005. *Justice Beyond Borders. A Global Political Theory*. Oxford: Oxford University Press

Carens, Joseph. 1987. "Aliens and Citizens: The Case for Open Borders," *Review of Politics* 49, pp 251-73

Cavallero, Eric. 2006. "An Immigration-Pressure Model of Global Distributive Justice." *Politics, Philosophy, and Economics* 5(1): pp 97-127

Cohen, Joshua and Charles Sabel. 2006. "Exta Republicam, Nulla Justitia?" *Philosophy and Public Affairs* 34 (2): pp 147-175

Cohen, Joshua. 2004. "Minimalism about Human Rights: the Most We Can Hope for?" *Journal of Political Philosophy* 12: pp 190-213

Dummett, Michael. 2001. *On Immigration and Refugees*. New York: Routledge

Gardiner, Stephen. 2004. "Ethics and Global Climate Change." *Ethics* 114: pp 555-600

Grotius, Hugo. 2005. *The Rights of War and Peace*. Edited with an Introduction by Richard Tuck. Liberty Fund: Indianapolis

James, Aaron. 2005a. "Distributive Justice Without Sovereign Rule: the Case of Trade." *Social Theory and Practice* 31 (4): pp 533-559

James, Aaron, 2005b. "Constructing Justice for Existing Practice: Rawls and the Status Quo." *Philosophy and Public Affairs* 33 no 4, pp 1-36

- Julius, A.J. 2006. "Nagel's Atlas." *Philosophy and Public Affairs* 34 (2): pp 176-192
- Keohane, Robert. 2002. "Hobbes's Dilemma and Institutional Change in World Politics: Sovereignty and World Politics," in Keohane, *Power and Governance in a Partially Globalized World*, New York: Taylor and Frances
- Kumar, Rahul. 2003. "Who Can Be Wronged?" *Philosophy and Public Affairs* 31 (2): pp 99-188
- Milanovic, Branco. 2005. *Worlds Apart. Measuring International and Global Inequality*. Princeton: Princeton University Press
- Miller, David. 2007. *National Responsibility and Global Justice*. Oxford: Oxford University Press
- Nagel, Thomas. 2005. "The Problem of Global Justice," *Philosophy and Public Affairs* 33 (2), pp 113-147.
- Nordhaus, William and Edward Kokkelenberg (eds.). 1999. *Nature's Numbers. Expanding the National Economic Accounts to Include the Environment*. Washington D.C.: National Academy Press
- Passmore. John. 1974. *Man's Responsibility for Nature. Ecological Problems and Western Traditions*. London: Duckworth
- Pogge, Thomas. 2002. *World Poverty and Human Rights*. Oxford: Polity
- Rawls, John. 1993. *Political Liberalism*. New York: Columbia University Press
- Rawls, John. 1999. *The Law of Peoples*. Cambridge: Harvard University Press
- Ruggie, John. 1998. "Territoriality and Millennium's End." In Ruggie, *Constructing the World Polity. Essays on International Institutionalization*. New York: Taylor and Francis
- Sangiovanni, Andrea. 2007. "Global Justice, Reciprocity, and the State." *Philosophy and Public Affairs* 35 (1): pp 3-39
- Scanlon, T.M. 1979. "Human Rights as a Neutral Concern", in Peter Brown and Douglas MacLean, *Human Rights and Foreign Policy*, Lexington: Lexington Books: pp 83-92
- Scheffler, Samuel. 2001. *Boundaries and Allegiances*. Oxford: Oxford University Press

Shue, Henry. 1980. *Basic Rights: Subsistence, Affluence, and US foreign Policy*. Princeton: Princeton University Press

Simmons, A. John. 2001. "On the Territorial Rights of States." *Philosophical Issues* 11, pp 300-326

Singer, Peter. 2002. *One World: The Ethics of Globalization*. New Haven: Yale University Press

Slaughter, Anne-Marie. 2004. *A New World Order*. Princeton: Princeton University Press

Wenar, Leif. 2006. "Why Rawls is Not a Cosmopolitan Egalitarian." In R. Martin and D. Reidy (eds.), *Rawls' Law of Peoples: A Realistic Utopia?* Oxford: Blackwell

Williams, Bernard. 2005. *In the Beginning was the Deed*. Ed. by Geoffrey Hawthorn. Princeton: Princeton University Press