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# Armstrong's Resource-egalitarian theory and attachment

**Abstract:** The paper analyses the interrelationship between Armstrong's egalitarian theory and his treatment of the 'attachment theory' of resources, which is the dominant rival theory of resources that his theory is pitched against. On Armstrong's theory, egalitarianism operates as a default position, from which special claims would need to be justified, but he also claims to be able to incorporate 'attachment' into his theory. The general question explored in the paper is the extent to which 'attachment' claims can be 'married' to an egalitarian theory. The more specific argument is that a properly constrained attachment theory is more plausible than Armstrong's egalitarian theory. Armstrong's paper also criticizes attachment and improvement accounts as justifying permanent sovereignty over resources. This paper argues that neither of those arguments aim to justify the international doctrine of permanent sovereignty.

**Keywords:** Attachment; natural resources; international global justice; egalitarianism; permanent sovereignty.

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## Introduction

Chris Armstrong's *Justice and Natural Resources* (2017) is an engagingly written and comprehensive account of resource justice, which, along the way, offers illuminating insights into a number of important justice related questions connected to resources: what they are, who should control them, who should benefit from them, how they should be distributed, what are the appropriate principles of resource-conservation, who should pay for the burdens of conservation and how should resources be taxed, to name a few.

Armstrong's conception of resources is extremely broad. In contrast to Kolers (2009) and Moore (2012; 2015), both of whom emphasize the instrumental relationship between the person and the material thing, Armstrong argues that the term 'natural resources' refers to any good, any bit of matter, which 'potentially delivers benefits to human beings.' (Armstrong 2017: 26). This means that any fleck of dust, whose benefits are not yet known and may never be realized, count as resources, though presumably not yet particularly valuable ones.

Drawing on Ostrom's (1990) theory, and enriching it in various ways, Armstrong distinguishes between different types of resource rights – access, withdrawal, alienation, deriving income; and second order rights of exclusion,

management, regulation (of alienation and income). Resources may have economic, cultural or symbolic uses, may be improved or unimproved, renewable or non-renewable, and embedded in different people's life projects as different kinds of resources. This is a rich understanding of resources, which promises a nuanced and interesting theory of resource justice.

Its distinctive angle is to offer an *egalitarian* theory of resource justice, which broadly speaking is the view that the benefit accruing from natural resources should – to the extent that they are untouched by special claims from improvement or attachment – be distributed to promote equality.

Why does he focus on resource justice? It is, he says, not because 'natural resources are [...] all that matters but [because] [...] they are an important fuel for wellbeing and when possible we ought to seek to channel their benefits so as to promote more equal access to wellbeing for all the world's individuals' (Armstrong, 2017: 247). Although Armstrong adopts a welfarist perspective, he doesn't try to equalize welfare itself – in part, presumably, because of well-rehearsed difficulties with take-up for welfare. Nor does he try to equalize resources, which would be notoriously difficult to do given that resources are so diverse in kind and type. He tries to equalize 'access' which he interprets as equal *opportunities for welfare*, and is interested in resources only insofar as they are one among a number of inputs into equal opportunities. We could press on each element in the equal resource-equal opportunities-equal welfare nexus, raising questions about how exactly this work.

One weakness in Armstrong's theory is that he nowhere explains how we are to determine whether two different opportunity sets are equal. Since resources are different, and different resources give rise to different sets of opportunities, it is not obvious how one determines when opportunity sets are equivalent. But not only does Armstrong avoid this discussion, operating almost entirely through intuitive examples, he ends up simply arguing for three principles of resource justice, which are not clearly connected to the equality of opportunities for welfare approach that he formally adopts. The principles are: (1) that in societies with a history of exclusion from resource ownership, there should be 'active measures to enhance resource rights for such marginalized groups' (*ibid.*: 71). His examples of formerly excluded marginalized groups are gender or ethnic groups. (2) The second principle is that egalitarians should 'seek to (modestly) constrain otherwise acceptable inequalities by defending an entitlement to some essential natural resources' (*ibid.*: 71). (3) 'Securing basic rights will not exhaust the total benefit arising from natural resources [...]. Therefore we ought to favour 'equalizing' or equality-promoting [...] rather than equal shares of benefits' (*ibid.*: 75). This is presumably because people may be

better and worse off in different ways, and the welfare-egalitarian should be sensitive to the global approach to opportunities for welfare, rather than just focused on equal shares of resources.

It's not clear that these three regulative principles for the redistribution of natural resources follow in any direct way from Armstrong's egalitarianism. The first principle is introduced as a way to break what Armstrong calls the cycle of disadvantage (*ibid.*: 73). The second is a sufficientarian principle and is almost universally accepted – by prioritarrians, sufficientarians, even libertarians. The third makes explicit Armstrong's view that the different inputs into welfare may themselves be substitutable, so that, in balancing different considerations, the main consideration is access to welfare itself. The first two principles are not obviously related to Armstrong's master principle and the third principle, I will argue, is problematic because it is at least potentially in tension with his claim that his theory can 'accommodate' attachment claims. Or so I will argue.

In this comment, I will focus on the third principle and raise two concerns. The first is his treatment of attachment claims, and how they can be rendered consistent with an egalitarian theory. The second is his treatment of permanent sovereignty, which, I argue, is framed incorrectly, and so also fails to take seriously the myriad of normatively significant ways in which human beings are entangled, in their labour, plans, projects and communities, with resources.

### **Attachment Claims**

One of the concerns raised about an egalitarian principle of resource justice is that it is unable to incorporate so-called 'attachment' claims, by which is meant that it is unable to appreciate the ways in which people are related in normatively significant ways to land, to places and to resources. At least on the face of it, an equality principle, as applied to resources, treats them as an undifferentiated heap of goods, which are drivers for welfare, and should be equalized. Armstrong does not do this, but he does seem to think that resources can be moved around, consistent with his equal opportunities-for-welfare account.

In stressing the importance of 'attachment' to a normative theory of resource justice, it is necessary to be clear what the term 'attachment' means. It isn't reducible to what people are subjectively 'attached' to. Nor is there something called 'attachment theory', if, by this, is meant some kind of general, over-arching attachment 'theory' of justice in resources. On the contrary: what so-called 'attachment theorists' have emphasized is that there are a number of different kind of claims that different individuals or groups may make, some of which may justify entitlement to specific resources or bits of land, but it's necessary to specify what precisely is claimed, and how this can justify holding other people

under a duty to respect this entitlement. Most of the people who are discussed as 'attachment theorists' (Moore 2012, 2015; Simmons 1994; Kolers 2009) do not think that the mere fact of 'having an attachment', understood subjectively, entitles one to that thing. Indeed, it would be hard to imagine why that would be. A subjective 'attachment' might be relevant in a longer story of entitlement but the *mere* fact of being attached to X does not justify holding others under duties to give one X. Rather, the thought here is that, in addition to claims to resources in general, people may make a claim to a particular resource, or control over a particular resource. In the case of a particularity claim, we need some mechanism, some argument, to attach specific things or specific resources to particular people or groups of people. That is what the attachment requirement consists in. And those people who are called 'attachment theorists' tend to explore the normatively significant ways in which people are related to things, which might justify an entitlement. But the precise arguments, the scope of the entitlement, the duties in question, all need to be explicated.

One of the most serious problems confronting equality of resources conceptions is that people are connected to resources in important, normatively significant ways. Unlike in Dworkin's (2000) theory of resource justice, which asks us to imagine a hypothetical scenario where migrants arrive on a deserted island, and consider how to divide its resources equally, in the real world, we are all situated in specific places and, crucially, we have attachments and connections to people in places and with the places themselves, which are, on the face of it, in tension with an egalitarian view.

In some sense of course a welfarist theory is better placed to accommodate people's connections and attachments than a theory of equal resources, because it can incorporate the idea that people get welfare from different sources, and, crucially, that some individuals or some groups will get welfare from particular activities in particular places, and this can be recognized as an 'input' into the theory. This is an important part of Armstrong's argument in claiming that his theory can 'accommodate' attachment arguments or attachment claims, although he does not offer a pure welfarist theory, but rather one that regards resources as supplying opportunities for welfare, which he then wants to equalize.

He also wants to distinguish his egalitarian theory from what he regards as 'attachment theory'. Here he treads a careful line. On the one hand, he recognises that a theory that treats resources as undifferentiated and unattached 'stuff' that should be subject to an egalitarian distributive principle would be deeply counter intuitive in a number of respects. After all, attachment to place (to land, as a kind of resource, for example) is the underlying idea behind the basic human right not to be expelled from one's land or country, and the right of

return that people who have been expelled also have and which is recognized by international law; and underlying too indigenous people's claims to particular lands, which is accepted in the *Declaration on the Rights of Indigenous Peoples*. If Armstrong can show that his theory can 'accommodate' attachment claims, this would represent a significant improvement over other, cruder versions of egalitarianism. At the same time, he wants the scope of the claim to be consistent with his egalitarian distributive theory, so he is anxious to develop a scope argument against the rival 'attachment' accounts.

To accomplish these goals, he advances two arguments: negative and positive. The target of the negative argument is 'strong' attachment theories. Here he points out that, even if we acknowledge the significance of attachment, this has to be constrained by the interests of outsiders: 'How should we think about the appropriate limits to special claims, then?' he asks (*ibid.*: 138). He immediately answers: 'One obvious constraint is supplied by the injunction that no-one ought to be deprived, or deprive others, of natural resources (such as freshwater, or air) which are essential for meeting their basic human rights' (*ibid.*: 139).

By way of positive argument, Armstrong makes two interrelated points. First, he notes that not all special claims will disrupt equality, particularly when they are not exclusive claims to full liberal property rights. Second, he points out that often the claimant – his central example is the Saami – are themselves relatively marginalized so granting these claims can be granted without jeopardizing equality of opportunity for welfare. Each of these points is relevant to his argument that his theory can accommodate attachment claims. The first claim notes that there are many particularist claims – claims to particular objects or resources or areas – that can be accommodated within a theory of equal opportunity for welfare. What is being asked can be easily granted consistent with equal welfare. The second argument also points out that, since we are interested in equal opportunities for welfare taken globally, and not just focused on what might be called natural resources, then a marginalized group's claims to a particular area or thing can often be granted because their way of life involves fewer opportunities of other kinds. The idea here is still that resources can be moved around in the service of equal opportunity, but that this goal can be achieved in many cases while at the same time acknowledging specific attachment claims.

Let me move now to the problem with Armstrong's two arguments, taking these arguments in order. The scope constraint he mentions is one that everyone, even Nozick, accepts. No theorist of territorial rights, or of resources, has argued that the special claim to attachment ought to outweigh a human right to subsistence: they are obviously defeasible claims when the basic rights

of others are at stake. One doesn't need to be a libertarian or minimalist about basic rights here: one could adopt a high sufficiency threshold, which would take the view that people have a right to a decent life, and that attachment claims that directly jeopardized this, cannot be honoured, at least not in their maximalist form. But this is a long way from endorsing resource egalitarianism even as a baseline position, from which 'special claims' can be argued for.

His two-part positive argument for how attachment claims can be incorporated into an egalitarian resource theory relies on the idea of *opportunity for welfare*, and attachment arguments are treated as a form of 'special claim' for a particular kind of opportunity. Egalitarianism operates as a default position, from which special claims would need to be justified. This suggests that they are exceptional; and his central example – the Saami herding reindeer in Scandinavia – is indeed exceptional. But it's not clear that attachments are exceptional. That would make sense if the claimants were only small, marginalized groups, or their claims were to some particular thing in the world, like a particular rock or access to a wood or to a specific temple, but what we have, in our world, is quite different. It is not just indigenous people like the Saami who make these sorts of claim, or farmers as in Pearl S. Buck's *The Good Earth* or people in fishing communities who are reliant on fish for their way of life, or people living in urban neighbourhoods, who are resisting expulsion and gentrification processes. Peoples who are organized politically also tend to have attachments to the territory of the state, in the sense that living in a place, and having relationships with other people and to the place itself, gives rise to strong interests – that is, interests sufficiently weighty to ground rights – to reside there, and, as I've argued elsewhere, to exercise some forms of collective agency, or jurisdictional control, to manage the relationships with the people living there and over the place. This interest may not extend to the whole territory of the state, so there is indeed a scope issue with respect to such claims, but members of political communities typically do have place-related interests. And this is problematic for Armstrong's assumption that such claims are exceptional, that they can be granted consistent with an equality of opportunities for welfare position, because this would mean that they are very widespread, indeed perhaps the default position for theorizing.

Moreover, territory is not, typically, fungible in the same way that the gas or oil or electricity in my car is fungible. I am happy for one fuel source to be replaced by some other fuel, although I might have preferences for more green or more efficient fuel, as long as it gets me where I want to go. This is simply not how people feel about their relationship to place and to the people who share the place with us; and this includes the relationship that members of political communities have to the territory of the state (or some part therein). In the

case of politically-organized people who have attachment claims to the territory of the state (or some part thereof), they appeal to the idea that their lives are inextricably bound up with where they live, and the relationships with people who live there, which means that they, and the other people who live there too, not only have entitlements (a 'special claim') to reside there, and not be displaced or expelled, but to exercise jurisdiction over the place, including making rules about resources – about the land that they live on, the water that they drink and so on. This is an obvious point when we think of contemporary land-based conflicts, such as over Jerusalem: it would be very strange to think that these claims or this dispute could be analysed on an account that treats Jerusalem as a fungible resource, or to think that Jerusalem could easily be substituted for some other place or other goods. This is because, as Armstrong recognizes, especially in chapter one, resources are not merely things in the external world which could potentially be useful to human beings: they are inextricably connected to particular plans and projects and ways of life, both individual and collective. In other words, place-related entitlements are held by most people, who live in a place, and this is also the basis on which territorial rights over a place can be justified, which also grounds rights against expulsion from a place. All this is to suggest that it is hard to think of place-related rights as exceptional: they may indeed be the ordinary state of affairs, in a world which is already occupied and in which people have many interconnected geographically-located interests. At one point in the book, and in some tension with his emphasis at the beginning of the book on the myriad of ways that resources of different kinds and different people's lives could be intertwined, he criticizes Moore's argument that both indigenous people and territorial peoples (embodied in the state) may have attachment based claims (p.153, note 12). He thinks there is a contradiction there – but in fact there's no contradiction in thinking that the attachment form of argument could apply to both, and that both sorts of claims are normatively significant, and ought to be recognized, and sometimes need to be balanced against each other (and alongside the claims of outsiders, too).

Moreover, the attachment based claim – of both indigenous and territorial kinds – is not only widely held but it also is potentially quite expensive, which is a problem for recognizing it within a substantive egalitarian theory. In many cases, the claim that groups make for land or resources are not simply to 'walk in the woods' as in Armstrong's example of the nomadic Saami, but to enable people to exercise forms of collective self-determination over their lives. And this means that the tension between recognizing an attachment claim and the equality of opportunity for welfare framework that the book formally adopts is fairly serious. Indeed, there are more costs to the Saami herding reindeer

than Armstrong acknowledges, particularly if the area is found to be rich in some kind of resource that could be useful to other individuals but cannot be extracted consistent with a viable herding community.

Nor should these attachment claims be understood as simply empirical obstacles to the achievement of justice, which Armstrong's egalitarianism embodies. They are claims of justice, because the idea is that people are unequally situated with respect to particular things, or to land, or to the natural world, and it's unfair if they are then treated equally with respect to them. The underlying picture of the relationship between people and the natural world is that of people being born in a place, in a specific geographic location, and in relations with specific people (their family) and their claims for non-displacement and for control over the relationships with others and with the space typically cannot be matched by claimants who don't live there and/or are not in the right sort of relation. They have developed place-related plans and projects and attachments and respect for them as people who have lives which are entwined with particular others and with place requires that we begin justice theorizing by recognizing the moral salience of these relations. This is why egalitarianism (even opportunity egalitarianism) in relation to territory (which is a kind of resource) is deeply problematic, though of course Armstrong is right to point out that attachment claims themselves require a scope condition. That insight, though, doesn't generate a commitment to egalitarianism. Of course, we could accept this view with respect to land and resources and then be an egalitarian with respect to the redistributive principle that we adopt with respect to the income and wealth that may be derived from these lands and resources.

### **Doctrine of Permanent Sovereignty**

In chapter six, Armstrong critically discusses 'the doctrine of permanent sovereignty', which is defined as the view that 'natural resources are at the 'disposal' of the nation-states 'in' or 'under' which they exist' (2017: 147). Armstrong also describes the principle in the following way: 'Individual nation-states enjoy an extensive and often exclusive set of rights over the resources within their territories, albeit with exceptions to that rule arising through voluntary treaty-making' (*ibid.*: 148). Perhaps because he talks here about nation-states Armstrong describes this as a 'nationalist view,' although in fact this is attributed to all states in international law, including multi-national ones (*ibid.*: 149). He takes this as the central view that he is arguing against, and attributes it not only to the current international order, but also suggests that attachment theorists proffer arguments that are congenial to this view.

In chapter seven ('Perfecting Sovereignty'), Armstrong strengthens his position by considering not only normative positions that might buttress a

permanent sovereignty position, but also more ‘pragmatic’ responses. Here he takes issue with the view that ‘our practical focus should be on certain urgent reforms [to the inter-state order] [...] to ensure that the natural resources belong to ‘the people’ and ought to be used in their interests’ (*ibid.*: 168). The current inter-state order lacks mechanisms to ensure accountability so that resources are often sold by political and economic elites, to enrich them alone, and fail to benefit the mass of people in the society. Thomas Pogge and Leif Wenar have both documented this dynamic and proposed institutional reforms to ensure that elites are accountable to the people that they rule over. These accountability proposals are, as Armstrong recognizes, in serious tension with his global egalitarianism, where people are, at least as a default position, in similar relations to all resources, which are conceived of as drivers for welfare. In this chapter, Armstrong asks whether ‘permanent sovereignty over resources’ could be justified pragmatically, as a mechanism to ensure greater accountability in the international order.

In this section, I discuss the way in which this is framed – first, in ch. 6, the frame as applied to states, and not to the people living in the states, and in chapter 7, in terms of the claim that accountability is a merely a *pragmatic* challenge, which will bring political reality more in line with the appropriate principle of resource right. This framing I argue is both misleading and fails to bring into focus the challenge which the attachment principle poses for his egalitarian theory.

The problem with Armstrong’s description of the permanent sovereignty doctrine is that it mis-characterizes the normative arguments that underlie (or could possibly underlie) it, which, surely, are versions of either improvement or attachment. I will not discuss the improvement argument, focusing instead on so-called attachment. Recall that I’ve already shown in sect I that the very same argument that the Saami could make regarding their attachment to certain places, to certain resources, could also justify peoples, who are organized politically in states, making claims of attachment with respect to particular places. However, this normative argument is not exactly as described by Armstrong – viz, in terms of the state’s (or nation-state’s) putative claims – but the more defensible view that the state is the instrument by which *people* within the state, who are the ultimate holders of territorial and resource rights in their collective interest. These people seek to exercise self-determination over their collective lives, using the state as an instrument, and rights to control resources are important to robust forms of self-determination.

This (understanding of the right-holder) is quite different, normatively and practically, from the view that *the state* has fundamental rights of ‘permanent

sovereignty.’ Armstrong is aware that this is not how normative theorists frame their arguments. He writes: ‘But whilst not all defenders of territorial rights over land explicitly set out [...] to defend rights over the resources on or under it, it is possible that they provide the conceptual tools for doing so’ (*ibid.*: 149). In fact, there are no normative theorists of territory or territorial right that I know of who try to justify a doctrine of state permanent sovereignty doctrine, as described by Armstrong. The arguments that he examines are ones that justify a *community* in having control over resources, which requires some kind of political and/or institutional structure as the mechanism by which the community acts, and thereby exercises forms of control over territory and resources. This suggests limits and qualifications to the international doctrine. That is to say, these arguments simply could not, nor are they intended to, justify the international law doctrine of permanent sovereignty, as defined by Armstrong. The limits of the rights would depend on their role and importance to the exercise of political self-determination. At the end of the chapter, Armstrong shows that these variants ‘fail’ to provide the extensive justification for state permanent sovereignty. (*ibid.*: 149) This is not surprising, since none of the arguments were trying to do so. It is hardly a criticism of them that they turn out to be ‘insufficient to justify allocating exclusive and full resource rights to nation-states’ (*ibid.*: 150-1). As far as I know, that was not what they were trying to do at all: they were justifying political communities as collective actors, in erecting forms of jurisdiction that would either protect value (on the improvement based theories) or in order to realize important forms of collective self-determination. The fact that they could also justify layered and multi-level regime[s] of resource governance does not show that these arguments ‘failed’; indeed, some of the arguments under review (Kolers 2009; Moore 2015) were not trying to justify ‘nation’-states at all, in fact, explicitly eschewed the cultural nationalist argument in defense of states or their rights; and rejected the state as the ultimate holder of these rights in the first place.

What would be a more insightful framing for these two chapters? The appropriate way to think about these issues is to conceive of the arguments of these two chapters as strongly related, indeed, two sides of the same coin, even though answers to the questions that they raise could diverge somewhat. First, there is what might be called *the domestic question*, which is concerned with how a state can come to have jurisdictional authority over a specific geographical area and the persons living in it, and the resources where they live. And the answer to this question locates the rights to land, to territory, and to resources, squarely in terms of the exercise of collective self-determination of the people who live there, and points out that it would be hard to be self-determining if people, individually and collectively, were unable to make decisions over the

very land that they live on, rivers that they drink, and resources under their feet. The state might be the instrument by which they arrive at collective decisions, and can be justified if in the right relation to the people, but the justification for resource rights is not located at the level of the state, and the holder of the said (resource) right is not the state, but the people.

The second question is what might be called *the international question* which is concerned with why outsiders ought to respect this territorial claim, including the claim to resources. Of course, the answer to the first question has implications for the answer to the second; and the answer to the second may also rely on assumptions made by those who are answering the first question. And this is true in this case. The justificatory argument for state territorial right can also be extended, through an iterative argument, to all relevantly similar cases – so that all peoples, all collective agents, have the same rights to land, the same authority over territory, if they are relevantly similar collective agents.

By discussing these two separately and in relation to a very strong principle of the current inter-state order, rather than each other, Armstrong fails to appreciate the relationship between these two questions. As far as I know, no attachment theorist was interested in justifying ‘permanent sovereignty,’ though they were aware that their own answer to the domestic question had implications for the international question. And the ‘pragmatic’ theorists, in particular Wenar, were not just relying on pragmatic reasoning aimed at gradual improvement of the inter-state order but evinced a normative concern to align the rules and practices of the inter-state order with the view that resources belong, rightly belong, to the people who live in the countries, near the resources. At the root of their argument is the idea that resources ought to benefit the people, and not simply the elites that run the state.

By considering these two issues separately – the reforms discussed by Wenar as purely pragmatic, and the attachment arguments of Moore, Kolers and others as if they are aimed at justifying a doctrine of the current inter-state order – Armstrong misses a golden opportunity to address the real issue that needs to be addressed, viz., whether the attachment argument, as applied to territorial people, is consistent with resource equality. We know that it isn’t consistent with permanent sovereignty for ‘nation-states’. That is not really in question. We know that the rules and policies of the current inter-state order are egregiously unjust and fail to instantiate their normative vision. But what Armstrong needs to show is that that version of attachment (the answer to the domestic question) is consistent with his conception of resource equality. After all, that is the real challenge to the resource egalitarian view: can it accommodate the idea that people are related to resources in normatively significant ways, such that an

egalitarian view would do violence to them? This question as applied to territorial peoples, remains unanswered by the current framing of this discussion. I have given reasons to suggest that the appropriate lens is to examine the normatively significant ways that individuals and groups are connected to each other and to groups, and then suggested that the scope question should be answered in the way that Armstrong himself suggested (but which does not follow from his egalitarianism), viz., that 'no-one ought to be deprived, or deprive others, of natural resources (such as fresh water or air) which are essential for meeting their basic human rights' (*ibid.*: 139). That places human rights into view but also theorizes land and resources in terms of the normative connections and relationships that exist among people who live in a place, and their relationship to these places.

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