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## **Resource Rights**

*Expanding the Scope of Liberal Theories*

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## Resource Rights: Expanding the Scope of Liberal Theories

Kim Angell

### 1. Introduction

“The Earth, and all that is therein,” wrote liberal philosopher John Locke, “is given to Men for the Support and Comfort of their Being” (1988 paragraph 26). That dictum, from his *Second Treatise of Government*, seems alive and well, to put it mildly. As representatives of humankind, we are currently exploiting worldly resources at an unprecedented pace.<sup>1</sup> Anyone attempting to deny that as a descriptive fact is in for an uphill battle. Of much more controversy is the normative question of which patterns of resource exploitation are distributively just.

The vigorous disagreement between “egalitarians” and “sufficientarians” is a good example of this controversy. While the former believe that justice demands distributing natural resources such that people enjoy some kind of equality (Caney 2005; Armstrong 2017), the latter argue that giving people access to a certain absolute share of resources is enough (Miller 2007; Moore 2015). The aim of this article is to contribute to the ongoing normative debate on resource justice, by drawing out some striking theoretical implications that cut across the egalitarian–sufficientarian divide. I shall show that the proponents of these theories must ascribe moral weight to a much wider set of resource claims than thus far acknowledged.

Despite their disagreements, egalitarians and sufficientarians widely agree that we all have a claim to a certain minimum share of various *generic* resources such as water, air, food, and physical space. The claim to this share is *general*: it can be submitted by anyone, anywhere simply in virtue of being human.<sup>2</sup> This class of general claims to generic resources can be given a distinctly *liberal foundation*.<sup>3</sup> The idea is that a person’s claim to the minimum resource share may be grounded in respect for her interest in leading a “self-directing” life—in freely developing and pursuing her own conception of the good. If the relevant share of generic resources is necessary to support any human pursuit of the good, we all have a claim to that (minimum) share simply as human beings (Armstrong 2017, 116).<sup>4</sup>

Recently, several prominent egalitarians and sufficientarians have used this liberal foundation to ground a different class of resource claims. In addition to the share of generic resources that any person may claim simply as a human being, they believe that some people may submit claims to *particular* resources. The idea is that people may establish weighty claims to control particular objects

in the natural world when they make those objects into central valued features of their lives (Miller 2012; Stilz 2013; Moore 2015; Armstrong 2017). As one writer puts it, specific objects may become “hugely significant to particular people’s sense of agency, and to their ability to carry out projects to which they are deeply wedded;” or they may simply “matter deeply to people, and their identities, even in the absence of discrete projects to make use of them” (Armstrong 2017, 122–23). When this happens, people may submit a *special* claim to control those particular resources. A claim is special if it comes into existence by virtue of “some special ... transaction or relationship which is, in some sense, peculiar to those who happen to have entered into it” (Waldron 1988, 107). It must be possible to identify a contingent event which sets the claimant apart from people generally, and explains why it is *that claimant* and not others who may claim the relevant resource.<sup>5</sup>

Thus far, the typical way of grounding special claims in the liberal foundation has been to demonstrate that a claimant has come to rely upon *particular* resource tokens in her valued practices. To illustrate, take a sacred site. For Muslim pilgrims, praying at Mount Arafat—where the Prophet Muhammed presumably gave his last sermon—is an important part of the *hajj*. We cannot shut down this site and ask the pilgrims to go somewhere else, without seriously interfering with their valued projects and pursuits. Although there might exist mountains that are generically similar to Mount Arafat (in having roughly similar shapes, consisting of the same type of granite, etc.), those resources cannot replace the particular site worshipped by the world’s Muslims. Such special claims are often referred to as “attachment-based”; by incorporating the use of Mount Arafat into their valued practices, the Muslim pilgrims have become “attached” to that particular resource (Moore 2015; Armstrong 2017).

Egalitarians and sufficientarians widely agree that when a resource has become irreplaceable to its claimant in such a way, the liberal foundation gives that claimant a weighty special claim to control it. What is less well understood (or even neglected) in the literature is the exact *scope* of the special resource claims that the liberal foundation will support. Will it only ground special claims to particular resources—or could people lay special claim to generic ones as well? My present aim is to go into this territory, which (as I elaborate in Section 3) is largely uncharted. I shall show that the liberal foundation will support special claims regardless of whether the resources they target are irreplaceable in the claimant’s practices. Proponents of the liberal foundation must thus *expand* their account of genuinely weighty special claims to resources.

Even if my “expansion” thesis is true, it is a further question whether any claim in the expanded set of special claims will be successful on balance. It is widely accepted that, when people become “attached” to particular resources, this results in a *pro tanto* claim to control those resources (Miller 2012; Armstrong 2017). The same goes for the special claims to generic resources that I shall discuss. A *pro tanto* claim has genuine, as opposed to merely apparent (or *prima*

facie), moral weight (Kagan 1991, 17). Whether such a claim ultimately goes through depends upon whether there are countervailing considerations that override it. (Unless otherwise noted, when I use the term “valid” resource claim, I refer to a claim that is valid in the *pro tanto* sense).

Egalitarians and sufficientarians will favor different sets of countervailing considerations. For instance, although they all operate with a “Lockean” *proviso* on resource acquisition, there is much disagreement about its proper stringency.<sup>6</sup> Concerns supporting such provisos (and other<sup>7</sup> relevant restrictions) might turn out to override some or all of the new special claims validated by my thesis. My analysis is compatible with whatever view one takes on this. The expansion thesis applies to egalitarian and sufficientarian theories alike because it follows from taking seriously the liberal foundation they all use when grounding special claims to particular resources. (Due to this shared foundation, I shall henceforth refer to these theories simply as “liberal”).

To say a bit more on the contents of the liberal foundation: it has become commonplace to ground special claims to particular resources in respect for one or both of the following interests. First, there is the interest people have in pursuing their (central) *life plans* (Miller 2012, 259; Stilz 2013; Moore 2015, 36–46; Armstrong 2017, 113–31). Second, there is the interest people have in adhering to components of their *identities* (Meisels 2009, 4–6; Miller 2012, 259; Moore 2015, 36–46; Armstrong 2017, 113–31). Although liberals vary in the emphasis they place on these interests,<sup>8</sup> such variation need not detain us. I shall demonstrate that, regardless of which interest one believes is in play when claimants submit special claims to particular resources, that interest will validate claims to generic resources as well. (I discuss the “life plan-interest” and the “identity-interest” in Sections 4 and 5, respectively).

My present aim is to show what a *consistent* liberal theory of resource rights looks like. Apart from the consistency it brings, I take no stand on whether the incorporation of my expansion thesis will make liberal theories *more plausible* overall. Moreover, I remain agnostic throughout about whether the liberal foundation is a convincing ground for resource claims in the first place. For present purposes, I take its plausibility for granted. Those seeking a general defense or rejection of liberal theories of resource rights, then, will find none here. As I present the expansion thesis, it is in this sense a “neutral fix” to what I believe is a significant deficiency—a notable “blind spot,” so to speak—in liberal theories, as they have thus far been developed.

After having established the main philosophical thesis of the article, I end by briefly illustrating some of its notable practical implications (Section 6). When liberal theories take on board my expansion thesis, they will for example have an intriguing implication for acquisition of unowned resources located in currently inaccessible parts of the globe, such as the Arctic. As the polar ice caps melt, the relevance of this case for practical politics should be (tragically) evident. Section 7 concludes.

Before we get down to business, though, we should go through some brief preliminaries.

## 2. Preliminaries

There is not yet an agreed-upon definition of natural resources in the literature. The arguably most common one—which I shall follow here—is conventional: natural resources are “raw materials available from the natural world, which are (therefore) not produced by humans but which are nevertheless useful to them” (Armstrong 2017, 11).<sup>9</sup> Natural resources can be distinguished according to the function they play in people’s lives. A main distinction is between fungible and non-fungible resources. (Above I used the terms “generic” and “particular” to capture this distinction.) A resource is *fungible* with respect to a certain purpose if it can be replaced without impeding that purpose. Resources can be fungible in different ways. In order to quench our thirst, it makes no difference whether we drink this or that bottle of water. As long as the quantity and quality of the water contained in the two bottles are similar, the water amounts will serve our purpose equally well. The two resource items are *token-fungible*. A resource can also be *type-fungible*: if we fill water in a container in order to use it as a weight, the water can be replaced without loss by a different type of liquid such as crude oil. For weighing purposes, these two different resources (water and crude) are *type-fungible*. If our purpose is to quench our thirst, on the other hand, then water and crude oil are not *type-fungible* resources (whereas water and milk would be, at least to some extent).

Resources often support human purposes by functioning (solely) as income-generating means. People in turn exchange that income—a *non-natural* resource—for whatever they need to sustain their favored practices. In such cases, resources that generate equivalent amounts of income are in principle fungible in both the token- and the type-sense, as well as *vis-à-vis* the (non-natural) income itself. I shall call such a resource—one that is replaceable without loss, even across natural and non-natural types—*fully fungible*.

When a resource is *non-fungible*, on the other hand, it cannot be replaced without impeding the purpose of those who use it. I have already mentioned the holy site of Mount Arafat as an example. Here is another. In the aftermath of WW2, the so-called Royal Birch became a national symbol for Norwegians. In a famous photograph, taken on April 28, 1940, King Haakon of Norway stands in front of a particular birch tree outside the city of Molde, while taking refuge from Nazi bombardment. After assuming symbolic significance, such a resource cannot be replaced without loss. It has become non-fungible. Although the non-fungible resource may belong to a type of which there exist various tokens, none of those other tokens would do the job. (The Royal Birch is, I shall say, a *token-non-fungible* resource, whereas water, for example, is a *type-non-fungible* resource for the aim of preserving normal bodily functions.) This is not to say that

the loss of a non-fungible resource can never be overcome. (The Royal Birch was actually vandalized in the 1980s, and had to be replaced. A storm forced another replacement in 1992. Despite this, the site still functions as a cherished national monument.) The point is that the removal of a non-fungible resource cannot be done without disrupting, at least temporarily, the valued practices that revolve around it.

Special claims grounded in the liberal foundation might be submitted by individuals as well as collectives. Some liberal theories primarily aim to justify *collective* rights to resources (Miller 2012). The idea is that the social forms that people participate in might rely upon a certain use of resources. Insofar as people share a plan to sustain particular social forms, they may submit a collective special claim to control the resources needed to sustain those shared practices (which the practitioners all value severally). Other liberal theories focus mainly upon *individual* rights to resources. Those rights are grounded in people's individual, non-shared life plans, rather than the shared plans they might have as members of a collective (Stilz 2013). Other theories aim to justify both individual and collective rights (Moore 2015, 36–46). Because the thesis I shall presently defend applies to individual as well as collective special claims, I set this difference between liberal theories aside.

### 3. The “Restrictive” View: Special Claims to Token-Non-Fungible Resources Only

As mentioned, liberal theories of resource rights widely endorse *pro tanto* special claims to *token-non-fungible* resources (such as the pilgrim's claim to visit Mount Arafat). In what follows, I shall argue that people may submit valid special claims not only to token-non-fungible resources, but also to resources that are *fungible* in any of the three ways identified in Section 2. Moreover, they may submit them on the exact same moral grounds. To my knowledge, this possibility has thus far been overlooked. There is no mention of it in a range of the most prominent works, including the contributions of David Miller (2007, 2012), Anna Stilz (2013), and Margaret Moore (2015).<sup>10</sup> Even Chris Armstrong—who has provided one of the most comprehensive and sophisticated accounts of special resource claims to date—has little to say about this issue. Having a brief look at what Armstrong *does* say, however, is instructive for our purposes, so let me give some relevant excerpts from his work.

Note first that the relevant parts of Armstrong's analysis concern what he calls “attachment-based” claims to resources, by which he means claims grounded in “the significance of life-plans per se” (2017, 115)—that is, in respect for people's interest in “[being] able to act on plans which are central to their lives” (122). This refers, in other words, to what I call the liberal foundation (more specifically, to its life plan-part). So far so good. However, Armstrong explicitly delimits his analysis to what he calls “attachment-based special claims” (2017, cf. 4–5, 53,

113–31). This implies setting aside the discussion I am after. To see why, it is crucial to note that Armstrong uses a narrower definition of “special” claims than the definition I presently use. For Armstrong, “special” claims are claims “that *some of us* can register over *specific* natural resource tokens” (2017, 53, emphases in original). This means that the class of claims I intend to discuss—claims that some people may submit to *fungible* resources—is defined as falling outside the scope of his analysis. (Because Armstrong’s definition rules out that there can be any “special” claims to fungible resources, I use Jeremy Waldron’s definition of special claims, which is neutral in this regard).

However, in some passages, we might read Armstrong as putting aside this self-imposed delimitation, and rather addressing the class of claims I am discussing—taking a stand *against their validity*. Consider this passage (while bearing in mind Armstrong’s definition of “special” claims):

An attachment-based justification for special claims over natural resources will emphasize the way in which *particular* people sometimes form life plans which depend upon their continued access to *specific* resources. If they are to be weighty, attachment-based claims will be claims which cannot be met, at least without significant loss, merely by providing equivalent shares of other resources.” (2017, 116, emphases in original)

This passage seems to inform us of an important validity requirement for “attachment-based special claims.” That is, for such claims to have moral weight, they must revolve around token-non-fungible resources. If we fill in Armstrong’s definition of “special” claims in this statement, however, it becomes trivial. It then states that the relevant class of claims (i.e., “attachment-based” claims that are “special” *in Armstrong’s narrow sense*) will have moral weight only if they qualify as claims of that class. Because the statement turns out to be non-informative,<sup>11</sup> one might wonder if we should read Armstrong as conveying something stronger here, namely, that the validity requirement also applies to claims that count as special *in my broader sense of the term*. On this alternative reading, the quoted passage rejects my expansion thesis in favor of what we may call *the “restrictive” view*, according to which: special claims grounded in the liberal foundation have no *pro tanto* weight unless they revolve around token-non-fungible resources.

I shall not labor this alternative reading of Armstrong any further here. Nothing in my analysis relies upon whether we should read his work as actually affirming the “restrictive” view. For my present purposes, it makes little difference whether at least one prominent liberal theorist (Armstrong) has thus far actually *denied* the possibility of grounding valid special claims to fungible resources in the liberal foundation, or (like other liberal theorists) merely overlooked it. Either way, there is value in shedding light on the exact scope of the valid special claims supported by that foundation.

The “restrictive” view limits the validity of special claims grounded in the liberal foundation to only those revolving around token-non-fungible resources. Because what we want to consider is whether liberal theories should go beyond

this limit, the “restrictive” view provides an illuminating benchmark against which we may compare my expansion thesis. As I shall now show—and to deter those who might be tempted to affirm it—the “restrictive” view has no place in a consistent liberal theory of resource rights. To appreciate why, let us have a closer look at the moral foundation liberals use to support special claims to token-non-fungible resources. Will it support special claims to *fungible* ones too?

#### 4. Life Plans and Special Claims to Resources

As mentioned, the liberal foundation typically includes two interests. We shall first have a closer look at the “life plan-interest” (before considering the “identity-interest” in Section 5). Chris Armstrong gives a typical account of the life plan interest. Although Armstrong believes that this interest “ought to matter [on many accounts of justice]” (2017, 94), he prefers to spell it out in Rawlsian terms:

Any plausible account of justice will consider it important that we are able to see ourselves as at least jointly directing our own lives, making plans for those lives which we in turn have some prospect of achieving. On Rawls’s account that will require justified confidence in our ability to develop our talents and to exercise them, so that one’s ends fall within the realm of the reasonably attainable. It will require, in addition, the basic liberties necessary for pursuing our various projects. And it will also have material preconditions: at the very least, we will need secure access to the objects of our basic rights. ... If we accept that, we have grounds for specifying general claims to various material resources, including natural resources. These will be general in the sense that we all possess such claims simply as human beings, and insofar as we are all capable of generating life-plans that ought to matter. (2017, 116)

In brief, to achieve a “self-directing” life, a person must be allowed to choose her path among a variety of feasible life options. However, once she has chosen her preferred option from the available set, a person cannot live a self-directing life unless she is allowed to pursue her plans without interference. This gives us a straightforward explication of the moral significance of special claims to token-non-fungible resources. A person’s interest in directing her own life is of fundamental importance. To live a self-directing life, one must be allowed to pursue one’s plans and projects. The successful pursuit of such plans typically requires various token-non-fungible resources. People therefore have a valid special claim to whatever such resources they need to pursue their life plans. As Armstrong puts it, people should be “allowed to securely access the resource [they are attached to]” such that they are “able to advance the projects that matter to them distinctively and so exercise their distinctive human agency” (2017, 116).

With the life plan interest before us, we are now in a position to appreciate why it is unwarranted to restrict the scope of valid special claims to those that target token-non-fungible resources. On the “restrictive” view, we would only have duties of noninterference with people’s special resource claims when they involve token-non-fungible resources. But if the ground for a person’s special claim to



resources is the importance of her being *left alone to pursue her central projects*, it is arbitrary to distinguish between such projects according to whether the resources they target are token-non-fungible or not. Imagine that an artist, Diego, plans to make a painting of the *same* diamond (a token-non-fungible resource) every week for the rest of his career. Another artist, Frida, plans to make a painting of *a* diamond (a token-fungible resource) every week for the rest of hers. Does the fact that Diego's plan revolves around a token-non-fungible resource make his claim weightier than that of Frida, all else being equal? It is hard to see why. Ascribing more weight to Diego's claim would imply, to borrow a phrase from Armstrong, that we "treat the projects of agent A [Diego] as more important than the projects of outsiders [Frida]" (2017, 127). Still, if we take the "restrictive" view seriously, then Frida's special claim is less weighty than Diego's. After all, to use another of Armstrong's phrases (quoted earlier), her claim could be "met, at least without significant loss, merely by providing equivalent shares of other resources." Apparently, we would be wronging Diego if we took away the particular diamond he uses, while we could faultlessly bar Frida from any diamond access whatsoever. But unless there is an independent reason to introduce differential treatment, any categorical skepticism toward special claims to token-fungible resources is groundless. It certainly does not follow from, and is indeed in conflict with, the foundational respect for people's interest in leading "self-directing" lives—the consideration that motivated the liberal concern for special claims to (token-non-fungible) resources in the first place.

To see this even clearer, imagine that Frida and Diego inhabit a "one-diamond world." Their artistic plans now rely upon access to the same diamond token. If what matters is being able to pursue one's plans, the two artists have similar *pro tanto* claims to the diamond. To deny Frida's claim (while recognizing Diego's), simply because she regards the diamond as a token-fungible resource, is to treat her plan as less important (than his). The fact that Frida would have been equally happy with another token under different circumstances is irrelevant to the validity of her claim in the world she lives in.<sup>12</sup>

If my thesis is correct, both painters have valid *special* claims. Diego's claim is to a token-non-fungible resource. Frida's is to a token-fungible one.<sup>13</sup> To this, a proponent of the "restrictive" view might accept that their claims are *valid*, yet try to resist my expansion thesis by suggesting that Frida's claim is not special; that because it revolves around a fungible resource, it should somehow be classified as *general*. But that is nonsensical. Recall that general resource claims can be submitted by anyone simply as a human being. As discussed above, the claim to a certain minimum share of water required for the pursuit of any life plan is an example that would fit this bill. Apart from water, that general claim will include various other token-fungible (yet type-non-fungible) resources, like air and physical space. Diamonds, however, must be left out. They are simply not necessary to support life plans generally. I can pursue my academic career without ever getting

hold of diamonds. Barring extraordinary circumstances, it is hard to see why anyone, simply as a human being, would ever need such resources.

In Frida's life, however, diamonds have come to play a necessary role. Owing to the specific contents of her artistic life plan, she has a valid special claim to a diamond. Her *choice of that specific plan* is a relevant contingent event which sets her apart from (most) other people, and helps explain why she (and not they) can lay a special claim to the resources needed to support it. As we may permissibly assume, the only difference between Frida's plan and Diego's is that her plan involves indifference between various resources. For Frida, a diamond is a *token-fungible but not type-fungible* resource. For the fulfillment of her plan, it can be replaced by other diamonds without loss. I conclude that if we have reason to respect Diego's claim (grounded in the life plan interest), we have the same reason to respect hers.

One might now wonder whether it would make a difference if Frida's plan had instead revolved around a resource which is not only token-fungible, but also *type-fungible*. I believe not. To see why, let us modify the example, such that Frida's plan is now to paint any token of any gemstone type, while Diego retains his plan concerning the token-non-fungible diamond. It is difficult to see why this modification should sway our conclusion regarding the equal validity of their respective claims. As long as the relevant resources play the same pivotal role as *necessary supports for the claimant's life plans*, it is irrelevant whether they are (merely) token- or (also) type-fungible. If we were to deny that, we would have to insist, implausibly, that the validity of Frida's claim varies according to how we choose to individuate classes of objects. Imagine that we classify "gemstones in general" as *one* resource type. If so, Frida's modified plan (to paint any gemstone token) revolves around a token-fungible, yet type-non-fungible resource. (Tokens of other natural resource types, say, fruits, cannot replace it.) If we instead individuate "gemstones" into *several* types ("diamonds," "sapphires," etc.), her plan to paint any token of any gemstone revolves around a resource which is both token- and type-fungible. In both classifications, the resource needed to support Frida's plan is the same: any gemstone token. Yet we would have to conclude that her claim to the relevant resource is valid only when we happen to classify gemstones as a single resource-type. The ease by which such mere classification would create or dissolve the validity of Frida's claim should give us pause. That observation, I shall take it, strengthens our belief in the expansion thesis. Whether a (life plan-based) special claim revolves around natural resources that are token-non-fungible, token-fungible but type-non-fungible, or token- and type-fungible, is in itself irrelevant to determine its *pro tanto* weight.

At this stage, one might wonder whether it would make any difference if Frida's life plan had revolved around a *fully fungible* resource—that is, if the plan could be satisfied with access to natural or nonnatural resources alike. I do not see why it should. Imagine, in a third variation of the example, that Frida's life plan is a bit more peculiar. Her plan is now to paint "whatever gemstone she

herself can buy at the local Coyoacán market for 10 pesos.” That is, the plan would be thwarted if she were to receive a gemstone directly; it is part of her artistic plan to first get hold of 10 pesos (somehow), and then to go and purchase a 10-peso gemstone at the market. Frida would be able to fulfill her plan either by receiving the money directly, or, more intricately, by receiving *whatever natural or nonnatural resource* she could sell to obtain that amount. What Frida needs to pursue her plan is thus a fully fungible resource. Yet that fact seems irrelevant. Her life plan (still) has the same importance as Diego’s plan to paint a token-non-fungible diamond. Grounded in the liberal foundation, their plans will continue to generate similarly valid special claims: to a fully fungible resource, and to a token-non-fungible one, respectively.

To sum up, this means that the liberal foundation supports four kinds of special claims. In addition to the “traditional” claims to *token-non-fungible* resources (like Diego’s), the foundation supports claims to *token-fungible but type-non-fungible* resources (as in the first Frida example), and claims to resources that are both *token- and type-fungible* (as in the second Frida example). It will even support claims to resources that are what I called *fully fungible*, which means that they are fungible across natural and nonnatural types (as in the third Frida example).

This leads me to the following conclusion. If liberal theories are to apply consistently the life plan interest they use to ground special resource claims, they must recognize my expansion thesis. They must accept that, all else equal, people may lay valid special claim to whatever non-fungible or fungible natural (or non-natural) resources they need to pursue their life plans—subject, again, to a “Lockean” proviso, and whatever other restrictions one might wish to impose upon such claims.

## 5. Identity and Special Claims to Resources

I have just defended my expansion thesis concerning special resource claims grounded in the life plan interest. I did so with a simple appeal to theoretical consistency: people may choose plans which target token-non-fungible as well as fungible resources; if we respect people’s interest in leading self-directing lives, we have (*pro tanto*) reason for noninterference with their projects regardless of the role resources have come to play in them. Let us now have a closer look at people’s identity interest. Will a similar consistency analysis go through for this ground for special claims?

As mentioned earlier, liberal theories widely recognize special claims to token-non-fungible resources when those resources are crucial supports for people’s identity-conferring practices. Margaret Moore is a prominent example. When justifying a collective right of occupancy, Moore argues that “individuals have collective identities—as members of this or that religion or people or ethnic group;” moreover, they “see themselves as members of groups which are

attached to specific areas, specific bits of land, which form an important source of the group's identity" (2015, 40). Barring people from accessing the identity-conferring resource tokens found within such lands, Moore writes, "can be profoundly disruptive of their collective identities," and may thus constitute "an egregious wrong" (2015, 43). Another example is Chris Armstrong, who regards the life plan interest and the identity interest as equivalent grounds for special claims to token-non-fungible resources. As he puts it, that "individuals have developed life-plans dependent upon secure access to particular resources" and that they "identify with particular resources" can "[both] be normatively significant [facts]" (2017, 118).<sup>14</sup> In both cases, he maintains, respecting the relevant interest may contribute significantly to people's well-being. If we "give weight only to the wellbeing which accrues when we formulate life-plans and see them through to fruition," we would "introduce an 'intellectual bias' into our assessment of the attachments that matter" (2017, 118). As he points out, "[p]eoples' identities can also be bound up with an object (such as a river, or a mountain) such that its disappearance would cause them to feel an enormous sense of dislocation and loss" (2017, 117–18).

For liberals like Moore and Armstrong, it is clear that we have significant moral reason not to interfere with a person's identity-conferring practices. Moreover, as their quotes reveal, they believe that people's identity interest may support various special claims to *token-non-fungible* resources. To see this, take religious identities. A Muslim pilgrim is barred from pursuing an important identity-conferring practice if she is denied access to Mount Arafat, for instance. But the crucial issue is this: Can we imagine cases where placing *fungible* resources in the hands of third parties would have the same detrimental effect on a person's ability to sustain her identity? With some imagination, that does not seem too hard. To stay with the pilgrim example, there is arguably a range of fungible resources that are pivotal in this respect for Muslim pilgrims qua holders of a Muslim identity (and which sets them apart from people with other identities). Here is a simple example. On her way to Mount Arafat, a Muslim pilgrim must say her prayers five times a day. To do so, she needs access to a piece of the earth's surface on which to place her prayer mat, and some water to perform the *wudhu* washing ritual. It is not hard to imagine that the practices of a devout Muslim depend upon her having access to those resources along her route to Mount Arafat. Yet, for her, what matters is that she gets to do her daily religious rituals properly, not that she is entitled to place her mat in any particular spot, or to perform the *wudhu* with a particular set of water molecules. Instead, the prayer sites and water amounts are token-fungible resources: as supports for her religious practices, they are straightforwardly replaceable with other relevant tokens. Yet her claim to these resources seems valid all the same. Again, if we were to affirm the "restrictive" view, we would have to deny this. While recognizing her special claim to access Mount Arafat (a token-non-fungible resource), we would have to invalidate the pilgrim's special claim to the (token-fungible but type-non-fungible) resources she needs

to perform her daily prayers. Yet both claims appeal to the same interest in being able to live in accordance with one's identity.

At this stage, one might accept that the Muslim's claim to the said (token-fungible) resources is indeed valid, yet prefer to justify it as a *general* claim. An egalitarian, for example, might argue that any person has a *pro tanto* claim to whatever share of natural (and non-natural) resources needed for her to enjoy "equal access to wellbeing" (Armstrong 2017, 83). This presumably implies providing the pilgrim with the resources she needs to perform the *hajj*. Let us assume that it does. Is this possibility a challenge to my expansion thesis? I think not. My thesis says that a consistent application of the liberal foundation implies that the pilgrim has a special claim to the requisite resources. I need not deny that she could (also) have a general claim to them (e.g., on egalitarian grounds). The expansion thesis allows me to remain agnostic about that possibility. The reason why the pilgrim (at least) has a *special* resource claim is that the pilgrim's acquiring of a Muslim identity constitutes a contingent event which sets her apart from other potential claimants, and explains why she has a special claim to those resources (while the other claimants do not). While we all need a certain minimum amount of water not to die of thirst while performing our identity-conferring practices, the Muslim, in my example, has a special claim to a further amount of water. Her identity-conferring activities require not only that she is able to quench her thirst. She needs additional water to perform the *wudhu*. That additional claim is special because it follows from the pilgrim's (acquiring of a) Muslim identity. Non-Muslims cannot submit a similar claim because the practices that support their identities do not require additional water in the relevant circumstances, or so we may permissibly assume.<sup>15</sup>

What about special claims to *type*-fungible and *fully* fungible resources? With some further imagination, we realize that the identity interest may ground such claims too. Consider the wafers eaten during the Christian rite of the *Eucharist*. To accommodate people with gluten allergy, Protestants typically regard wafers made of wheat or rice as functionally equivalent. The Catholic Church only allows wheat-wafers. Imagine two congregations, none of whose members have gluten allergy. All else equal, it is unwarranted to validate the Catholic congregation's special claim to wheat (a type-non-fungible resource), while invalidating the Protestant congregation's claim to wheat or rice (type-fungible resources). Being denied the *Eucharist* would interfere with the identity-conferring practices of Catholics and Protestants alike. The type-fungibility involved in the Protestant congregation's resource claim should have no influence on its validity.

In normal circumstances, wafer ingredients are easily available on the market. To support their performance of the *Eucharist*, we could thus provide both congregations with either the income needed to buy the requisite natural resources (or ready-made wafers), or whatever tradeable natural or nonnatural resource the exchange value of which equals that income. This means that, under such circumstances, the congregations' special resource claims revolve around

a fully fungible resource. Yet it is hard to see why the mere existence of a wafer (ingredient) market should influence the validity of their claims. Indeed, those claims are *as valid* as claims to the natural ingredients themselves would have been, under the relevant non-market circumstances.

I therefore conclude that the validity of special claims grounded in the identity interest is not influenced by the variable fungibility of the resources they target. This means that how one prefers to flesh out the liberal foundation is immaterial to the truth of my expansion thesis. A consistent liberal theory must expand the scope of valid special claims to resources. Whether such claims revolve around token-non-fungible or fungible resources is in itself irrelevant for determining their moral weight.

## 6. Practical Implications: Acquiring the Arctic

At this stage, one might wonder whether the philosophical exercise that led us to the expansion thesis, even if correct, will have any significant practical implications. Let me draw attention to two. First, when it comes to validating states' current resource claims, the difference between my thesis and the "restrictive" view is arguably striking. To illustrate, take the oil-driven Norwegian economy. Norwegians do not regard North Sea oil as a token-non-fungible resource. The mere purpose they have with it is arguably to generate the income they need to sustain their current ways of life (including the operation of a generous redistributive welfare state). Norwegians could sustain their life plans even if they gave the North Sea oil fields to Venezuela in exchange for similarly valuable ones in the Orinoco Belt. The identity of the particular resource tokens put to use for the relevant purpose is of no significance. In fact, the Norwegians could do with any natural or nonnatural resource-type that generates enough income (or with direct access to the income itself). What the Norwegians need to sustain their life plans is thus a certain share of *fully fungible* resources. On the false "restrictive" view, Norway has no special claim to such resources—not even a *pro tanto* one. On the expansion thesis, in contrast, they do. As shown above (in the third Frida example), the interest people have in sustaining their life plans supports a *pro tanto* special claim to whatever fully fungible resources they need to do so. This validates the Norwegians' special claim.<sup>16</sup> (Here it is worth reemphasizing that the aim of my expansion thesis is to make liberal theories of resource rights consistent, not to make them [otherwise] more plausible).

Second, when properly revised, liberal theories will have an intriguing implication in a type of case that already is, and will only become more, politically pressing: resource acquisition in remote locations like the Arctic. Due to global warming, humankind may soon make use of resources that have thus far been beyond our reach. Fishery is an obvious example. As the European Commission notes, "[w]hile no commercial fisheries currently take place in the Arctic high seas, ... [a]s the Arctic sea ice cover reduces, high seas areas may become attractive for

commercial fisheries in the mid- and long-term” (European Commission 2016). Moreover, the melting ice caps open up new pathways for ships (e.g., enabling lucrative trade routes between Asia and Europe), and make whatever mineral wealth the Arctic might hold more accessible (Economist 2014). By one estimate, those mineral resources might constitute as much as thirteen percent of the world’s oil, and thirty percent of its natural gas (USGS 2008). As a matter of international law, significant parts of those yet-to-be discovered resources are already located within the Exclusive Economic Zones and/or continental shelves of the Arctic countries (Russia, the United States, Canada, Norway, Denmark, and Iceland). However, that does not settle the moral question that concerns us: Do the people of any of these countries have special (moral) claims to the Arctic resources to which they lay legal claims?

On the “restrictive” view, the hope for establishing such moral claims seems faint. At least for the vast amounts of resources whose very existence we have yet to determine, people cannot plausibly argue that those resources already function as *token-non-fungible* supports for their life plans or identities. For the “restrictive” view, they are beyond our reach, so to speak, not only technologically, but also morally: people cannot lay claim to those resources on the “traditional” liberal foundation. If my expansion thesis is true, however, liberal theories of resource rights allow people to acquire *fungible* resources just like they claim token-non-fungible ones. This brings the Arctic within reach, at least in the moral sense. To illustrate, take the Norwegians and the life plan interest. For any barrel of North Sea oil the Norwegians consume in order to generate the income they need to sustain their life plans, they can now lay valid special claim to a functionally equivalent share of Arctic resources.<sup>17</sup> (Note, however, that there is nothing unique about the Norwegians here. Others may also lay special claim to Arctic resources to the extent that doing so is necessary to support whatever life plans they have developed).<sup>18</sup>

A similar implication follows for the identity interest. Consider fishing. As Armstrong notes, “[s]ome countries have fishing practices running back through many generations and which are undoubtedly identity-conferring” (2017, 204). This holds for several of the Arctic countries, including Iceland. Imagine that sustainable fish stocks cease to exist in those parts of the ocean where Icelandic fishing boats currently operate. The Icelanders might then lay special claim to previously inaccessible areas of the Arctic, and start to fish there once those areas open up. Their warrant would lie in the interest they have in sustaining an identity-conferring practice. If the expansion thesis is correct, it makes no difference for the validity of their claim that the Icelanders would have to move their fishing practices away from the specific waters they have been using. Their *pro tanto* claim is to a token-fungible resource: *any* new ocean part that is fish-rich enough to support their identity-conferring practice. However, while this includes the relevant Arctic waters, the Icelanders’ claim might also be satisfied with access to functionally equivalent areas elsewhere. The expansion thesis itself

is silent on how to carry out this area allocation. What it does is to establish that the Icelanders have a valid special claim to a token-fungible resource, where the “restrictive” view would have found none at all.<sup>19</sup>

## 7. Concluding Remarks

Liberal theories of resource rights have not spelled out the full implications of the moral foundation they give for special claims to non-fungible resource tokens. That foundation supports a much wider range of claims than thus far acknowledged. For consistency’s sake, liberals must recognize that the fungibility of a resource is in itself irrelevant for the validity of people’s special claim to it. In principle, we may submit equally valid special claims to four resource categories: *token-non-fungible* resources, *token-fungible but type-non-fungible* resources, *token- and type-fungible* resources, and *fully fungible* resources.

I have taken no stand on whether the revision required by my analysis will prove to be a strength or weakness for liberal theories of resource rights. Some might well regard my expansion thesis as a potential *reductio* and seek to override several of the new *pro tanto* claims it identifies. If so, liberals seem to have several means at their disposal. They might try, for example, to carefully design their “Lockean” provisos such that the relevant claims are ruled out overall—perhaps by specifying what it means for a claimant to leave “enough and as good” resources for future generations, or for currently deprived people in other parts of the globe. Nothing I have said here rules out that this could succeed.<sup>20</sup> However, if liberal theories want to reject special claims to fungible resources (such as the Norwegians’ claim to exploit Arctic oil), the lesson of my present analysis is clear. They must now acknowledge that their own foundation validates an expanded set of special claims, and that countervailing reasons are required to explain why any claim in that set should not prevail overall. Perhaps there are enough such reasons to override some, many, or even all of the new claims validated by my thesis. At any rate, the burden of proof is now on liberals to explain when and why those claims might fall short.

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## Notes

- <sup>1</sup>According to some figures, the global use of resources has increased tenfold since 1900, and it is expected to double again in 2030 (European Environment Agency 2015).
- <sup>2</sup>More specifically, general claims can be submitted by claimants without the prior occurrence of “some special ... transaction or relationship which is, in some sense, peculiar to those who happen to have entered into it” (Waldron 1988, 107).
- <sup>3</sup>I have no stake in whether this usage of the term “liberal” is apt. Some might find it too narrow, too broad, or misplaced altogether. I bracket such exegetical issues, as they have no bearing on the main thesis I defend.
- <sup>4</sup>Some, although they affirm the moral importance of the liberal foundation itself, prefer to ground the general claim to the minimum share in a set of *basic human needs*, whose importance people may universally recognize regardless of whether they affirm liberal or non-liberal value sets (Miller 2007, 163–200). See also Moore (2015, 181).
- <sup>5</sup>My present focus is solely on special claims grounded in the liberal foundation (which, as we shall see, refers to respect for people’s interest in sustaining their life plans or identity-conferring practices). It is worth noting that the proponents of this foundation are often pluralists about the grounds for special claims. They tend to recognize special claims grounded in resource “improvement” too. As Armstrong puts it, “those who have picked up a resource and transformed it into something more valuable are mistreated when we hand that resource on to someone else as if the transforming agent had no claim over it” (2017, 96). For similar appeals, see Miller (2012, 259–61) and Meisels (2009, 119–26). As correctly noted by an anonymous reviewer, improvement-based special claims may avoid the thesis I presently defend.
- <sup>6</sup>Armstrong favors an egalitarian proviso, according to which resource acquisition must be compatible with ensuring “equality in access to wellbeing” (2013; 2017, 88). Miller (2012; 2007) uses a less stringent sufficientarian proviso, which protects the basic needs of others but nothing further. Stilz takes a third approach by including the proviso as a structural feature of her theory, but without taking a stand on its stringency (2013, 353–54).
- <sup>7</sup>Stilz, for example, operates with a requirement of no dispossession of prior claimants (2013, 352–53).
- <sup>8</sup>In her defense of special occupancy rights, Stilz, for example, focuses on people’s “plan-based interest” in occupancy, and the well-being they get from being allowed to sustain the “located social, cultural, and economic practices that they value” (2013, 339), without mentioning respect for people’s identities.
- <sup>9</sup>Although this definition is simple and quite useful, I have some reservations about it. The conventional definition is meant to set natural resources apart from *artifacts*—objects which humans produce from natural resources—such as a chair crafted from a log. However, the definition seems to me too restrictive. It leaves out some physical objects that are intuitively relevant as *distribuenda* in a theory of natural resource justice. Consider trees planted to regenerate a forest, or flowers blooming (due to human-made irrigation systems) in what used to be a desert. Because such objects would not have existed without human activity, the conventional definition classifies them as artifacts. Yet they intuitively count as parts of the world’s natural resources, the distribution of which should fall within our theory’s scope. (Armstrong raises some similar worries [2017, 11–2].) Because it is not my aim here to come up with a more plausible definition, however, I shall set such worries aside and stick to the conventional definition. I expect everything I say below to apply even if we adopt a less (or more) restrictive definition of natural resources. (In fact, as we shall see, my expansion thesis holds for special claims to *worldly* resources generally—including both natural resources and artifacts, such as income.) For an alternative definition, which understands natural resources as intentional kinds, see Kolers (2012).
- <sup>10</sup>Two caveats are in order here. First, in Stilz’s analysis of a person’s “right to occupy a particular geographical place” (2013, 325), the term “particular” is ambiguous between places that are token-non-fungible or type-non-fungible supports for life plans. While Stilz’s main aim is ostensibly to justify claims to occupy *token*-non-fungible places, she mentions examples of places

functioning as *type-non-fungible* resources (2013, 335, 338). It is unclear whether Stilz's account implies that similarly valid claims (to the requisite resources) may follow in both cases. If it does, this would point toward my expansion thesis. For the second caveat, regarding Moore (2015), see note 17 below.

- <sup>11</sup>It is trivial, or non-informative, to state that a claim to token-non-fungible resources must target *token-non-fungible* resources in order to be *weighty*; after all, unless they do target such resources, they *cease to be* claims to token-non-fungible resources in the first place (weighty or not).
- <sup>12</sup>I owe this example to Kasper Lippert-Rasmussen.
- <sup>13</sup>Note that a special claim to a token-fungible resource does not, strictly speaking, include what A. M. Honoré calls *the right to security*, namely, “immunity from expropriation” (1961, 119). If an owner has a right to security concerning object X, X cannot be taken from her against her will even when an equivalent substitute for X (or another form of compensation) is provided. The special resource claim I have just discussed does not include this right. As long as the claimant receives another equivalent share of the token-fungible resource, “expropriation” is in principle allowed.
- <sup>14</sup>In Armstrong's view, the well-being a person gets from *loving* or *cherishing* resources may ground special claims in the same way as her *identifying* with them (2017, 117–18). This might set his approach apart from others, which tend to focus only on identification with resources. While I restrict my analysis in this section to identity-related special claims, I expect that it will apply also in cases where people love or cherish resources.
- <sup>15</sup>I thank an anonymous reviewer for pressing me to clarify this.
- <sup>16</sup>Because the Norwegians' claim is to a fully fungible resource, it could in principle be satisfied in various ways. However, pragmatic reasons might favor giving them control over the North Sea oil itself. Efficiency considerations, for example, could support satisfying people's claim to fungible resources with rights over the tokens they already control. See also Armstrong (2017, 125).
- <sup>17</sup>Moore (2015, 169–72) denies that collectives may lay special claim to such Arctic resources. For Moore, a group's special resource claim “relies on a prior idea of ... rightful occupancy” (184). She thus draws a crucial distinction between claims to resources located within the area over which a group already has moral occupancy rights, and resources located in unoccupied areas like the Arctic (where no claimant, by hypothesis, has occupancy rights). In the former case, the group may submit special claims to control resources in order to sustain collective life plans or identities (what Moore calls “place-related attachments”). An example is the Lakota Sioux's valid special claim to control the Black Hills—a token-non-fungible support for the group's religious practices (175). (It is unclear whether such claims can also revolve around token-fungible, yet type-non-fungible resources.) When the resources are located in unoccupied areas like the High Arctic, however, Moore seems to hold that a group cannot submit valid special claims to them. In such cases, she writes, people regard the relevant resources “instrumentally, as a kind of property, and ... seek to benefit from exploitation of [them]” (170). On my reading, this is akin to holding that the claimants regard the resources as *fully fungible*. If so, Moore seems to hold the “restrictive” view (at least concerning special claims to fully fungible resources).
- <sup>18</sup>This may produce conflicting special claims which liberals must find ways to assess. How to do this, however, is outside this article's scope.
- <sup>19</sup>This means that, by incorporating my expansion thesis, liberal theories will have an answer to what Cara Nine has recently identified as a “troubling question for political philosophy” (2015, 149). According to Nine, “up until now, the acquisition of original rights over natural resources has been explained, in one way or another, through terms of human settlement” (2015, 149). The alleged puzzle is to explain resource acquisition in remote locations like the Arctic, where “any conditions of human settlement” cannot be presupposed (2015, 150). In response, Nine offers a novel account of how resource claims may be established on the basis of a “compromise” between “mutually respecting agents” which produces “mutual concession and mutual benefit” (2015, 159). Nine's interesting and complex solution might well be a plausible addition to liberal theories. Nevertheless, as I have demonstrated, we can explain resource acquisition in the Arctic

and other remote places in a more parsimonious way. If liberal theories simply accept my expansion thesis, they need not introduce additional theoretical complexity to their view. As long as the relevant remotely located resources are fungible, people can acquire them in the “traditional” way—by demonstrating how those resources are necessary supports for their life plans or identity-conferring practices. It is worth noting that some theories of resource rights might not find Nine’s question troubling at all. In Michael Otsuka’s left-libertarian theory, for example, agents may acquire parts of the external world “merely by staking a claim,” such as “by publicly proclaiming the boundaries of the worldly resources over which they claim rights of ownership” (2003, 22, n. 29).

<sup>20</sup>A related option is to argue that a collective may have a *duty to modify* the life plans or identities of its members over time (i.e., to downsize the geographical scope of those attachments) in order to accommodate conflicting moral claims (Angell 2017). Interestingly, it can be shown that this option does *not* require a *trade-off* between third-party interests and the collective’s attachment-based territorial claim at any point. It rather changes the geographical scope of the *foundation* for those claims, the life plans, or identities themselves. In that way, we can maintain our respect for the collective’s resource claim—which will have different (reduced) geographical scope over time—while accommodating third-party interests.

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