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On the Incoherence of Libertarian Open Borders Theory

Dan Demetriou

In the main, restrictionist responses to open borders theory have been defensive insofar as they don't interrogate open borders theory itself. So although I would be happy to discuss how restrictionist pessimism has been vindicated by what we're seeing today in countries that have experimented with quasi-open borders (elevated crime rates,¹ soaring housing costs,² higher

¹ Where migrants come from, and where they are settling, are important factors in predicting whether they will increase violent crime rates. Most studies show that migrants from Africa, the Middle East, and Central Asia are more likely to be violent criminals than natives in their receiving countries, while migrants from Western and East Asian countries generally have lower rates of violent crime convictions than do natives. Migrants from Somalia, Iraq, and Afghanistan can be as much as nine times more likely to commit a violent crime in Scandinavian countries; and even after adjusting for their age and sex (they are overwhelming young and male), still commit violent crimes at multiples of natives. See for instance Torbjørn Skardhamar, Mikko Aaltonen, and Martti Lehti, "Immigrant crime in Norway and Finland," *Journal of Scandinavian Studies in Criminology and Crime Prevention* 15, no. 2 (2014), <http://dx.doi.org/10.1080/14043858.2014.926062>; Göran Adamson, "Migrants and Crime in Sweden in the Twenty-First Century," *Society* 57 (2020): 9–21, <https://doi.org/10.1007/s12115-019-00436-8>.

² Even the pro-migration CATO Institute admits that migration increases housing costs, particularly for poorer natives who rent. Jacob L. Vigdor, "Immigration, Housing Markets, and Community Vitality," *Cato Journal*, Fall 2017, <https://www.cato.org/cato-journal/fall-2017/immigration-housing-markets-community-vitality>. For a discussion of how social housing is being set aside for migrants at the expense of natives, see "Mass Migration Deepens the Housing Crisis," *Migration Watch UK*, Feb. 16, 2024, <https://www.migrationwatchuk.org/news/2024/02/16/mass-migration-deepens-the-housing-crisis>. For helpful recent discussions with links to studies, see: Paul Kupiec, "The Migrant and Housing Crises are Colliding with Predictable Results," *The Hill*, Oct. 10, 2023, <https://thehill.com/opinion/immigration/4238426-the-migrant-and-housing-crisis-are-colliding-with-predictable-results/>; Sarah Bedford, "Fact Check: Does immigration increase housing costs?," *Washington Examiner*, May 24, 2023, <https://www.washingtonexaminer.com/news/2569511/fact-check-does-immigration-increase-housing-costs/>.

taxation and debt to pay for impoverished migrants,³ unsustainable burdens on public services,⁴ more social discord,⁵ increased racial and religious animus,⁶ reactionary extremist politics,⁷ growing government censorship,⁸ and so forth), I will instead take aim at open borders theory on a more theoretical level. I focus specifically on open borders theory's ablest exponents, libertarian open borders theorists (LOBOTs), and what I take to be their two biggest problems.

I will first show that LOBOTs don't even understand what they're defending. For there are two disambiguations of "open borders," and some LOBOT (libertarian open borders theory) arguments defend one interpretation, some the other. Since the deficiencies of LOBOT become (even more) apparent once we recognize the conflation of these two meanings of "open borders," I'll begin this essay by making plain the difference between saying that *countries should have uncontrolled borders* and saying that *anyone should be allowed to migrate to the countries of their choosing*.

³ For instance, Michael Huemer's home city of Denver, 40,000 new migrants in the last year is predicted to cost the city \$180 million dollars by the end of 2024, and is resulting in cuts to services already. Katie Parkins, "Denver mayor announces reduction in DMV and Parks & Rec. to offset migrant costs," *Denver 7 ABC*, Feb. 9, 2024, <https://www.denver7.com/news/front-range/denver/denver-mayor-announces-reduction-in-dmv-and-parks-rec-after-failure-of-bipartisan-congress-immigration-bill>.

⁴ For instance, in Michael Huemer's home city of Denver, hospital administrators consider their systems "overwhelmed" by migrants needing care: Claire Lavezzorio, Denver Health says migrant surge causing strain on hospital, more funding needed," *Denver 7 ABC*, Dec. 17, 2023, <https://www.denver7.com/news/local-news/denver-health-says-migrant-surge-causing-strain-on-hospital-more-funding-needed>.

⁵ It is hard to measure "social discord," but headlines and college controversies seem to be increasingly about ethnic grievances. One underlying factor is decreased social trust brought about by mass migration (again, certain sorts of migrants decrease social trust more than others). See Peter Thisted Dinesen, Merlin Schaeffer, and Kim Mannemar Sønderskov, "Ethnic Diversity and Social Trust: A Narrative and Meta-Analytical Review," *Annual Review of Political Science* 23, no. 1 (2020): 441-465; Lauren McLaren, "Immigration, Ethnic Diversity, and Inequality," in *Handbook of Political Trust*, edited by Sonja Zmerli and Tom W. G. van der Meer (Cheltenham, Edward Elgar, 2017), 316– 337.

⁶ Consider the massive Muslim protests and demonstrations in Europe, inter-migrant hostilities (e.g., Hindus vs. Muslims in Western countries), and, more recently, hostilities between supporters of Israel and Palestine across the West. Jessica Murray, Aina J Khan and Rajeev Syal, "'It feels like people want to fight': how communal unrest flared in Leicester," *The Guardian*, Sept. 23, 2024, <https://www.theguardian.com/uk-news/2022/sep/23/how-communal-unrest-flared-leicester-muslim-hindu-tensions>.

⁷ On this well-documented phenomenon, see essays collected at International Migration Research Network's *Migration Hub* under "Extremism and Migration": <https://migrationresearch.com/taxonomies/topics-migration-consequences-for-migrants-sending-and-receiving-countries-legal-political-consequences-extremism-and-migration>.

⁸ As J. S. Mill notes in Ch. 16 of *Representative Government*, authoritarian measures are often necessary to quell ethnic conflict, and presents a reason against mass migration (<https://oll.libertyfund.org/titles/mill-the-collected-works-of-john-stuart-mill-volume-xix-essays-on-politics-and-society-part-2>). In Europe we see greater speech restrictions after the onset of their migrant crises. Support for First Amendment rights in the US is declining in large part because it protects racially offensive speech. "Hate speech laws in the United Kingdom," *Wikipedia*, accessed March 16, 2024, https://en.wikipedia.org/wiki/Hate_speech_laws_in_the_United_Kingdom; Jacob Mchangama, "Evidence Is Growing That Free Speech Is Declining," *Foreign Policy*, Dec. 12, 2023, <https://foreignpolicy.com/2023/12/04/evidence-is-growing-that-free-speech-is-declining/>.

Secondly, LOBOTs tend to veer wildly between the ditches of extreme libertarianism and eyebrow-raising state authoritarianism. Regarding the former, any LOBOT must be premised on radical libertarian views about the limits of political authority, since the position denies the collective right of peoples to control their territories. So, although LOBOTs often sell their defense of open borders as commonsensical, a bit of consideration reveals that it cannot be more commonsensical than their extreme libertarianism is. Regarding their authoritarianism, LOBOTs, when faced with obvious real-world negative consequences for their vision, often retreat to fixes or “keyhole” solutions that are (by leftist lights) discriminatory and inegalitarian, and certainly authoritarian in ways that even conservatives will blanch at. Admittedly, their keyhole solutions aren’t feasible either. But that’s cold comfort, since that fact means an open borders policy of any significant length irreparably harms any nation foolish enough to adopt it.

1. Equivocations of the Term “Open Borders”

What are libertarian open borders advocates even advocating for? Is it, as the title to Michael Huemer’s influential essay suggests, a strong *prima facie* “right to immigrate”?⁹ Or is it, as the branding connotes, literal open borders, or a strong *prima facie* moral right to free movement across borders?¹⁰ Let’s peel apart the view that people have a strong moral right to freely cross international borders, or *open access*, from the view that non-citizens have a strong *prima facie* right to immigrate to wherever they please, which I will call *open residence*.¹¹

The distinction between open access and open residence is a genuine one that, at times, even open borders advocates seem to acknowledge. Here is Huemer, early in his 2010 paper defending open borders:

Few would question the state’s right to exclude at least some potential migrants. For example, the state may deny entry to international terrorists or fugitives from the law.

The interesting question concerns the vast majority of other potential immigrants—

⁹ Michael Huemer, “Is There a Right to Immigrate?” *Social Theory and Practice* 36, no. 3 (2010): 429-461.

¹⁰ Inter alia, Joseph Carens, “Aliens and Citizens: The Case for Open Borders,” *Review of Politics* 49 (1987): 251-73; Bas van der Vossen and Jason Brennan, *In Defense of Openness* (Oxford University Press, 2018); Christopher Freiman and Javier Hildago, “Liberalism or Immigration Restrictions, But Not Both,” *Journal of Ethics and Social Philosophy* 10, no. 2 (2016); Bryan Caplan’s various work on the topic and the essays at <https://openborders.info/>.

¹¹ The term “open residence” was suggested to me by Tom Metcalf.

ordinary people who are simply seeking a new home and a better life. Does the state have the right to exclude these ordinary people?¹²

This means it is consistent with this canonical text of open borders philosophy for the state to deny entry to terrorists, criminals, and fugitives. There is, however, no way to detect and “deny entry” to terrorists, criminals, or fugitives other than to stop entrants at the border or some other controlled space, such as at the international terminal of their departure airport. This means that open borders are compatible with strict border control. Thus, at least in this passage, we charitably read Huemer as arguing for open residence, not open access.¹³

Another open borders advocate, Chris Freiman, had this to say about open borders in an interview.

It is important to keep in mind what exactly an advocate of open borders is arguing for. “Open borders” is a bit of a misnomer—it’s more “light borders” or “porous borders” or something like that. So it isn’t that there would be *no* checkpoints or *no* restrictions on immigration. [...] So I think most open borders folks would be happy saying that if you are a wanted violent criminal, that might exclude you from immigrating, [or] if you have some particularly deadly contagious disease, and so forth. But other than that, ordinary peaceful migrants should be able to come to the States.¹⁴

This “exact” explanation confuses more than it clarifies, since obviously we cannot keep violent criminals out unless we know which migrants are violent criminals. And if lots of migrants want to come to your country, and if your nation is prepared to let millions in, that means it needs a massive security apparatus at its borders. Freiman downplays this with his talk of there being at least *some* checkpoints but, in fact, to process and vet the many millions of migrants open borders advocates call for, desirable destination countries like the US, UK, or Sweden would need unprecedented border protections (including coastal defenses that violently turn back migrant boats), not to mention an enormous bureaucracy for vetting would-be migrants. (Migrants today typically dump their IDs, and their home countries have horribly unreliable bureaucracies, so “vetting” is moonshine in any event.) Thus, when pressed, it seems that

¹² Huemer, “Is there a Right,” 430.

¹³ In a later passage, Huemer criticizes as coercive having “armed guards hired to patrol the borders...” (Huemer, “Is There a Right,” 434).

¹⁴ Chris Freiman, “Open Borders, Poverty, and Universal Basic Income.” Interview by Dave Rubin on *Rubin Report*, Jun 7, 2018 (quotation marks and emphasis added). Available: <https://youtu.be/tNxATohmZpo>.

advocates of open borders appreciate the distinction between open access and open residence, and do not take themselves to be defending open access.

However, the student of open borders is justifiably confused by *other* statements about what open borders consist in. For instance, here is Freiman in another defense of open borders:

Before I go any further, I should clarify what I mean by “open borders.” A nation with an open border is not the same thing as a nation with *no* border. Rather, it is a nation with very few restrictions on entry. To illustrate, we might say that Arizona and California share an open border. Arizonans can enter California to live and work without government-imposed restrictions. Similarly, an open border between, say, the United States and Mexico reduces or eliminates restrictions on movement between the two nations.¹⁵

Here we have another confusing “clarification” by Freiman, because there are no walls, fences, or security checkpoints of any kind at the border between Arizona and California (yet). Someone afflicted with any sort of disease, carrying any sort of contraband, or transporting any number of terrorists can drive straight into California from Arizona, and no one would know, and it’s no one’s job to stop them at the border. If *this* is what Freiman means by “porous borders,” then porous borders sound like open access. So it seems we’re back to square one, unsure of whether “open borders” means not only a relatively unrestricted legal right to immigrate, but also unimpeded travel into a nation’s territory.

Sometimes you can tell what a strange thing *is* by figuring out what it’s *for*. Since LOBOTs do such a bad job of telling us what they’re calling for, maybe we should look to their arguments for open borders to determine what they want? Some, such as Bryan Caplan, seem strongly motivated by the *Productivity Argument*. Caplan and other LOBOTs believe that by moving to productive Western states, the poorest people from around the world will be tremendously more productive and we’ll all get richer.¹⁶ Granting this rosy picture for argument’s sake, most or all of the alleged productivity benefits of “open borders” would be

¹⁵ Christopher Freiman, “A Defense of Open Borders,” *The Palgrave Handbook of Philosophy and Public Policy*, ed. David Boonin (New York: Palgrave, 2018): 161-62 (emphasis in original).

¹⁶ Bryan Caplan and Zach Weinersmith, *Open Borders: The Science and Ethics of Immigration* (New York: First Second, 2019). Perhaps the best rebuttal to this claim that focuses only on wealth is by Caplan’s colleague Garrett Jones, *The Culture Transplant* (Stanford: Stanford University Press, 2022).

achieved by open residence, and little to none from open access. So maybe they're only calling for open residence.

But at times Caplan, and certainly other LOBOTs, are also moved by two additional rationales. One concerns the *Freedom of Movement Argument*, which says it's prima facie wrong to keep migrants out because migrants, like everyone else, have a right to move around wherever they please. Another related but distinct argument we can call the *Migrant-Citizen Symmetry Argument*.¹⁷ It's tough to say precisely what libertarians think of citizenship; but in migration discussions it clearly doesn't mean much, because it seems like they operate with the principle that if you can't do something to a citizen, you shouldn't do it to a migrant. These two rationales are often blended together. For instance, in one debate with Rishi Joshi,¹⁸ LOBOT Peter Jaworski argues for international migration on the grounds of the reasonableness of internal migration for co-nationals:

To make this personal again, consider my situation for a minute. I live in Arlington, Virginia. Arlington is very rich, votes Democratic, is very educated, has excellent education and health care systems, and is, in general, a wonderful place to live. Our crime rates and unemployment figures are low. Our educational attainment is very high. We are mostly a white-collar crowd, and we drink our tea with a pinky in the air. Tangipahoa, Louisiana, is none of those things. It is very poor, is uneducated, votes Republican, has poor education and health systems, and is, in general, dramatically different from Arlington. The crime rates are higher, and job prospects are relatively a great deal poorer. Culturally, we are very different. And yet, there is nothing stopping someone from Tangipahoa from getting in her car and driving straight up to Arlington. No one will check to make sure that she shares our culture, that she won't steal Arlingtonian jobs, that she shares our commitment to gender equality, that she practices a religion sufficiently similar to ours, that she believes in the First Amendment, and so on. No one will check her car for weapons, except if she is pulled over by the highway patrol, but this isn't guaranteed. There is no border in her path from her parish to my county. There are plenty

¹⁷ I'll alternate between "citizen" and "co-national," although these two are importantly different and would need to be distinguished in longer discussions. It's hard to state this principle: basically, it asks us to treat "outsiders" as if they were "insiders"—a distinction LOBOTs struggle with.

¹⁸ "For (Some) Immigration Restrictions," and "Response to Peter Jaworski," in *Ethics: Left and Right*, Bob Fischer ed. (New York: Oxford University Press, 2019): 191-198.

of administrative borders, but no physical barrier where we can ensure the preservation of Arlingtonianness. Shouldn't there be a border separating us? [...] I don't have a problem with people from Tangipahoa getting in their car and moving to Arlington. But, then again, I don't have a problem with people from Tamaulipas, Mexico, getting in their car and driving straight up and east to Arlington.¹⁹

So Jaworski is advocating for open access on the grounds of free movement and treating foreigners as one does co-nationals.

Oh wait, no he doesn't. Since if you *read on*, when he's forced to respond to Joshi's discussion of the astounding difference in crime rates between recent "refugees" (i.e., economic migrants, especially from east Africa, the Middle East, and Central Asia) to Western countries, Jaworski offers what LOBOTs call a "keyhole solution"—i.e., a narrow fix that maximizes migration while allegedly answering the restrictionist concern in question. "If crime is a problem, don't keep them all out: instead, exclude single, young men, fourteen to thirty years old, and let everyone else in," Jaworski writes.²⁰ Yet where would we "exclude" these men? Presumably, at a controlled border, and (as we discussed) an awfully robust border in cases where lots of people want, and shall be allowed, to get in. That means walls, fences, barbed wire, guys with guns, dogs, drones, and so on.

Or consider this passage from Bas van der Vossen and Jason Brennan:

Jason lives in Northern Virginia, has a great job, but is getting tired of the traffic. Bas lives in North Carolina and has been telling Jason about how wonderful a place it is to live. Jason decides to move to North Carolina. This was not Bas's intention, and so he decides to prevent Jason from coming. When Jason tries to come anyway, Bas meets him on the road with his gun and threatens to shoot Jason unless he turns around. Again, the restriction is wrongful. Even though Jason had a wonderful life in Washington, DC, Bas still violates his rights when he prevents Jason from moving. Bas uses force to stop Jason from interacting with others who wish to interact with him. The point seems clear, then. The kinds of force and interference involved in limiting people's freedom of movement stands in need of justification. Unless Bas [has] some very good reason for stopping

¹⁹ Peter Jaworski, "Markets Without Limits," in *Ethics: Left and Right*, Bob Fischer ed. (New York: Oxford University Press, 2019): 183-190.

²⁰ P. 201 of Jaworski, "Reply to Joshi," in *Ethics: Left and Right*, Bob Fischer ed. (New York: Oxford University Press, 2019): 199-201.

Jason, [he] need[s] to step aside and let him be on his way. By analogy, the same seems true for modern governments and immigrants.²¹

This version of the intrastate/interstate travel analogy has a subtle wrinkle Jaworski's does not, insofar as it stresses that Brennan has a good life in DC. By this, van der Vossen and Brennan are suggesting that a mere right to freedom of movement supports open borders, that open borders isn't justified only by its alleged benefit of improving the material fortunes of migrants. And importantly, this alleged right weighs in favor of open access, not just open residence. So it seems LOBOTs support open access after all?

When advancing the migrant-citizen symmetry rationale, LOBOTs criticize restrictionists for excluding people of a certain sort—Muslims, the unemployable, the low-skilled, etc.—but not imposing similar treatment on citizens of the same sort. For instance, in this excerpt from a lecture, Brennan suggests that bans on groups with (statistically well-established) worse reputations for criminality would be unjustified because we wouldn't exile male citizens, despite their being predictably more criminal.

[Restrictionist arguments based on criminality] *treat native-born citizens and people born elsewhere differently*. No one would make the argument that I, by being male, am statistically more likely to commit crime than the women in here, therefore by virtue of that we should kick me out.²²

Unfortunately for LOBOTs who think we should treat migrants and citizens the same, the migrant-citizen symmetry rationale is a sword that cuts both ways. If migrant-citizen symmetry is correct, then a LOBOT who asserts that we *should* keep out known criminals or known Ebola carriers would be forced to say, presumably, that we ought to exile *citizen* criminals or *citizen* Ebola carriers. We restrictionists aren't particularly soft-hearted, but even we would not advise *exiling* citizens who steal cars or suffer from a communicable disease. But LOBOTs outright say we may bar migrants with these traits. As we will see later, some say we may bar people of certain faiths (say, Muslims) from entry, entailing that (if the migrant-citizen symmetry arguments holds) we ought to exile Muslim citizens?

²¹ van der Vossen and Brennan, *In Dense of Openness*, 25-26.

²² 6:20ff in Jason Brennan, "Lecture 9: Immigration Rights" *Libertarianism.org*, <https://www.libertarianism.org/guides/lectures/immigration-rights> (my emphasis).

2. Marvin, Marketplaces, and Migration Ethics

Let us focus on Huemer's account in particular for a moment. According to him, "[O]rdinary, noncriminal migrants who wish to leave their country of origin for morally innocent reasons, whether to escape persecution or economic hardship, or simply to join a society they would prefer to live in" have a right to immigrate. And early in his famous essay for this position, he tells us that his arguments will be non-ideological, driven by intuitions about cases.

A word about theoretical assumptions. In my view, most general theories or theoretical approaches in political philosophy—liberal egalitarianism, contractarianism, utilitarianism, and so on—are too controversial to form a secure basis for reasoning. It is not known which, if any, of those theories are correct. I have therefore sought to minimize the reliance on such theories. This does not mean that I assume that all such broad theories are false; I merely refrain from resting my arguments on them. Thus, I do not assume utilitarianism, contractarianism, libertarian rights theory, liberal egalitarianism, nor any general account of harm or rights. Nor do I assume the negation of any of those theories. Instead, I aim to rest conclusions on widely shared ethical intuitions about relatively specific cases. The method is to describe a case in which nearly everyone will share a particular, clear intuitive evaluation of some action, and then to draw a parallel from the case described to some controversial case of interest.

Huemer then offers the case of "Starvin' Marvin," which has become an influential thought experiment for open borders philosophy:

Marvin is in desperate need of food. Perhaps someone has stolen his food, or perhaps a natural disaster destroyed his crops; whatever the reason, Marvin is in danger of starvation. Fortunately, he has a plan to remedy the problem: he will walk to the local marketplace, where he will buy bread. Assume that in the absence of outside interference, this plan would succeed: the marketplace is open, and there are people there who are willing to trade food to Marvin in exchange for something he has. Another individual, Sam, is aware of all this and is watching Marvin. For some reason, Sam decides to detain Marvin on his way to the marketplace, forcibly preventing him from reaching it. As a result, Marvin returns home empty-handed, where he dies of starvation. What is the proper assessment of Sam's action?

Analogizing countries as marketplaces is something a libertarian might like, but few others. I, and perhaps you, think of countries as *homelands*, not marketplaces. But let's contemplate where this marketplace analogy leads and see how amenable even it is to open borders.

Given the freedom to do so, businesses can be picky about who they let into their premises. Stores and restaurants, for example, will keep out people they feel are bad for their images, profits, or working environment. Upscale ones have dress codes. On NYC's Fifth Avenue and Beverly Hills's Rodeo Drive, stores selling *haute couture* can be found in which customers must be "buzzed in" by employees in an effort to keep out the riff raff. Golf clubs used to serve only WASP or Jewish clientele as a matter of policy. I don't know if any country clubs still do that, but I know of a dive bar in Ohio that, wishing to exclude black customers, became a "private club" that handed out keycards only to whites. In many shops in depressed areas, owners post signs declaring their legal right to refuse service to anyone. Now although the legality of such policies is questionable today, these discriminatory policies are something libertarians would have to be okay with, given their commitment to free association. So, on a libertarian rationale that analogizes a nation to a business, or wishes national borders to be treated like the entrances to businesses, there is an embarrassment of flexibility when it comes to restricting access, and even restricting residence.²³

Maybe we shouldn't analogize countries to stores but to marketplaces such as malls, and see individuals as analogous to the particular shops within? Even so, we should bear in mind that malls have entryways and hours of operation. Some, in high-crime areas, have metal detectors or security guards at the doors. Again, many malls have "no shirt, no shoes, no service" policies. Likewise. "Mall of America" may demand those interested in trading with its individual buyers and sellers to enter through the border in an orderly manner. In analogy to what malls do, nations may, perhaps with the aid of biometrics, bar people who have no ability to fend for themselves, make the place less livable, or carry in firearms.

Here Huemer will demur. Huemer dislikes the idea of an authority that tells the various economic agents who they can and cannot deal with. As best I can tell, Huemer wants us to understand our nations as something like informal outdoor markets located in some sort of no-man's-land oppressed by shady mafiosos (in America's case, "Sam"). In this scenario, every merchant-resident can hire and sell to whom they like. In other words, Huemer's marketplace

²³ Uwe Steinhoff, *Freedom, Culture, and the Right to Exclude* (United Kingdom: Routledge, 2022).

analogy doesn't resemble any actual marketplace because (to Huemer) there is no analogous just authority regulating sellers and consumers in an actual country.²⁴ Which is, of course, something only someone with a radical libertarian position on state authority will say.²⁵ This position *may be true*, for all we'll argue here. But given that Huemer's case for open borders relies upon it, Huemer's particular LOBOT cannot be any more attractive than his radical libertarian positions about the (non-)extent of political authority.²⁶

Here is another way to show that Huemer's view is only as strong as his extreme libertarianism. Note that the moral heft of Starvin' Marvin's right to enter the marketplace is not his freedom of movement per se, but his prima facie right to do business to survive.²⁷ Conceiving of the marketplace (Huemer's words and analogy) as a physical space,²⁸ the Marvin thought experiment does not justify Marvin's arrival merely to enjoy the benefits of the market's air conditioning, better set of people, or security. Thus, nothing in the case obliges us to accept (say) so-called "climate refugees," social migrants (e.g., retirees), or asylum-seekers. Insofar as Huemer wishes to defend the migration of such groups, the Marvin case is, without supplementation, insufficient for that task.²⁹ So how can we get from the Marvin case to a right to immigrate for all other reasons Huemer also recognizes?

As it happens, libertarians don't privilege economic association: whether it's business, marriage, friendship, or anything else, on libertarian grounds it's not the state's right to interfere with our consensual relationships. Thus, on libertarian grounds, Marvin doesn't really need to be

²⁴ See Huemer's discussion of why nations should not be analogized to clubs in "Is There a Right," 445-448.

²⁵ Michael Huemer, *The Problem of Political Authority* (New York: Palgrave, 2013).

²⁶ Those who, like Raphael Nawrotzki, appear to be actually quite statist but support open borders for other reasons, are being somewhat opportunistic when they appeal to LOBOT rationales such as Huemer's, which rely on premises statist are unlikely to accept. See Raphael Nawrotzki, "Climate Migration and Moral Responsibility," *Ethics, Policy & Environment*, 17:1(2014): 69-87, DOI: 10.1080/21550085.2014.885173.

²⁷ Brennan similarly describes the Marvin case to be about Sam's preventing Marvin's "trade with a willing partner" at 3:30ff of "Lecture 9." Christopher Wellman ("Immigration and Freedom of Association," *Ethics* 119, no. 1 (2008): 109-a41, <https://doi.org/10.1086/592311.2008>) notes (pp. 130ff) that libertarian open borders advocacy rests on "property rights" and "freedom of movement" rationales, and argues against both justifying open borders. I don't focus on the former, but dwell on arguments based on productivity for the poor, free movement, and migrant-citizen symmetry. Wellman also observes that the assumption that private firms and individuals have a right to invite whom they please to better transact with them more-or-less assumes anarchism, which is a main point of this section.

²⁸ Nothing in the Marvin case would justify Marvin's entry into the marketplace if the "marketplace" (in a non-material sense of mere opportunity to trade) were to come to Marvin—if, say, someone left a rich country and traded with Marvin in his impoverished homeland. This possibility raises the question of free trade, but not unrestricted migration.

²⁹ "How does all this relate to U.S. immigration policy? The role of Marvin is played by those potential immigrants who seek escape from *oppression* or economic hardship" (Huemer, "Is There a Right," p. 423, emphasis added). Nothing in the Marvin case justifies being sheltered by the marketplace.

starving, or even have anything of value to trade, to justify his entrance. If Marvin was invited by a lonely Denver or Arlington resident to a backyard barbeque, then on LOBOT ethics, Sam has no right to bar his way. If a *non*-citizen in Denver or Arlington wants Marvin to come join him in a backyard barbeque, LOBOTs have to say that Sam shouldn't be able to stop him. If a non-citizen in Denver or Arlington wants 10,000 Congolese to join him in a barbeque for no good reason at all (maybe it would make a funny social media post?), LOBOTs have to say that Sam has no right to stop them. After all, as migrant-citizen symmetrists will point out, if *you* wanted to invite 10,000 of your *countrymen* to your barbeque, you could, and it isn't *your* legal obligation to make sure they have housing! When you consider that NGOs are established to give aid to migrants, you see that all the developing world has technically been invited to a barbeque in your homeland.³⁰

Or do migrants even need an invitation? The LOBOT doctrine of migrant-citizen symmetry, paired with their interpretation of our right to freedom of movement, means that we have no right to exclude millions of migrants wishing to occupy our lands even if no one invited them or wanted to deal with them. Even if millions of Marvins dislike us, or even hate us, we cannot bar their way because, as seen above, millions of hypothetical co-nationals who hate us *might* have moved next door, or millions of our co-nationals *might* have suddenly hated everything about us.³¹ These, dear reader, are the non-ideological commonsense intuitions of libertarian open borders theory.

3. Authoritarian Keyhole Solutions

Now *actual* common sense says that open access, at least, would be suicidal and morally irresponsible. Insofar as they are able, governments should bar the entrance of deadly drugs, sex slaves, poached animal contraband (such as ivory or rhinoceros horn), terrorists, criminals, and predictable public charges. Thus, for any state determined to admit millions of migrants, borders must be controlled and migrants vetted. LOBOTs seem to allow as much, at least when directly

³⁰ Todd Bensman, "Biden Admin. Sends Millions to Religious Nonprofits Facilitating Mass Illegal Migration," *Center for Immigration Studies*, Jan. 30, 2024, <https://cis.org/Bensman/Biden-Admin-Sends-Millions-Religious-Nonprofits-Facilitating-Mass-Illegal-Migration>.

³¹ Considerations such as this prompt Caplan to say that Israel, for instance, shouldn't have open borders, since so many people hostile to Jewish Israelis would migrate there to undermine or even kill Israelis. Of course, the same can be said of Christian or liberal Americans, Britons, etc. See "Would Bryan Caplan Let in Terrorists?," *Aporia Podcast*, January 2024, https://youtu.be/7k2nkdG_pb4?si=-CrZK58DRreBbMO_1.

challenged about these obvious concerns. I ask: where exactly do these migrants live while they are waiting to be vetted? What sort of walls, wire fences, armed boats, and so on, are we willing to build and maintain to facilitate open residence without open access? How many desperate migrants attempting to get past these barriers are we willing to shoot? How many nurses and doctors do we hire to evaluate and treat illnesses? Since migrants often lie about their past and bring forged documents (and children, who may or may not be trafficked), how many interrogators and investigators do we hire to ensure (as if we could) that the criminals are kept out and that the kids they bring aren't trafficked? In the meantime, if we do separate adults from children, who babysits these hundreds of thousands of kids? How much biometric information do we gather and share with other governments? How many clerks and support staff will be needed to process all this paperwork? Never have I seen an open borders economist tally up those numbers, say who's going to pay for it, or address the authoritarian measures these institutions would require to function. They need to, as this list of costly and authoritarian measures are predictable given a restricted access + open residence regime. In contrast, a restrictionist (restricted access + restricted residence) regime that refused entry to anyone merely showing up at the border (be they "refugees" or not), that dealt violently with anyone attempting to cross its borders illegally, and that jailed nationals who hired illegals, would not attract hordes of migrants to its borders, thereby destabilizing its neighbors and necessitating the above unsustainable, manifestly ineffectual, coercive, and at least equally violent bureaucracies. Migrants are not foolish: they will not waste their time and money traveling to lands where their attempts are bound to fail.

That said, LOBOTs will concede that even the (alleged) right to migrate (i.e., open *residence*) may be outweighed by other harms. If these harms prove real, they'll usually say the correct response isn't to reestablish a restrictionist regime, but rather to make the smallest practicable change to open borders policy necessary to obviate the downside in question—their so-called "keyhole solutions."

For instance, restrictionists point out that migrants are likely to have values that vary dramatically from those of their receiving countries. Many migrants bring values that those in receiving countries find sexist, patriarchal, racist, fundamentalist, undemocratic, and illiberal. Open access could easily result in migrants outnumbering natives, meaning a complete change in political priorities. What should be done? One keyhole solution Huemer and others endorse in

that eventuality is not letting them vote.³² And nothing in particular obliges a LOBOT to allow even the children of migrants to vote, if their children manifest the same tendencies.

Or consider medical care. All popular receiving countries provide taxpayer-funded medical care to needy migrants. It is easy to imagine millions of people moving to a rich nation just for the medical care, even if they despise its culture and people. Given the high costs of medical care, this is unsustainable. The LOBOT keyhole solution is, of course, simply to deny migrants this public service.³³ Caplan even considers charging migrants higher taxes, requiring migrants to pay higher tuitions at state colleges, or charging them to enter the country (in his graphic book, *Open Borders: The Science and Ethics of Immigration*, one panel depicts a migrant handing a bag of money over at . . . a border crossing).³⁴ Caplan approvingly quotes LOBOT Alex Nowrasteh saying that we should “build a wall around the welfare state, not the country.” He also suggests that forcing migrants to learn English or pass “rigorous civics tests” before becoming citizens would be better than restricting their migration.

Now LOBOTs think some of these keyhole solutions are bad, but morally superior to the alternative of keeping migrants out. But they think some are justified. For instance, Caplan seems to think that mass migration from Muslim countries could have a negative effect on liberal values. To this, he suggests not admitting Muslims or at least limiting Muslim migrants to a certain sustainable percentage by bringing in proportionately more non-Muslims. Likewise, everyone knows that a skewed sex ratio can foment social discord, so if there are too many males coming across the border, Caplan advises bringing in more females. If too many “future Democrats” are coming in, bring in more “future Republicans” to balance them out, and so on. How, then, is this to be accomplished, exactly? Shall we ask migrants whether they’re Muslim or not? Muslim migrants aren’t stupid; if they know there’s a ban or a limit on Muslims, many will lie. If *we* aren’t stupid, we’d better not take anyone at their word. Can anyone walk us through the process of determining whether someone is a Muslim? Do we find pictures of them doing Muslim things? If they say they recently abandoned the faith, do we believe them? Or how do we determine if someone is a “future Democrat” or “future Republican” (how about “future Green

³² Migrant-citizen symmetry would seem to militate against such discrimination. Again, the reader should note that migrant-citizen symmetry seems to matter for LOBOTs when it works in favor of migration, but LOBOTs will abandon it with ease if it tells against migration.

³³ Huemer, “Is There a Right,” 142ff.

³⁴ Huemer, “Is There a Right,” 144.

Party voter”)?—there are a lot of parties out there!). By their demographic profile? Imagine the toxic politics behind calibrating immigration quotas on this logic. Imagine how cynical and racially loaded political parties would become under this scenario. Gone would be even an attempt at persuading our fellows to change their views: democracy would be nothing but a demographic head count in which party leaders agitate to reject or attract foreigners based on their race or their sex in order to win elections.³⁵ And none of this, of course, is compatible with migrant-citizen symmetry, since, as Huemer points out, we cannot limit the number of *natives* who convert to Islam³⁶ or wish to vote for a party we disagree with.³⁷

Conclusion

I am aware that restrictionist solutions have (to many) counterintuitive consequences as well. In my view, any sustainable restrictionist solution will seem heartless, at least until the alternatives are widely appreciated. There are no easy answers in a world where hundreds of millions have the desire and means to migrate. My point is that LOBOT is not some morally elegant solution to the problem of mass migration. To deserve to be taken seriously, LOBOTs must acknowledge the need for tight border control and abandon any arguments (such as *Freedom of Movement* and *Migrant-Citizen symmetry*) that entail open access. They need to be clear about their libertarian commitments and the essential role these play in their advocacy for even mere open residence. Finally, they need to acknowledge the tensions, if not outright inconsistencies, between their libertarian values and keyhole solutions, and square both with the real-world constraints of group dynamics and human psychology.

³⁵ In reality, the political prize would be controlling the immigration bureaucracy that makes these calls.

³⁶ Huemer, “Is There a Right,” 449ff. See Rafael De Clercq, “Huemer on Immigration and the Preservation of Culture,” *Philosophia* (2017) 45: 1091–1098.

³⁷ Michael Huemer, “The Right to Move versus the Right to Exclude: A Principled Defense of Open Borders,” unpublished manuscript, available at <https://philarchive.org/archive/HUETRT>.

A Case for Immigration

Michael Huemer

Many Americans today are gravely concerned about migration across the nation's southern border. President Biden has been (exaggeratedly) accused of instituting a policy of "complete open borders."³⁸ At the risk of disappointing readers, I confess that I do not favor literally complete open borders. I do, however, support *relatively* open borders for the U.S.,³⁹ meaning that the great majority of people who wish to immigrate should be allowed to do so. I would make exceptions for individuals who are at especially high risk of committing serious crimes or of carrying communicable diseases. But the overwhelming majority of migrants, I believe, fall in neither category and should be free to do as they wish. Most reasons for restricting movement are terrible reasons, and the current regime of restrictions is among our country's worst policies.

I. The Prima Facie Case

My core reasoning is as follows:

1. Harmful coercion is prima facie wrong.
2. Immigration restrictions are harmful and coercive.
3. So immigration restrictions are prima facie wrong.

A. Premise 1

To explain the first premise, I believe that in general, one should not deploy force against other people in a way that harms them, without having a good reason for doing so. For instance, you should not walk up to a stranger on the street and punch them. Coercion also includes *threatening* people with force. Thus, you also should not go up to a stranger and *threaten* to punch them. This strikes me as a fairly minimal ethical principle—if coercively harming people for no good reason isn't wrong, then I don't know what is.

³⁸ See John Daniel Davidson, "Without Debate, President Biden Has Decided on Complete Open Borders", *New York Post*, March 8, 2021, <https://nypost.com/2021/03/08/without-debate-president-biden-has-decided-on-complete-open-borders/>.

³⁹ This expression is from Joseph Carens, "Aliens and Citizens: The Case for Open Borders," *Review of Politics* 49 (1987): 251-73, p. 252.

There may be cases of *beneficial* (paternalistic) coercion. For instance, you forcibly take someone's crack pipe away from them. I am not saying anything, one way or the other, about such cases. There are also cases of non-coercive harms. For instance, you might harm someone by successfully outcompeting them in business. Again, I am not saying anything about such cases. I am only discussing cases in which your treatment of another person is both coercive *and* harmful.

I have said only that such behavior is "*prima facie* wrong," rather than simply "wrong." By this, I mean that there is a moral *presumption* against coercively harming others—we can start from the assumption that such behavior is wrong, in the absence of sufficiently good reasons in favor of it. One can certainly think of cases in which harmful coercion is justified. For instance, in a boxing match to which both parties have agreed, it is permissible to punch your opponent in the face. Or suppose that a criminal on the street attacks you with a knife. It is permissible to respond by pulling out your gun and shooting the criminal. This shows that consent and self-defense are (sometimes) good enough justifications for harmful coercion. There are undoubtedly other reasons that suffice to justify harmful coercion; my point is simply that a justification is needed.

So, my argument as given above only claims to show that immigration restrictions are wrong *unless* we have sufficiently good reasons for them. In section II below, we'll consider what those reasons might be. For now, let's just focus on the *prima facie* case against restriction.

B. Premise 2

Turning to my second premise: are immigration restrictions *coercive*? Of course they are. The government imposes them, not by making polite requests, but by hiring armed guards to patrol the border. When the government discovers people in the country illegally, they forcibly take those people captive and move them across the border. Compliance is compulsory. This is precisely what proponents of immigration restriction advocate for.

Are immigration restrictions *harmful*? Yes, they are. Imagine that someone kidnaped you at gunpoint, flew you to Nicaragua, then forced you to spend the rest of your life there. Would that person be harming you? If you answered "yes," consider that that is the same harm that would-be immigrants suffer from immigration restrictions. I have an example to illustrate the main point:

Starving Marvin: Marvin is hungry and short on food. Fortunately, he has a way to obtain food: he plans to walk to a nearby marketplace. If he reaches the marketplace, he will be able to trade for some food. Unfortunately, he is accosted on the road by Sam, who is carrying an M16. Sam explains that he has some nephews and nieces who trade in that marketplace, and Sam doesn't want them to be able to trade with Marvin. Sam forcibly blocks Marvin's progress and sends him back home, where Marvin starves.

Did Sam harm Marvin? Did Sam act wrongly? The answer to both is clearly yes. Sam isn't responsible for the fact that Marvin was hungry to begin with, nor is he responsible for the fact that Marvin has no other options for obtaining food. Nevertheless, when Sam forcibly prevents Marvin from remedying the problem, he thereby makes himself responsible for Marvin's starvation. This illustrates the point that, to count as harming someone, it is not necessary that one be the originating cause of the harm that they suffer; it is enough that one forcibly prevent them from taking steps to avert a harm. If Sam had no good reason for interfering with Marvin, then he did something very wrong.

This is analogous to what the U.S. government does to potential immigrants. Migrants have economic and other needs, which they could satisfy through voluntary trade if they were to reach the United States. The government does not want the migrants to do so, so it bars the way with fences and armed guards and forces the migrants to return to or remain in their countries of origin. As a result, millions of potential immigrants continue to suffer severe economic hardship and oppression. By coercively intervening to prevent them from remedying their current hardship, the government harms these potential immigrants. If it has no good reason for doing so, then the government, like Sam in the above example, is doing something very wrong.

C. An Objection

Some would object that the U.S. does not actively *harm* potential immigrants by refusing them entry but merely *fails to benefit* them. This matters because it is widely considered *worse* to harm someone than it is to fail to benefit them. For instance, stealing food from a poor person is much worse than merely refusing to give them food.

Let's see how the objection would go. I have claimed that acting to *prevent someone from remedying* a harm counts as harming them, even if you are not the original source of the harm they seek to avoid. But there is one exception to this: if a person is going to obtain a benefit *from*

you, and you actively intervene to stop them from getting that benefit, that counts as merely *refusing to benefit* that person, not harming them. For example, suppose that Marvin is about to enter my kitchen, where he will take some of my food out of the refrigerator and eat it. I forcibly stop him from entering, thereby depriving him of food that he would otherwise have had. In this case, I am *not* actively harming Marvin; I am merely *refusing to help* him, since the good I deprive him of would have come from me.

Similarly, you might think that in denying Marvin entry to the United States, the U.S. merely *refuses to help* potential immigrants, because the goods that they are prevented from obtaining would have come *from the U.S. itself*. If we stop immigrants from moving to Canada, *then* we're harming them; but if we stop them from moving to our *own* country, then we are merely refusing to benefit them.

To address this objection, it is essential to distinguish different agents within the United States. In particular, we need to distinguish *the U.S. government* from the various *private actors* in the U.S. In denying entry to potential immigrants, the government prevents those potential immigrants from obtaining various benefits from the U.S. government, such as welfare payments or public schooling. But those are not the benefits that my argument is concerned with; as far as my argument goes, there is nothing wrong with the government's denying immigrants *those* goods. The problem is that *the government* prevents potential immigrants from obtaining goods *from private citizens* who would like to trade with those immigrants. Thus, the government is not merely refusing to benefit immigrants; it is actively harming them by stopping *other people* from helping them. This point is obscured by the tendency to confuse the government with the country by ambiguously labelling the government and/or the rest of the country "the United States."

II. Reasons for Restriction

As I've indicated, the above is only a *prima facie* case for open immigration: it shows why it is wrong for the government to restrict migration *unless* they have a good reason for doing so. Let's turn to the reasons for restricting migration and assess how good they are.

A. Economic Competition

Traditionally, the most popular rationale for restricting migration is to limit economic competition. It is said that immigrants “steal jobs” from native-born workers and cause wages for some kinds of labor to drop.

The overwhelming majority of economists view immigration as an overall boon to the economy, not a drag.⁴⁰ We don’t have time to discuss the reasons for this in detail, but in general, free trade almost always benefits both parties. Low-cost labor results in low-cost goods and services, which benefit almost everyone.

If you find it intuitive that adding more immigrant workers to the labor force would harm the economy, you should ask yourself why adding more *native-born* workers to the labor force wouldn’t harm the economy. When teenagers first become old enough to work, is that bad for the rest of us? Why not? Well, roughly speaking, work produces valuable goods and services, which is the actual point of having an economy. Trying to stop people from working is essentially trying to stop people from producing benefits. This is equally true regardless of the workers’ origin; the effect of a new worker entering the labor force is the same regardless of whether that worker is native born or an immigrant.

Nevertheless, not *everyone* benefits from immigration. There is evidence for a slight decrease in wages for the least-skilled workers (especially high-school dropouts) as a result of immigration, essentially because these are the only workers who are substantially in competition with immigrant workers.⁴¹ Is this enough to justify restricting immigration?

To gauge this, let’s return to the example of Starving Marvin. Imagine that, after learning of what Sam did to Marvin, you confront Sam:

You: Hey Sam, it looks like you really harmed Marvin a lot. Why did you do that?

Sam: Well, you see, I have some nephews and nieces who also like to trade in that marketplace. If Marvin got there, he might bid up the price of food, and then some of

⁴⁰ See Julian Simon, *The Economic Consequences of Immigration* (Oxford: Blackwell, 1989), pp. 357-61; Bryan Caplan, *The Myth of the Rational Voter* (Princeton, N.J.: Princeton University Press, 2007), pp. 58-9.

⁴¹ See National Academies of Sciences, Engineering, and Medicine, *The Economic and Fiscal Consequences of Immigration* (Washington, D.C.: National Academies Press, 2017), <https://doi.org/10.17226/23550>, pp. 241-8.

my nephews and nieces might have to pay slightly higher prices. Clearly, I couldn't allow that to happen.

This reason would obviously fail as a justification. The desire to grant someone economic advantages by protecting them from market competition is not a sufficient justification for harmful coercion. There are many other illustrations of this point. Just as one may not forcibly prevent someone from buying food in order to keep food prices down, one may not use force to stop other people from applying for a job that one wants, nor may one vandalize a competitor's store to stop them from competing for one's customers.

Some argue that the government has special duties to its own citizens, wherefore they must prioritize the welfare of American workers over foreign workers. Some also hold that the government should prioritize the welfare of its *poorest* citizens over that of wealthier citizens. Does this provide a reason for restricting migration, to protect the economic prospects of the poorest citizens?

It does not. When one takes on special duties to a particular person or group, these duties can *restrict* one's options, but they cannot *create new options* to do things that previously would have been wrong merely because one would thereby help that person or group. For example, people have special duties to take care of their family members, which they do not owe to ordinary strangers. Thus, Sam might have special duties to his nephews and nieces, which might obligate Sam to spend some of his money to ensure that his nephews and nieces have enough to eat. But this would not make it permissible for Sam to steal money from third parties in order to give the money to his nephews and nieces. Nor, similarly, may Sam forcibly prevent third parties from trading in the marketplace, merely to procure economic advantages for his nephews and nieces.

If you're not sure that an uncle has a duty to provide for his nephews and nieces, you can imagine that Sam also signed a contract promising to ensure that all his nephews and nieces were well-fed. This still does not make it okay for him to coercively harm third parties, even if his doing so would help him feed his nephews and nieces.

Similarly, the government's obligation to attend to the interests of its citizens would not give it the right to coercively harm third parties, even if its doing so would procure advantages for its own citizens.

B. Preserving Culture

Some say that we must restrict immigration in order to protect our culture from the influence of people from foreign cultures.

To begin with, I do not believe American culture is in danger of being destroyed by exposure to other cultures. On the contrary, I think that when American culture comes into contact with other cultures, it is the *other* cultures that tend to get assimilated or destroyed. It is far more likely that American culture is going to take over the rest of the world than that it will be destroyed by foreigners. The same is true of Western culture more generally.

I also doubt that preservation of culture is a sufficient reason for harmful coercion. Again, imagine confronting Sam about his interference with Marvin:

You: Hey Sam, why did you harm Marvin like that?

Sam: Well, Marvin worships the wrong God, eats weird food, wears funny clothes, and speaks a language I'm not familiar with. I was worried that if he was able to reach the marketplace, he might influence people there to take up some of his practices. So naturally, I had to forcibly bar the road. It's too bad for Marvin, but it's a small price to pay for preserving the marketplace's culture.

Again, this justification seems completely inadequate. No one has the right to coercively interfere with other people just to stop them from influencing the culture. The culture of your society is a matter of the practices adopted by other people. Where these practices are non-rights-violating (for instance, speaking a certain language), you have no legitimate complaint about them, and no right to demand that others take up or continue the practices that you prefer. For example, since you have no right to have other people practice your preferred religion, you may not use force against other people to prevent them from spreading a religion that you disprefer.

Likewise, the state lacks a right to harmfully coerce people to prevent them from influencing the culture. Since individuals may not do this on their own behalf, they also cannot delegate to the state the authority to do this on their behalf.

C. Control of Public Property

Another rationale for immigration restrictions is to prevent foreign nationals from using public property or receiving government benefits.⁴² For instance, immigrants may drive on the roads, send their children to public schools, and call for police protection against criminals. These resources belong to the public collectively, that is, to the current citizens of the country. The citizens therefore have a collective right to decide how to use these resources, including a right to decide not to share them with people from foreign countries. It happens, however, that the only practical way to stop foreign-born people from using public resources is to bar them from entering the country. Thus, the argument goes, the current citizens of a nation have the right to bar foreigners from entering, if they so choose. The way they do this (in a democratic society) is through their agent, the government.

There is a Starving Marvin illustration for this argument too.

You: Sam, why did you harm Marvin?

Sam: I have a charity program, whereby I give free food to everyone in the marketplace.

But I didn't want to give free food to Marvin. So I had to stop him from getting there. This justification obviously fails. If Sam doesn't want to give food to Marvin, he can refuse to do so (changing his current policy). But he cannot forcibly stop Marvin from voluntarily trading for food with other people in the marketplace, solely to prevent *himself* from voluntarily giving Marvin some food.

Now, you might think this analogy fails because Sam can easily withhold food from Marvin even if Marvin enters the marketplace. This is similar to how the U.S. government can and does withhold welfare benefits from recent immigrants. However, there are other goods that cannot be so easily withheld. For instance, anyone who lives in the territory of the United States benefits from its national defense apparatus, in the sense that they are safe from foreign military attacks. They benefit also from the general provision of law and order and from the maintenance of roads. It would be impossible or impractical for the government to stop people who are living in the country from receiving these "public goods" (as the economists call them).⁴³ The only

⁴² See Stephen Kershnar, "There Is No Moral Right to Immigrate to the United States," *Public Affairs Quarterly* 14 (2000): 141-58.

⁴³ In economics, a "public good" is a good that must be provided to either all or none of the members of some pre-existing group; see David Friedman, *The Machinery of Freedom*, 3rd ed. (independently published, 2014), p. 131.

practical way to refrain from giving those benefits to immigrants, therefore, is to exclude them from the country entirely.

To accommodate this point, let us imagine another program for Sam:

You: Sam, why did you harm Marvin?

Sam: I recently set up some speakers in the marketplace to play beautiful music for people.

But I didn't want to entertain Marvin. It's *my* music system, so I don't have to provide it for anyone I don't want to provide it for! It happens that the only way to stop Marvin from enjoying the music was to completely exclude him from the marketplace, so that's what I did.

Surely this doesn't give Sam the right to block Marvin from entering the marketplace. Sam can't stop Marvin from getting food from other people in the marketplace merely because Marvin would at the same time get some other benefit caused by Sam.

D. Fiscal Burdens

Perhaps the problem is not that we wish to stop certain people from *benefitting* at our hands (which would be a peculiarly malicious motive). Perhaps the real problem is that we want to stop certain people from *adding to our costs*. As the population increases, perhaps the costs of government services increase. Imagine that somehow, Sam's entertainment system became more costly to maintain, the more people were in the marketplace. Wouldn't Sam then have some recourse?

The way governments usually handle these costs is by collecting taxes. As the population increases, the government's costs increase. But the government's *revenues* also increase proportionately, due to a larger number of taxpayers. So in general, there is no *net* cost from population increase.

In the case of immigration, however, there may be an increase in tax burdens for native-born citizens, owing to the fact that most immigrants are low-income workers.⁴⁴ Because of the progressive tax structure of America, low-income individuals tend to be a net burden on high-income individuals. I.e., poor taxpayers pay *less* into the system than the government spends on

⁴⁴ Estimates of the net fiscal impact of an immigrant vary dramatically depending on assumptions, from a net benefit of \$279,000 to a net cost of \$119,000; see National Academies of Sciences, Engineering, and Medicine, *op. cit.*, pp. 428-38.

them, while wealthy taxpayers pay more. Therefore, to avoid increasing tax burdens, wealthy Americans might wish to stem the flow of immigrants.

To take account of this point, imagine another defense offered by Sam for his exclusion of Marvin:

You: Sam, why did you harm Marvin?

Sam: Well, I had previously decided that I'm going to take money mostly from wealthy people and use it to benefit people in the marketplace. Marvin is poor. Therefore, if he reached the marketplace, I would take some additional money from rich people to help (in part) Marvin. To stop myself from doing that, I had to block Marvin from getting there.

Again, I don't think this defense succeeds. If Sam is concerned about taking from the wealthy to help *Marvin*, he can change his policies regarding Marvin, so that Marvin's arrival wouldn't impose a greater burden on the wealthy. This does not provide a good reason to completely exclude Marvin from the area. One cannot, in general, justify harmfully coercing someone merely on the grounds that you have decided that if you don't harmfully coerce that person, you are going to increase your harmful coercion of someone else.

Analogously, if the government is concerned about burdening taxpayers, it could change its policies so as to either collect more taxes from immigrants or provide fewer government services to them, such that their arrival would be fiscally neutral. The availability of this option obviates any reason for excluding them from the country.

E. Freedom of Association

Individuals have a right to choose whom to associate with or, more to the present point, whom *not* to associate with. If you don't want to work for someone, or live with someone, or be friends with someone, you don't have to. You don't even need a good reason; you can simply decide that you don't feel like associating with them.

Perhaps citizens of a nation also have a right to choose not to "associate" with foreign-born people in the sense of sharing a country with them. The citizens would exercise this right collectively, through their government, by banning immigration. Imagine how this reasoning would go with Sam and Marvin:

You: Sam, why did you harm Marvin?

Sam: I have a right to decide whom to associate with! I sometimes use that same marketplace, and I did not want to associate with Marvin in the sense of sharing a marketplace with him.

This sounds like a very lame justification. The main problem is that merely using the same marketplace as someone else (where you don't have to actually trade with them or even talk to them) is such a tenuous "association" that it is implausible that one would have a significant right to control associations of that kind. Meanwhile, Sam is interfering with much more significant association rights—the rights of Marvin and his would-be trading partners to trade with each other.

Similarly, the "association" that consists merely of residing in the same country as someone else is so tenuous that it is implausible that individuals have a significant right to control whom they associate with in that sense. Much more important are the associations between immigrants and the trading partners, friends, and other people they would interact with voluntarily in their desired destination country. Many native-born citizens are happy to interact with immigrants, and those who do not wish to do so are not compelled to interact with them in any significant way merely by virtue of their residing in the country. Thus, freedom of association overall tends to support open immigration.

F. Political Influence

Conservative commentators have expressed concern that immigration threatens to upset the political balance in America because immigrants tend to lean more to the left rather than the right side of the political spectrum.⁴⁵ Indeed, some accuse Democratic politicians of attempting to import more Democrat-friendly voters to give the Democratic Party permanent control of government.⁴⁶ Such a plan could be disastrous, converting America essentially into a one-party democracy. With no significant competition, the single dominant party could easily become tyrannical.

⁴⁵ See Byron York, "Study Finds More Immigrants Equals More Democrats — and More Losses for GOP", *Washington Examiner*, April 15, 2014, <https://www.washingtonexaminer.com/opinion/1858893/study-finds-more-immigrants-equals-more-democrats-and-more-losses-for-gop/>.

⁴⁶ See Tucker Carlson's Twitter post of July 19, 2022, <https://twitter.com/TuckerCarlson/status/1549576493189283846>.

Unlike the previous rationales for restricting immigration, this one cites a harm that really might plausibly justify harmful coercion against potential immigrants, if such coercion were needed to avert the harm.

Fortunately, it is not. The government could easily admit migrants as legal residents without granting them voting rights. This is the situation of millions of green card holders in the United States presently, and no one seems to regard this as a problem.

Granted, the children of these immigrants might, in 20 years' time, start voting more Democratic than Republican. However, there are at least two reasons why this is unlikely to lead to a permanent Democratic majority. First, the Democratic slant of the descendants of immigrants tends to diminish over the generations—second generation immigrants are less slanted than first generation immigrants, and third-generation immigrants are less slanted than second-generation immigrants.⁴⁷

Second, the rough political balance between the two leading parties in the U.S. has been maintained for over 150 years, despite enormous changes in the demographics of the electorate, in the overall character of society, and in the political issues of the day. This is not plausibly viewed as coincidental. The best explanation is that the two parties adjust their positions so as to maintain that balance. If one party starts dominating elections, the other party alters its position and/or image to capture more of the vote. Note that this does not depend on assuming that there is only one dimension of voter preference, or even that voter preferences are solely over policy positions. This explanation works as long as the two parties can identify voter preferences, they can alter the positions and other qualities of candidates over which voters have preferences, and each party seeks to maximize their own votes. So, the political balance will probably continue to be maintained in the face of future demographic shifts.

III. In Defense of Illegal Immigration

One perhaps tangential question concerns the morality of illegal immigration. Given that most people are prohibited from immigrating to the U.S., is it morally permissible to violate the law and migrate anyway?

⁴⁷ Kathleen Ronayne and Emily Swanson, “Young Voters from Newer Immigrant Families Lean More Liberal, Poll Shows”, PBS News Hour, September 8, 2016, <https://www.pbs.org/newshour/politics/immigrant-young-voters-liberal>.

Many political leaders appear to be outraged by such behavior.⁴⁸ However, the behavior appears to be both rational and morally blameless. To see this, we must first reflect on why individuals are thought to be obligated to obey laws in the first place.

The most popular theory of this is the *social contract theory*. It says that there is a kind of implicit agreement between citizens and the state whereby citizens obey the law and pay taxes in exchange for the government's protection and/or provision of social services.

On this theory, the obligation to obey the government is a contractual obligation, which depends upon one's receiving benefits from the government in return. One cannot be contractually obligated to do something that would inherently exclude one from obtaining any benefits from the contract. For instance, one could not have a valid employment contract that required the employee to never cash any of his paychecks. Nor could there be a valid lease that required the tenant to never use the apartment he is renting. Likewise, there could not be a valid *social* contract that required one to exclude oneself from getting any benefits from the relevant society. If potential immigrants were to obey the laws that prohibit them from migrating to their desired destination, they would be excluding themselves from obtaining any benefit from the society that made those laws. So, no valid social contract could require them to do that.

In other words, under the social contract theory, foreign-born individuals would not be bound by our laws unless and until they had already joined our society and received benefits from it. So, they are not doing anything morally wrong when they illegally cross the border.

There are other theories of the obligation to obey the law. For example, that obedience shows proper gratitude for the benefits provided by the state, that disobedience is unfair to other citizens, or that obedience shows proper respect for the equality of all citizens. However, these other theories also generally require that the person who is supposed to be bound by a given state's laws should have received a fair share of the benefits provided by that state. This rules out arguing that one is obligated to obey a law that would exclude one from obtaining any such benefits.

⁴⁸ See, e.g., Rep. Raul Labrador's remarks quoted by National Public Radio, "Rep. Labrador Could Shape House Plan On Immigration," February 7, 2013, <http://www.npr.org/2013/02/07/171345273/rep-labrador-could-shape-house-plan-on-immigration>.

IV. Conclusion

Human beings have a natural suspicion of foreigners. The most likely explanation is that this is a holdover from our evolutionary past, during which there were frequent wars among neighboring primitive tribes, and people from other tribes were highly likely to kill you when given the opportunity.⁴⁹

Fortunately, we no longer live in such conditions. Yet we still have background emotional tendencies adapted to that situation. Our evaluation of immigration policies is shaped by those emotional tendencies, leading to an instinctive sense that people from other societies are dangerous or harmful. It is important to identify this dynamic so that we can overcome the bias. Foreign-born people have the same rights that we do. Their lives and well-being are not less important than ours, and they do not deserve to be forced to spend the rest of their lives in conditions of poverty or oppression merely because they had the bad luck to be born in the wrong geographical location.

⁴⁹ See Steven Pinker, *The Better Angels of our Nature* (New York: Penguin, 2012); Phil Thomson and John Halstead, "How Violent Was the Pre-Agricultural World?", October 2, 2022, available at SSRN: <https://ssrn.com/abstract=4466809>.

Response to Huemer on Open Borders

Dan Demetriou

I thank Michael Huemer for engaging in this debate with me. His “core argument” for open borders (or at least what I would call “open residence”) goes as so:

1. Harmful coercion is prima facie wrong.
2. Immigration restrictions are harmful and coercive.
3. So, immigration restrictions are prima facie wrong.

Huemer defends this core argument in Part I of his essay. The rest of his essay defends “relatively open borders” for many countries—and the US by name—in real-world circumstances.

Contra Huemer’s Part I

Is (2) true? Huemer thinks that barring Marvin from entering your kitchen uninvited would not be even prima facie wrong because refusing to benefit someone doesn’t harm them.⁵⁰ So there must be some disanalogy between your government’s stopping Marvin at the border and your stopping him at your kitchen door. The difference for Huemer is that, unlike the relationship between you and your kitchen, there is no (what I’ll call) *sovereignty relation* between your government and your nation’s territory.⁵¹ Huemer rejects the idea that a people can be sovereign over their territory because he is an extreme libertarian/anarcho-capitalist.⁵² If his assumption is

⁵⁰ Michael Huemer, “A Case for Immigration,” **this volume**. It seems to me you *do* harm Marvin even in the kitchen case, although it’s perfectly permissible to exclude him. In contrast, Huemer appears to be using “harm” in a moralized sense according to which an action isn’t harming someone if it’s prima facie permissible. On that understanding of “harm,” I deny that, in most circumstances, barring migrants harms them, since it’s *also* prima facie permissible to do so.

⁵¹ Maybe a polity’s government isn’t itself sovereign over its territory, true (but note that, e.g., the English sovereign legally owns all the land in England). Even so, just as you may hire a security guard to protect your kitchen, the government of a nation may be understood as hired to protect the people’s territory.

⁵² Michael Huemer, *Problem of Political Authority* (New York, Palgrave, 2013). Huemer will argue that the people don’t “own” their country. I actually agree that neither the government, nor even the people of a nation, own the territory of the said nation or even its public lands. But owning isn’t the only way to be sovereign over something: it’s commonsensical to think a nation (people), if it’s lucky enough to have its own country (land, territory), are sovereign over it even though they don’t “own” it. However, for a libertarian yet restrictionist discussion partially based on collective ownership of a nation’s public property, see Stephen Kershnar, “Immigration and Collective Property,” *Analitica* 2 (2022): 12-41.

wrong, then there are times when a government may exclude migrants just as there are times when you can exclude uninvited guests.

But what if migrants *are* invited? Suppose you are housemates with soft-hearted but soft-headed Sally, who invites a homeless family to camp out in your living room. Or opportunistic Ollie, who invites in some sketchy dude to work for him in your basement. Or subversive Sam, who wants to sabotage your home and so sublets his closet to someone with obnoxious values, manners, and habits. Such actions would occasion a serious household conversation and may require someone moving out if rules can't be agreed upon. Likewise, unless you're an extreme libertarian, you not only believe that a nation is sovereign over its territory, but that a good government may exclude migrants even if they have been invited by some nationals. For some of our compatriots are imprudent, selfish, or subversive, and would impose immoral or unsustainable negative externalities on their fellows if given the chance, and this is why normal people don't think individuals should be allowed—even on their own property—to shelter fugitives, house hostile forces, or pollute in certain ways.

So whether the migrants in question are invited or not, what needs to be determined is whether parallel externalities would be true of them. And that's what Huemer is addressing in Part II of his main essay.

The Many Costs of Open Borders

Economic competition

There is a body of literature which argues that mass migration is economically beneficial except for young and low-skilled natives. This research usually ignores certain important factors such as the long-term economic costs of political instability resulting from mass migration or increased housing costs (economists urge us to just build more housing—we'll discuss this in a moment).⁵³ On this question, I think natives should prioritize their low-skilled and younger compatriots over foreigners. My grandparents came to this country in the 1910s mostly because manufacturing executives preferred hiring cheaper eastern- and southern-European laborers over black Americans and more expensive native whites. It seems to me those industrialists should have been forced to put their fellow Americans first, even if that meant slowing down American

⁵³ Bryan Caplan and Ady Branzei, *Build, Baby, Build: The Science and Ethics of Housing Regulation* (Washington, DC, Cato Institute, 2024).

industrialization.⁵⁴ At this point economists will make glib replies about using the extra productivity from mass migration to retrain poor natives or simply give them handouts. These don't seem to be materializing: Americans with lower cognitive capacities simply cannot “learn to code,” and automation will only make the jobs they can do even more scarce (imagine what self-driving cars will do to rideshare and trucking employment). And as far as handouts go, even if natives received them, the result would likely be moral dissipation, boredom, and loss of self-respect.⁵⁵

Fiscal Burdens

Mass migration is particularly costly when low-skilled migrants enter receiving countries with generous welfare benefits (notably, the Marvins of the world are attracted to “marketplaces” with the most generous welfare programs).⁵⁶ For instance, half of London's social housing units are occupied by migrants,⁵⁷ and 70% of the UK's immigrants from Somalia use social housing.⁵⁸

Huemer's solution is simple: exclude migrants from social services. However, these services are unlikely to be withheld for long. First, because many natives will find it unbearable to let sick migrants die from lack of medical care, freeze for lack of housing, or remain uneducated from lack of schooling. Second, because bureaucrats running these programs want to expand their reach and thus will successfully agitate to extend benefits to migrants. Third, because welfare programs will become more, not less, popular as migrants from the third world stream in and exert political influence. And even if natives did adopt this measure, they would find themselves

⁵⁴ Yes, I'm saying my Greek grandparents should not have been allowed into the US. For a discussion of the anti-black nature of 1880s-1920s wave of European migration, see Robert Mallory, “‘Cast Down Your Bucket Where You Are’: Black Americans on Immigration,” *Center for Immigration Studies*, June 1, 1996, <https://cis.org/Report/Cast-Down-Your-Bucket-Where-You-Are-Black-Americans-Immigration>. For an economic analysis discussing the concern, see e.g. Charles Hirschman and Elizabeth Mogford, “Immigration and the American Industrial Revolution from 1880 to 1920,” *Social Science Research* 38:4 (2009): 897-920. doi:10.1016/j.ssresearch.2009.04.001.

⁵⁵ There are polities where an underclass of foreign laborers, bereft of political rights, do all the work for natives who, despite enjoying lives of leisure, produce remarkably little literature, art, or technology—a repellent prospect for Westerners.

⁵⁶ The average asylum migrant costs the Dutch about a half million euros, for instance; see Jan H. van de Beek et al., “Borderless Welfare State: The Consequences of Immigration for Public Finances (Zeist, Netherlands: Demo-Demo, 2024), https://demo-demo.nl/wp-content/uploads/2023/06/Borderless_Welfare_State-2.pdf.

⁵⁷ Will Grimond, “Most Social Housing Residents in London were Born in the UK,” *PA Media Blog*, December 18, 2023, <https://pa.media/blogs/fact-check/most-social-housing-residents-in-london-were-born-in-the-uk/>.

⁵⁸ Neil O'Brien, “It's Reasonable to Give British People Greater Priority for Social Housing,” *Neil's Substack*, January 30, 2024, <https://www.neilobrien.co.uk/p/its-reasonable-to-give-british-people>.

faced with a sizable resentful underclass who will, unless brutally cowed, eventually rise up and force wealthier natives to create costly redistributive programs (or worse) through violence.

Public goods

These considerations also pertain to non-excludable “public goods.” Will migrants tend to riot or commit more crime? Depending on where they come from, yes,⁵⁹ and natives will pay for the increased policing, jailing, and counterterrorism measures. Social capital will decrease as public areas become less safe and pleasant. Will the arrival of tens of millions of migrants increase your housing costs and disfigure your nation’s countryside with massive and ugly tenements?⁶⁰ Affordable housing for your children, uncrowded spaces, natural beauty, and bucolic farms are also public goods, and mass migration destroys these, too.

Culture

Huemer, perhaps guided by citizen-migrant symmetry thinking, seems to think that natives have no more right to complain about cultural change due to mass migration than they would to endogenous cultural change adopted by their native fellows.⁶¹ Huemer also focuses on the US when discussing the cultural impacts of mass migration. But no other receiving country is as large or as culturally influential as America is. Small countries like Norway, Sweden, Denmark, and Canada would undoubtedly lose their national characters under open borders. And even American culture has changed substantially due to every successive wave of mass migration. For instance, American traditions, values, and cultural references were forever changed by the mass migrations of 1880-1920 (if you don’t believe me, take a look at the McGuffey Reader,⁶² a textbook for 19th century American children). Just as few Catholic, Orthodox, or Jewish

⁵⁹ Even adjusting for age and sex, migrants from the middle east, Africa, and central Asia are multiple times more likely to be convicted of a violent crime; see, e.g., “Immigrants in Denmark 2021,” *Statistics Denmark*, December 9, 2021, <https://www.dst.dk/Site/Dst/Udgivelser/GetPubFile.aspx?id=34714&sid=indv2021>.

⁶⁰ E.g., see links in “Save Our Green Space By Restoring Sense To Immigration Policy,” *Migration Watch UK*, March 12, 2021, <https://www.migrationwatchuk.org/news/2021/03/12/save-our-green-space-by-restoring-sense-to-immigration-policy>.

⁶¹ See pp. 449-450 of Michael Huemer, “Is There a Right to Immigrate?” *Social Theory and Practice* 36:3 (2010): 429-461. For longer discussions of a right to exclude migrants for the sake of cultural preservation, see, e.g., Rafael De Clercq, “Huemer on Immigration and the Preservation of Culture,” *Philosophia* 45 (2017): 1091–1098; Uwe Steinhoff, *Freedom, Culture, and the Right to Exclude* (United Kingdom, Routledge, 2022).

⁶² <https://www.gutenberg.org/files/16751/16751-pdf.pdf>.

migrants became Protestants in the 20th century, few Muslim or Hindu migrants will become Christian in the 21st.

Mass migration to the West means that its social, political, and legal character will grow more global in nature: lower in average human capital; more authoritarian, corrupt, sectarian, polygamist, and socialist; less egalitarian, Christian, trusting and trustworthy.⁶³ So-called “assimilation” will amount to change for both migrants *and* natives: a “new normal” that the natives usually don’t like, and one which is arguably worse and certainly less distinctive than what they had previously. Migrants, who cannot appreciate what was lost and tend to be highly ethnocentric, usually assume they improved the place. Natives will usually remember with nostalgia the days before their arrival.

Subversion and Terrorism

LOBOTs such as Huemer and Bryan Caplan tell us that they are against open borders for Israel, insofar as millions of people would like to migrate there to destroy it from within. But Israel is not alone in this regard: many countries, including the US, are also widely hated. Even countries without a history of colonialism are not immune to being resented by migrants they played no role in immiserating.⁶⁴ As 9/11 proved, it doesn’t take many conspiring foreigners to permanently wound even a large, powerful country.

Conclusion: Costs are Ultimately Irrelevant

Quite apart from the negative effects of mass migration to the lasting prosperity, safety, innovativeness, civility, and indeed civilization in the world’s best countries, open borders is an ideology of subversion in the mouths of your enemies and betrayal in the mouths of your comrades. For *even if* some territory your nation currently controls hypothetically would be “improved” by mass migration to it, this would still result in the loss of your homeland and—barring the creation of a caste or other segregating strategy for them—the extinction of your people. Unfortunately, not everyone is part of a nation. And sadly, not every nation is sovereign over its own land. But let no one fortunate enough to be part of a people, no matter how humble,

⁶³ For a defense of some of these claims see Garrett Jones, *The Culture Transplant* (Stanford: Stanford University Press, 2022).

⁶⁴ Felicity Capon, “Norway Seeks to Send Hate Preacher Into ‘Internal Exile,’” *Newsweek*, Feb 18, 2015, <https://www.newsweek.com/norway-agonises-over-future-radical-cleric-307645>.

in a possession of a land, no matter how meager, be mesmerized into giving up either without a fight. Your country and your nation's institutions do not belong to the world's economic or cognitive elite. Or the globe's hungriest and most ambitious. Or foreign hordes of wretched refuse yearning for what's free. It is your homeland, *your* refuge in a cruel and uncaring world, the only country where *you* should be advantaged over others, a nursery for *your* people's children, and an inheritance to be passed on to *them*. All else is beside the point.

A Modest LOBoT Defense

Michael Huemer

I would like to thank Dan Demetriou for his interesting and challenging discussion. Each of us wrote our opening statements before reading the other's, so there may be some disconnect between them.

The first thing to clarify is my thesis. Demetriou correctly surmises that my argument in earlier work was meant to support “open residence”, rather than “open access”.⁶⁵ Similarly, in this debate, I do not address open access; I intend only to defend (relatively) open residence.

Second, we should distinguish three targets of Demetriou's critiques:

- a. My main argument in this volume, which uses the “Starving Marvin” example to suggest that immigration restrictions violate potential immigrants' prima facie right against harmful coercion.
- b. Other arguments for “open borders” that might appear elsewhere, e.g., one based on a general “migrant-citizen symmetry” principle.
- c. The broader libertarian philosophy advanced in other work (by myself or others), including such ideas as skepticism about political authority.

I take myself here to be responsible only for defending (a). I do not have space to discuss (b) or (c).

What position is Demetriou responsible for defending? What alternative policy are we to compare to the “open residence” regime? I take Demetriou's view to be either that we should allow *no* immigration at all, or that we should continue something like the status quo, in which many aspiring immigrants are admitted but most are turned away. There are some indications that Demetriou favors the former option (see below).

I have space only to address four main arguments ...

⁶⁵ Dan Demetriou, “On the Incoherence of Libertarian Open Borders Theory” (this volume), sec. 1.

I. Bureaucratic Costs

Demetriou suggests that a regime of open residence without open access would entail “unprecedented border protections” and “an enormous bureaucracy”. He lists several practical questions that would arise. Some of these leave a puzzle as to what Demetriou is defending, e.g.:

What sort of walls, wire fences, armed boats, and so on, are we willing to build and maintain to facilitate open residence without open access?

Presumably, Demetriou favors *at least* as many walls, etc., as any LOBOT, so the cost of such security measures is no reason to favor his view over ours. Nor are these measures *unprecedented*; they are the status quo. There are no *added* fencing or similar costs introduced merely by *allowing more people in*.

Some of the costs that Demetriou lists could be obviated by a policy of complete exclusion – if the state automatically excludes *all* migrants, then we won’t need a bureaucracy to vet migrants. Perhaps that is Demetriou’s proposal.

One reason why the U.S. has not adopted this position is that some people around the world are fleeing terrible oppression, up to and including genocide. In 1939, the MS *St. Louis*, carrying over 900 Jewish refugees fleeing Nazi Germany, attempted to land in Cuba, then the U.S., then Canada; no one wanted the Jews. The captain was forced to return to Europe, where 254 of those refugees were ultimately murdered during the Holocaust.⁶⁶ This sort of story is one reason why the U.S. and most of the world have signed the U.N. Protocol Relating to the Status of Refugees, which grants the right to asylum to refugees with a well-founded fear of persecution in their home country. This entails some cost for vetting refugees, but that cost is justified to prevent terrible injustices.

Perhaps Demetriou would say that the costs of evaluating immigrant applications will *increase* if the standards for admission drop, because more people will start coming.

I think this unlikely to be a major problem. The U.S. admits close to a million legal

⁶⁶ Wikipedia, “MS *St. Louis*”, https://en.wikipedia.org/wiki/MS_St._Louis, accessed April 14, 2024. The Jews wound up settling in the U.K., Belgium, France, and the Netherlands, but three of those countries were then overtaken by the Nazis.

immigrants a year.⁶⁷ This is probably already enough to induce most of those who want to migrate to give it a try. The current U.S. Immigration and Customs Enforcement budget is about \$8 billion, which is about 0.1% of the federal budget.⁶⁸ So the added administrative costs due to a liberalization of immigration policy would be unlikely to break the bank. If somehow the government found it unaffordable, they could defray the costs through application fees or increased taxes on successful immigrants.

II. My Marketplace Analogy

In the Starving Marvin example, I imagine Marvin traveling toward a marketplace to buy food. Demetriou objects to the analogy, stating that he views countries rather as *homelands* than as marketplaces.⁶⁹ I do not see why a homeland cannot also be a marketplace.

More importantly, this objection misconstrues the argument. This was my central argument:

1. Harmful coercion is prima facie wrong.
2. Immigration restrictions are harmful and coercive.
3. So immigration restrictions are prima facie wrong.

The role of Starving Marvin is to illustrate premises (1) and (2). The marketplace just serves as a (morally acceptable) way that Marvin would obtain food if no one interferes.

The same point applies to any other permissible way that Marvin might attempt to obtain food. Suppose Sam and Marvin live in a world where petitionary prayer is extremely effective. Marvin is about to pray to God, which would get him some manna from heaven to feed himself. Sam forcibly stops Marvin from praying, with the result that Marvin starves. Here, Sam acts wrongly by violating Marvin's prima facie right against harmful coercion.

In my chapter, I imagined Marvin obtaining food from a marketplace, rather than God, because this is most similar to how immigrants obtain money in the U.S. – through voluntary trade with other people. But this does not mean that the argument contains the nebulous claim

⁶⁷ Statista, “Number of Persons Obtaining Legal Permanent Resident Status in the United States from FY 1820 to FY 2022”, <https://www.statista.com/statistics/199958/number-of-green-cards-in-the-united-states/>, accessed April 14, 2024.

⁶⁸ Wikipedia, “U.S. Immigration and Customs Enforcement”, https://en.wikipedia.org/wiki/U.S._Immigration_and_Customs_Enforcement, accessed April 14, 2024.

⁶⁹ Demetriou, sec. 2.

“countries are marketplaces, rather than homelands”, any more than it would contain the claim that countries are gods if I had chosen that illustration.

III. Demetriou’s Analogy

Demetriou mentions that the owner of a business (including, say, a shopping mall) may exclude people from his business at will. Demetriou suggests that this marketplace analogy supports the right of countries to exclude immigrants at will.

I think this analogy inapt. The reason why a business owner may exclude people from the business is that he *owns* the business. To draw the analogy to immigration restriction, one must claim that the government *owns the country* – then the government could permissibly exclude people from the country at will.

But no one other than totalitarians thinks that the government is entitled to act like the owner of the country. Whatever your theory of authority is, you probably think the state’s authority is *much* more limited than that.

For example, Dan Demetriou has a house. Because he owns it, he could decide that anyone using his house must agree to cut off their left hand, decline to vote if female, and never criticize Dan’s political views.

But the government may not do the analogous things. It may not declare that residents of the nation must cut off their left hands, refrain from voting if female, or refrain from criticizing the government’s views. It is not only libertarians who think these things would overstep the state’s authority; practically everyone (except totalitarians) agrees. So we do not view the government as an owner of the country.

IV. Demographic Exclusions

May the state exclude migrants on demographic grounds – e.g., bar young males from Muslim-majority countries from entering the U.S., on the ground that they are statistically more likely to commit terrorist attacks?

I don’t know. But I think that this policy would be *better* than a regime of tight, across-the-board restrictions. In other words, we *shouldn’t* prohibit or severely limit immigration from *all* groups merely to prevent terrorist attacks, given that we have the option to only exclude migrants from high-risk groups.

Demetriou demurs. He suggests that such policies would lead to a “cynical and racially loaded” politics, in which our leaders abandoned “even an attempt at persuading our fellows to change their views” in favor of just trying to game the immigration system.

I don’t share his assessment, for three reasons:

1. It’s been tried. Until 1965, the U.S. assigned immigration quotas to particular nations, with some nations having much higher quotas than others.⁷⁰ This did not corrupt our politics as Demetriou describes.
2. Congress already has this power. If they were to pass a law greatly increasing immigration quotas for all groups *other than* young men from Muslim countries, that would not give them any additional power to make cynical calculations that they don’t already have.
3. There is, again, a keyhole solution: Grant legal residency without the right to vote. This is already the situation of millions of green card holders in the U.S., and no one worries about this.

Why might it make sense to deny voting rights to immigrants but not to native-born citizens?

Well, exactly the arguments that Demetriou gave. Demetriou warns that our democracy could be irreparably harmed by importing new voters, but he does not claim that our democracy would be harmed by allowing native-born citizens to continue to vote. If he is right, then it makes sense to continue to allow native-born citizens to vote, while denying the vote to immigrants. This addresses the problem much less harmfully than excluding the immigrants entirely, so exclusion can’t be the right policy.

⁷⁰ Mark Hugo Lopez, Jeffrey Passel, and Molly Rohal, *Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change Through 2065* (Pew Research Center, 2015), p. 18, https://www.pewresearch.org/wp-content/uploads/sites/5/2015/09/2015-09-28_modern-immigration-wave_REPORT.pdf, accessed April 14, 2024.