

# Resistance to Unjust Immigration Restrictions\*

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State employees use force or the threat of force to restrict immigration.<sup>1</sup> Border guards forcibly detain and incarcerate foreigners who immigrate without state approval. When migrants evade or resist immigration restrictions, border agents sometimes deploy tasers to incapacitate migrants, pepper spray them, shoot them with rubber bullets, and, less frequently, beat migrants with batons, and even fire live ammunition at them.<sup>2</sup> Thousands of migrants perish annually in attempts to evade border agents.<sup>3</sup> State officials also capture and deport migrants who reside in their borders without official authorization. Affluent states have deported millions of unauthorized migrants in recent decades.<sup>4</sup>

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<sup>1</sup>By “immigration restrictions,” I mean laws that prohibit foreigners from immigrating or permanently residing in a state’s territory.

<sup>2</sup>Walter Ewing, “‘Enemy territory’: immigration enforcement in the US-Mexico borderlands,” *Journal on Migration and Human Security*, 2 (2014), 198–222; Amnesty International, *The Human Costs of Fortress Europe: Human Rights Violations Against Migrants and Refugees at Europe’s Borders* (London: Amnesty International, 2014); American Civil Liberties Union, “Human rights violations on the United States-Mexico border: statement submitted to Office of the United Nations Commissioner for Human Rights,” available at: <[https://www.aclu.org/files/assets/121024\\_aclu\\_written\\_statement\\_ochcr\\_side\\_event\\_10\\_25\\_12\\_final\\_0.pdf](https://www.aclu.org/files/assets/121024_aclu_written_statement_ochcr_side_event_10_25_12_final_0.pdf)> (accessed August 2, 2014).

<sup>3</sup>By “border” or “immigration” agents, I mean state employees who are authorized to prevent migrants from crossing borders illegally or to detain and deport unauthorized migrants.

<sup>4</sup>Matthew Gibney, “Is deportation a form of forced migration?” *Refugee Survey Quarterly*, 32 (2013), 116–29, at pp. 119–20.

Migrants use several different strategies to counter the threat that immigration agents pose to them. To circumvent border patrols, some migrants travel through unpopulated deserts and mountainous regions or cut through border fences. Other migrants bypass border fences and checkpoints by travelling over bodies of water on boats and rafts. Unauthorized migrants deceive border agents as well. These migrants use false identification and documentation to avoid detection and deportation. Foreigners sometimes enter into “sham” marriages with citizens to gain permanent residency and then deceive immigration agents about the nature of these marriages. Migrants sometimes even violently resist border agents. At the Mexico-United States border, migrants throw rocks and other objects at border agents in order to distract and escape these agents.<sup>5</sup> Migrants have also attacked border agents during attempts to enter the European Union. Thousands of migrants have stormed the border fences at the Spanish enclaves of Melilla and Ceuta on the northern coast of Africa in order to reach the EU. On these occasions, migrants throw rocks and burning clothes at border agents and these attacks have injured dozens of border agents.<sup>6</sup>

In this article, I will argue that migrants can permissibly resist immigration agents. When I say that migrants can permissibly resist immigration agents, I mean that it is permissible for migrants to take active steps to prevent state officials from successfully enforcing immigration laws.<sup>7</sup> In particular, I contend that migrants can evade, deceive, and use force against state officials to avert the threat these agents pose when these officials are enforcing unjustified immigration restrictions. In Section I, I sketch an argument for the permissibility of resisting to unjust

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<sup>5</sup>Sarah Wheaton, “U.S. Border Patrol instructed to show restraint,” *New York Times*, March 7, 2014, available at <[http://www.nytimes.com/2014/03/08/us/border-patrol-instructed-to-show-restraint.html?\\_r=0](http://www.nytimes.com/2014/03/08/us/border-patrol-instructed-to-show-restraint.html?_r=0)> (accessed August 02, 2014).

<sup>6</sup>Ciaran Giles, “Migrants make violent border crossing bid,” *Associated Press*, February 24, 2014, available at <<http://globalnews.ca/news/1169550/hundreds-of-african-migrants-make-violent-attempt-to-storm-border-fence-at-melilla-enclave/>> (accessed August 02, 2014).

<sup>7</sup>We should distinguish “resistance” from mere law-breaking. Law-breaking may be entirely passive. For example, if the law requires that I pay a fine and I fail to do so, I break the law. But I resist the law if I actively work to prevent state employees from collecting the fine or from punishing me for my failure to pay it.

immigration restrictions. I argue that immigration agents pose unjustified threats to potential migrants in certain cases. In particular, when state employees enforce unjust immigration restrictions, they pose unjustified threats to foreigners. If a state's immigration restrictions are unjust, then it is permissible for migrants to defensively resist this state's immigration agents. In Section II, I point out that my argument is unsound if foreigners have content-independent obligations to respect the immigration laws of other states. In Sections III and IV, I evaluate arguments for this view that appeal to theories of political obligation and states' rights to non-interference. I then argue that we should reject the view that foreigners have duties to comply with or refrain from interfering with the immigration laws of other states. In Section V, I conclude.<sup>8</sup>

## **I. Unjust Immigration Restrictions and Permissible Resistance**

On any reasonable view about the ethics of immigration, immigration restrictions can be impermissible. Almost everyone accepts that states can wrongly prohibit foreigners from immigrating. But people disagree about when immigration restrictions are permissible. Some philosophers endorse open borders. Joseph Carens and Chandran Kukathas contend that immigration restrictions impermissibly interfere with individual liberty, such as the economic

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<sup>8</sup>Luis Cabrera is the only other author that I am aware of who discusses the ethics of resisting immigration law in detail. Cabrera argues that violations of immigration law can be justified as a kind of principled civil disobedience. In contrast, my argument implies that resistance to immigration law is sometimes permissible even if it does not qualify as civil disobedience in any meaningful sense. I reject the view that migrants who resist immigration law must do so publicly, demonstrate fidelity to the law, or satisfy other criteria for justified civil disobedience. See: Luis Cabrera, *The Practice of Global Citizenship* (New York: Cambridge University Press, 2010), ch. 5.

liberties and freedom of association.<sup>9</sup> Restrictive immigration laws prevent people from selling their labor to willing employers in other states and they stop people from living with their friends and family members abroad. Immigration restrictions also reinforce global inequality and poverty. When states restrict immigration, they do not merely fail to benefit prospective immigrants. Rather, states actively and coercively stop poor foreigners from bettering their situation by restricting immigration.<sup>10</sup> Defenders of open borders maintain that states' moral reasons to avoid interfering with liberty and perpetuating global poverty almost always outweigh the moral reasons in favor of immigration restrictions.

Other philosophers argue that states can permissibly restrict immigration in certain cases. One prominent argument for immigration restrictions appeals to self-determination. According to this argument, states have rights to shape their collective affairs and determine their membership. These rights entail rights to restrict immigration. Christopher Wellman develops a version of this argument. Wellman argues that states' rights to self-determination entail rights to freedom of association.<sup>11</sup> Just as voluntary associations can permissibly exclude non-members because they have rights to freedom of association, legitimate states can exclude foreigners on the same grounds. Ryan Pevnick interprets states' rights to self-determination in terms of collective ownership. He argues that the citizens of a state collectively own their political institutions.<sup>12</sup> These collective ownership rights imply rights to exclude. That is, citizens have rights to prevent potential immigrants from entering their territory or accessing their political institutions. Other authors contend that immigration can impose costs on citizens and that these citizens can permissibly

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<sup>9</sup>Joseph Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013); Chandran Kukathas, "The case for open immigration," *Contemporary Debates in Applied Ethics*, eds. Andrew Cohen and Christopher Wellman (Malden, MA: Wiley-Blackwell, 2013), pp. 207–20.

<sup>10</sup>Michael Huemer, "Is there a right to immigrate?" *Social Theory and Practice*, 36 (2010), 429–61.

<sup>11</sup>Christopher Heath Wellman, "Immigration and freedom of association," *Ethics*, 119 (2008), 109–41.

<sup>12</sup>Ryan Pevnick, *Immigration and the Constraints of Justice* (New York: Cambridge University Press, 2014).

restrict immigration to protect themselves against these costs. Stephen Macedo suggests that immigration depresses the wages of native citizens and generates other economic costs.<sup>13</sup> According to Macedo, states can permissibly restrict immigration to protect citizens from the economic costs of immigration.

But Wellman, Pevnick, Macedo, and other theorists who defend immigration restrictions concede that some immigration restrictions are morally wrong. Immigration restrictions may be impermissible because other moral considerations can trump states' right to exclude. Consider cases where states refuse to admit refugees and asylum-seekers. At first glance, this seems objectionable. Refugees and asylum-seekers have urgent interests in immigrating to states that can protect their human rights. States have strong moral reasons to avoid preventing refugees and asylum-seekers from immigrating. These moral reasons can outweigh states' rights to exclude potential immigrants. Pevnick and David Miller argue along these lines that states are morally required to admit foreigners if the basic human rights of these foreigners would otherwise go unprotected.<sup>14</sup> Michael Walzer, another defender of the right to exclude, holds that states' immigration policies are constrained by obligations of mutual aid.<sup>15</sup> According to Walzer, liberal states must admit at least some foreigners whose lives and liberties are under threat. Wellman argues that affluent states have demanding obligations of egalitarian justice and beneficence to foreigners.<sup>16</sup> These duties explain why states are sometimes morally required to admit foreigners. So, philosophers who accept that states have rights to exclude concede that some immigration restrictions are impermissible.

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<sup>13</sup>Stephen Macedo, "The moral dilemma of U.S. immigration policy: open borders versus social justice?" *Debating Immigration*, ed. Carol Swain (New York: Cambridge University Press, 2007), pp. 63–81.

<sup>14</sup>David Miller, *National Responsibility and Global Justice* (New York: Oxford University Press, 2008), p. 207.

<sup>15</sup>Michael Walzer, *Spheres Of Justice: A Defense Of Pluralism And Equality* (New York: Basic Books, 1984), pp. 48–51.

<sup>16</sup>Christopher Heath Wellman and Phillip Cole, *Debating the Ethics of Immigration: Is There a Right to Exclude?* (New York: Oxford University Press, 2011), ch. 6.

My argument in this article depends on the premise that some immigration restrictions are impermissible. My argument does not depend on any particular view about which kinds of immigration restrictions are unjustified. But, for purposes of illustration, it may be helpful to have a more specific view about the impermissibility of immigration restrictions on the table. With this aim in mind, I will assume the following view:

*Minimal Standard.* It is morally impermissible for a state to refuse to admit prospective migrants if (1) the human rights of these migrants would otherwise go unprotected or would be violated if this state failed to admit them, and (2) admitting these migrants would avoid imposing significant net burdens on the citizens of the state in question.

To render Minimal Standard determinate, we need to specify the content of “human rights.” I will leave this issue open here, but I intend “human rights” to include at least core rights that are recognized in international treaties, such as rights against slavery, torture, arbitrary detention, rights to freedom of conscience, and so on. Minimal Standard is relatively uncontroversial. As I suggested above, many defenders of the right to exclude accept something like Minimal Standard. But Minimal Standard only specifies a sufficient condition for the impermissibility of immigration restrictions. Minimal Standard is consistent with the view that other immigration restrictions are unjust as well.<sup>17</sup>

Minimal Standard arguably condemns some actual immigration restrictions. The immigration laws of affluent democratic states are highly restrictive. Affluent states deny entry to millions of

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<sup>17</sup>I assume Minimal Standard because it is a relatively uncontroversial view about the injustice of immigration restrictions. But I contend that my argument in this article applies to any unjust immigration restrictions, even if these restrictions do not violate Minimal Standard. It may sometimes be unjust for states to restrict the immigration of foreigners despite the fact that the human rights of these foreigners are already adequately protected. If so, my argument can justify resisting these immigration restrictions as well.

foreigners who want to immigrate, including many refugees and asylum-seekers.<sup>18</sup> To an increasing extent, affluent states are adopting policies that prevent asylum-seekers from reaching their territories and claiming the protections of non-refoulement. For instance, most high-income democratic states fine sea and land carriers that bring foreign nationals without proper documentation, have adopted pre-inspection regimes that stop illegal entrants from migrating, or have implemented interdiction policies that turn back asylum-seekers and refugees in international zones. States have also enacted policies that constrain how long asylum-seekers can stay in their territories and deter future immigration by limiting migrants' access to welfare and employment.<sup>19</sup> Perhaps these measures are justified on closer inspection because asylum-seekers impose substantial burdens on recipient countries. I will refrain from trying to establish that existent immigration restrictions are impermissible. But it is at least plausible that some of these restrictions are unjust.

The next step in my argument is the observation that state employees pose threats of harm to some prospective migrants and unauthorized immigrants. Immigration agents threaten to prevent these migrants from crossing borders or permanently residing in a state's territory. This threat can cause harm or risks of harm to foreigners. Consider an analogy. Suppose that Joel lives in a city with a high level of crime. A gang of criminals operates in this city. If Joel does not leave this city soon, the gang will likely injure, kidnap, and perhaps kill him. Joel wants to move to a nearby town where Joel will be safe from this gang (this town has an excellent police force and the gang will not risk pursuing Joel there). Let's suppose that moving to this town is Joel's only realistic option of escaping the gang. But Bill, a resident of this town, does not want Joel and others like him to move

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<sup>18</sup>Michael Clemens, "Economics and emigration: trillion-dollar bills on the sidewalk?" *Journal of Economic Perspectives*, 25 (2011), 83–106, at pp. 83–4.

<sup>19</sup>For a description and evaluation of some of these policies, see Matthew Gibney, *The Ethics and Politics of Asylum* (New York: Cambridge University Press, 2004).

to Bill's town (perhaps Bill wrongly fears that Joel will bring crime to the town or maybe Bill just doesn't like Joel). Bill threatens to physically restrain Joel from moving to Bill's town. If Joel resists, Bill will forcibly return Joel to the city. Bill poses a threat to Joel. If Bill stops Joel from leaving his city, the gang will probably harm Joel. So, Bill's actions threaten to indirectly cause harm to Joel by preventing Joel from avoiding the gang's threat.

I will assume that it is wrong for Bill to stop Joel from moving to the town. Joel's interest in moving outweighs Bill's and anyone else's interests in keeping him out. It is permissible for Joel to adopt defensive tactics to resist the threat that Bill poses. I will consider three different defensive actions here: evasion, deception, and defensive force. It is permissible for person A to *evade* agent B if B poses an unjustified threat of harm to A. In other words, if someone poses an unjustified threat to you, it seems permissible to circumvent this threat. Bill poses an unjustified threat to Joel. Consequently, Joel can evade Bill's threat. For example, Joel can secretly slip by Bill or take a circuitous route around Bill's position in order to reach the new town.

It is also permissible for Joel to deceive Bill. More generally, it is permissible for A to deceive B if B poses an unjustified threat to A and A's deception is necessary to avert this threat. It is normally wrong to deceive people. Deception may subvert people's rational capacities and treat them with disrespect. But things change when other people pose unjustified threats. Suppose that an evildoer wants to kill your innocent friend. Your friend is hiding in your basement. This evildoer comes to your door and asks you to tell him the location of your friend, so that the evildoer can kill him. You can permissibly lie to the evildoer. Defensive lying—lying to protect yourself or others from unjustified threats—is permissible, or so I will assume here.<sup>20</sup> Imagine that, if Joel lies to Bill

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<sup>20</sup>Some philosophers argue that we can permissibly lie in self-defense because unjustified aggressors are liable to this deception. See Alan Strudler, "Deception unraveled," *Journal of Philosophy*, 102 (2005), 458–73.

about his identity, then Bill will allow him to move to the town. This deception seems permissible because Bill poses an unjustified threat to Joel.

Finally, Joel can permissibly use defensive force against Bill. It is permissible for A to use defensive force against B if B culpably poses an unjustified threat of harm to A, A's use of defensive is necessary to avert the threat, and A's defensive force is proportionate. By posing an unjustified threat to Joel, Bill becomes liable to harm. That is, Bill forfeits his right against attack when he decides to pose a threat to Joel. Joel would avoid wronging Bill or violating his rights by attacking him in a proportionate and necessary manner. Suppose that, if Joel throws a rock at Bill and hits him in the head, this attack will disorient Bill and prevent him from blocking Joel's way. Let's assume that it is necessary for Joel to counter the threat that Bill poses by using defensive force. If Joel uses defensive force against Bill, Joel will impose a risk of injury on him. Yet Bill threatens to enable serious harms to Joel by preventing Joel from escaping violence. It seems proportionate for Joel to impose a risk of injury on Bill to counter this threat. So, Joel can permissibly harm Bill in self-defense.

The same considerations that explain why Joel's defensive actions are permissible in the above example can explain why migrants can permissibly undertake similar actions in resisting unjust immigration restrictions. Consider the following, realistic case.<sup>21</sup> Suppose that Mahmoud is a citizen of Libya, where civil war has broken out. The civil war in Libya threatens Mahmoud's life. If Mahmoud remains in the country, soldiers might injure or kill him. Mahmoud wants to immigrate to Spain. If the Spanish government allowed Mahmoud to immigrate, he would avoid imposing significant burdens on Spanish citizens. Mahmoud would find work, pay taxes, obey the law, and contribute to Spanish society in other ways. Suppose that Mahmoud reaches the outskirts of Ceuta

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<sup>21</sup>For a description of a real, similar case, see Philippe Legrain, *Immigrants* (Princeton, NJ: Princeton University Press, 2007), pp. 24–6.

on the North Coast of Africa and tries to enter Spanish territory. But Spanish border agents stop Mahmoud from reaching Spain. These agents catch and forcibly expel Mahmoud from Ceuta. As a result, Mahmoud must either return to Libya or continue to live in vulnerable conditions in Morocco. Mahmoud and other migrants in Morocco live in severe poverty and they face the risk of abuse from bandits who prey on migrants and from Moroccan border guards and police who harass them.<sup>22</sup>

Spanish border agents pose a credible threat to Mahmoud. They indirectly enable harm to Mahmoud by preventing him from avoiding risks of violence and other harms or rights-violations. If Minimal Standard is true, then restrictions that prevent Mahmoud and other migrants like him from immigrating are unjustified. If these restrictions are unjustified, then the immigration agents who enforce these restrictions are also acting impermissibly. These border agents pose unjustified threats to Mahmoud and other migrants by stopping them from avoiding rights-violations and risks of harm. So, Mahmoud can permissibly undertake a range of defensive actions to resist the threat that Spain's immigration restrictions pose.

Mahmoud can permissibly evade Spanish border agents. Suppose that Mahmoud can reach Spain if he circumvents the border fences at Ceuta and instead travels to Spanish territory on a boat. Or perhaps Mahmoud can cut through part of the border fences in an unguarded location and reach Ceuta that way. I claim that these forms of evasion are permissible, despite the fact that Mahmoud must violate immigration law to avoid border agents. Mahmoud can also permissibly deceive immigration officials. Suppose that Mahmoud can use a fake passport to reach Spain and to avoid deportation once he arrives. Or perhaps Mahmoud can find a sympathetic Spanish citizen who is willing to marry him just so that Mahmoud can immigrate by taking advantage of family

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<sup>22</sup>This scenario is realistic. For a description of the conditions that migrants in Morocco live in, see Human Rights Watch, *Abused and Expelled: Ill-Treatment of Sub-Saharan African Migrants in Morocco* (New York: Human Rights Watch, 2014).

reunification laws. Mahmoud would then mislead immigration officials about the nature of this marriage. These activities involve deception. But, in posing unjustified threats to Mahmoud, immigration agents render themselves liable to this deception.

More controversially, I contend that Mahmoud can permissibly use defensive force against government agents. Imagine that Mahmoud and other migrants storm the fences around Ceuta and throw rocks at border agents. This rock-throwing imposes a risk of injury on border agents. But this rock-throwing distracts these agents and deters them from capturing Mahmoud and other migrants. This gives Mahmoud and other migrants a chance to avoid these border guards and reach Spanish territory. Mahmoud's use of force against border agents satisfies the conditions of permissible self-defense. For one thing, the border agents that enforce unjustified immigration laws are liable to attack in virtue of the fact that they pose unjustified threats to Mahmoud. Mahmoud thereby avoids wronging these agents when he uses proportionate and necessary force against them.

Mahmoud's use of force may also satisfy the necessity requirement on permissible self-defense. Roughly speaking, the necessity requirement holds that defensive harm is necessary to avert a threat if the defending agent cannot avert this threat by risking less harm, including less harm to the defending agent.<sup>23</sup> To illustrate, suppose that Mahmoud could avoid the border agents at Ceuta by traveling to Spain via boat. But imagine that this voyage would be extremely risky. There is a high probability that the boat would capsize and Mahmoud would drown. It would be less risky for Mahmoud to attempt to enter Spanish territory by storming the border fences at Ceuta. In this case, Mahmoud's use of defensive force would satisfy the necessity requirement because this force is necessary for Mahmoud to avoid the greater risk of harm that he would confront by using alternative routes.

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<sup>23</sup>For an analysis of the necessity requirement, see Seth Lazar, "Necessity in self-defense and war," *Philosophy & Public Affairs*, 40 (2012), 3–44.

Finally, defensive force against border guards can be proportionate. The principle of proportionality holds that force is proportionate only if the good that this force brings about outweighs the bad that this force causes. Yet we should discount the harms caused to liable aggressors in proportionality calculations. For instance, suppose that aggressor A culpably threatens to cut off the arm of innocent person B. It is proportionate for B to kill A in self-defense, even though death is a worse harm than the loss of a limb. The reason that B's actions would nevertheless be proportionate is that A is liable to attack: A has done something to forfeit A's right against attack from B. Consequently, we can discount the harm that B inflicts on A in self-defense to some degree. Assume that the risk of harm that Mahmoud imposes on border agents is greater than the risk of harm that Mahmoud faces if he refrains from attacking these agents. But it nonetheless seems proportionate for Mahmoud to impose some risk of injury on the border agents if they are culpable aggressors and their actions enable a significant risk of harm to Mahmoud. If these agents are enforcing unjust immigration restrictions, then it is plausible that Mahmoud's use of defensive force satisfies the requirement of proportionality. As Mahmoud's defensive force satisfies the other conditions of permissible self-defense, his use of defensive force against border guards is permissible.<sup>24</sup>

Thus, Mahmoud can permissibly resist immigration restrictions by evading them, deceiving border agents, and using defensive force against border guards. The generalized version of this argument goes:

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<sup>24</sup>Can migrants ever permissibly use lethal force against border agents? I think so. It is justified for a person to use lethal force against an aggressor if this aggressor poses a credible threat to a victim's vital interests, such as this person's interests in avoiding serious bodily injury, kidnapping, rape, or death. Immigration restrictions may threaten these interests by preventing foreigners from avoiding grave harms. If a state's immigration restrictions are unjust and it is necessary for migrants to use lethal force against border agents to avoid threats to their vital interests, then it seems permissible for migrants to use lethal force against border agents.

1. If agent A poses an unjustified threat of harm to person B, then it is permissible for B to evade, deceive, and use defensive force against A (provided that this force is proportionate and necessary).
2. In some cases, border agents who enforce immigration restrictions threaten to enable serious harm (or risks of harm) to foreigners and these threats are unjustified.
3. So, it is sometimes permissible for foreigners to evade, deceive, and use defensive force against border agents.

Call this: *the defensive argument* for resistance to unjust immigration restrictions.

The defensive argument can also justify resisting immigration restrictions in defense of others. Consider human smuggling. Migrants often hire smugglers to help them cross borders illegally. These smugglers provide unauthorized migrants with false documentation and help these migrants to avoid border patrols. The defensive argument can help justify the actions of smugglers who help migrants in evading, deceiving, or using force against immigration agents. The conditions of self- and other-defense are generally symmetrical. If person A can permissibly evade, deceive, or attack aggressors who pose a threat to A, then it is usually permissible for other people to perform these same actions in defense of A. So, if it is permissible for migrants to resist state employees who enforce unjust immigration laws, then it is permissible for smugglers to resist these laws in the same way in order to defend migrants who are unjustly excluded from a state's territory. Some smugglers coerce, steal from, or otherwise abuse the migrants who hire them. These smugglers are obviously acting wrongly. But, in other cases, human smuggling and other forms of assistance to unauthorized migrants can be a permissible way of defending these migrants from unjustified threats.

The defensive argument has a controversial conclusion. Many people would probably reject the view that migrants can evade, deceive, or violently resist border agents. But what is the objection to the defensive argument? I am interested in considering objections to the defensive argument that grant that some immigration restrictions are unjust. These objections aim to show that, even if immigration restrictions are unjust, it is still wrong for migrants to illegally resist the officials who enforce these restrictions. I will now examine a group of related objections to the defensive argument that assume the impermissibility of some immigration restrictions.

## **II. External Legitimacy**

Most people think that it is wrong to resist state officials even if these officials are enforcing objectionable laws. Consider the following scenario. Suppose that Canada has established reasonably just political institutions. But the Canadian government requires some citizens to pay somewhat more than their fair share in taxes. Imagine that Canadian state employees tax one Canadian citizen, John, more than they should. Let's stipulate that Canada's tax laws are impermissible. Nonetheless, it seems wrong for John to evade, deceive, or violently resist Canadian tax collectors, even if these actions were necessary and proportionate to prevent these officials from imposing unfair taxes on John. Of course, resistance to state authority may be justified in extreme cases. If the Canadian government were tyrannical, then it would perhaps be permissible for John to resist the Canadian government. Yet John cannot permissibly resist state tax collectors in the above example despite the fact that they are enforcing unjustified laws.

Why would it be wrong for John to resist state officials? One plausible answer is:

*Internal Legitimacy.* The citizens of a legitimate state have content-independent duties to obey the laws of this state or, at least, duties to refrain from interfering with a legitimate state's enforcement of its laws.

By “content-independent” duties, I mean that people could have duties to obey or refrain from interfering with the laws of other states irrespective of the content of these laws. Philosophers disagree about when a state is legitimate. But they usually claim that a state is legitimate if it satisfies some minimal moral standards. Perhaps a state is legitimate if, say, it adequately protects human rights. I will remain agnostic about the conditions of legitimacy, but I will assume that states that enforce some unjust laws can satisfy these conditions, whatever they are. Now, let's return to the case of John. If John has an obligation to obey the law, then John would violate this obligation by resisting state employees. So, John should comply with Canadian law and pay his taxes. Perhaps something weaker is true of John's obligations. Maybe John only has an obligation to refrain from interfering with the Canadian state's enforcement of its laws. Either way, John would do something wrong by resisting state officials who are enforcing unjustified laws. Many philosophers have defended Internal Legitimacy for reasons that I will explain below.

Can we give a similar explanation for why it is wrong for foreigners to resist the immigration laws of other states? Consider:

*External Legitimacy.* Foreigners have content-independent duties to comply with the immigration laws of other legitimate states or content-independent duties to refrain from interfering with these states' enforcement of their immigration laws.<sup>25</sup>

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<sup>25</sup>This might be an idiosyncratic use of the phrase “external legitimacy.” This phrase is commonly used to refer to the conditions under which foreigners have duties to refrain from interfering with the affairs of legitimate states. Here I am using the phrase more expansively to refer to these duties as well as duties to comply with a state's immigration laws.

If External Legitimacy is true, then we can explain why it is wrong for migrants to resist border agents. Foreigners violate their obligations to respect immigration law by resisting state officials. If prospective immigrants have duties to comply with the laws of other states or duties to avoid interfering with the enforcement of these laws, then these foreigners should refrain from violating immigration laws by resisting border agents, even if these laws are unjust to some degree. Thus, if External Legitimacy is true, then the defensive argument is unsound. But is External Legitimacy true? I will evaluate arguments for External Legitimacy in the following two sections.

### **III. Political Obligations**

One natural thought is that, if Internal Legitimacy is true, then the same considerations that justify Internal Legitimacy also support External Legitimacy. Philosophers have given different explanations for why people have obligations to obey the law. They have argued that citizens have these duties because they have (a) consented to obey the law, (b) duties of fair play to contribute to cooperative schemes from which they have benefited, (c) associative duties to their compatriots, (d) natural duties to support just institutions, (e) obligations to obey the law out of respect for the participants in democratic procedures, and (f) duties to defer to political institutions that have epistemic value. Can one of these arguments for Internal Legitimacy justify External Legitimacy as well?

#### **A. Fair Play, Consent, and Associative Duties**

Some political theorists argue that citizens have obligations of fair play to obey the law.<sup>26</sup> A system of law is a beneficial, cooperative enterprise. If citizens benefit from a system of law, they have obligations of fair play to bear a share of the burdens of this system. To bear their fair share, citizens must obey the law. But fair play accounts of political obligation hold a person only has a duty of fair play to contribute to a cooperative scheme if this person receives a (reasonably) fair share of the benefits from this scheme. If the participants in a cooperative scheme refuse to provide you with your fair share of benefits, this releases you from your duty to contribute your fair share. Consider the case of Mahmoud again. The Spanish government denies Mahmoud the benefits of Spain's institutions, including the rule of law. By hypothesis, the immigration restrictions that exclude Mahmoud are impermissible. The Spanish government denies Mahmoud a fair share of the benefits of Spanish institutions. So, Mahmoud lacks a duty of fair play to comply with the laws of the Spanish government.

A similar issue confronts consent theories and associative accounts of political obligations. One famous theory of political obligation holds that political obligations are contractual obligations. On this view, citizens consent to obey the law and this obligates them to do so. Another prominent view invokes associative duties. Most people think that they have associative duties to benefit and protect their friends and family members in virtue of the valuable relationships that they share with one another. Some philosophers contend that the relationship between compatriots also grounds associative duties and that, to satisfy their associative duties, citizens should obey the law and recognize the authority of their government.<sup>27</sup> Both consent and associative accounts of political obligation fail to explain why foreigners have obligations to comply with the immigration laws of other states. On any reasonable understanding of consent, most prospective immigrants never

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<sup>26</sup>George Klosko, *Political Obligations* (New York: Oxford University Press, 2008); Richard Dagger, *Civic Virtues* (New York: Oxford University Press, 1997).

<sup>27</sup>John Horton, *Political Obligation* (New York: Palgrave Macmillan, 2010), ch. 7.

consented to obey the laws of foreign states. Migrants who cross borders illegally also do not normally consent to obey the laws of the state that they immigrate to. Theorists who defend associative accounts of political obligations hold that only the *members* of a society have associative duties to obey the law.<sup>28</sup> Prospective immigrants want to immigrate to states where they are not members. So, before they become members, prospective immigrants lack associative duties to recipient states to obey their laws.

## **B. Natural Duties**

Some philosophers argue that we have natural duties to comply with and support just institutions.<sup>29</sup> Natural duties are general duties: they apply to all moral agents irrespective of their institutional relationships. According to proponents of natural duty accounts of political obligation, we have natural duties to obey the laws of reasonably just states because obeying these laws contributes to upholding just institutions. Furthermore, sometimes we should comply with unjust laws in order to contribute to justice. John Rawls points out that “our natural duty to uphold just institutions binds us to comply with unjust laws and policies, or at least not to oppose them by illegal means as long as they do not exceed certain limits of injustice.”<sup>30</sup> We should comply with unjust laws because non-compliance would damage just institutions. Consider the case of John and the Canadian tax collectors again. Let’s assume that Canada’s political and legal institutions are just overall. In this context, John should probably comply with tax rules because non-compliance might help undermine Canada’s just institutions. So, John should comply in order to uphold Canada’s decent institutions.

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<sup>28</sup>Horton, “In defence of associative political obligations: part two,” *Political Studies*, 55 (2007), 1–19, at p. 12.

<sup>29</sup>John Rawls, *A Theory of Justice* (Cambridge, Mass: Belknap Press, 1999), pp. 308–12.

<sup>30</sup>*Ibid.*, p. 311.

But natural duty accounts of political obligation cannot rule out the permissibility of breaking unjust laws in cases (1) where law-breaking has no discernable effect on the justice of a state's institutions and (2) where law-breaking contributes to justice on net. For example, suppose that, if Mahmoud resists a state's immigration restrictions, this will have few discernable effects on the justice of the institutions that authorized these restrictions. Mahmoud manages to evade and deceive Spanish border agents and settle in Spanish society, but few people know that Mahmoud broke the law and his behavior does not encourage anyone to refrain from supporting just institutions. It is hard to see how Mahmoud's natural duty to uphold just institutions could explain why his behavior is wrong. Even if violating the law damages just institutions in some respects, it may improve them in other respects. It is possible that, once Mahmoud immigrates to Spain, he will contribute on net to just institutions by participating in civil society, protecting other migrants, and seeking to reform the unjust immigration restrictions that sought to exclude him. People can sometimes contribute to just institutions in the aggregate by violating the law. Again, natural duties fail to explain why this kind of law-breaking is problematic. While perhaps the natural duties of foreigners can ground an objection to resisting border agents in some cases, natural duties fall short of justifying a general objection to this resistance.

### **C. Democratic Authority**

Thomas Christiano argues that political obligations are grounded in the value of democracy.<sup>31</sup> Christiano's argument goes roughly like this. We should treat other people with equal consideration and regard. To treat peoples as equals, we need to respect the outcomes of democratic procedures.

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<sup>31</sup>Thomas Christiano, *The Constitution of Equality* (New York: Oxford University Press, 2010).

Otherwise, we place our own judgments above the judgments of our fellow citizens and thereby treat them as inferiors. In disobeying the laws that democratic procedures authorize, we treat the participants in these procedures with disrespect. So, we ought to obey laws that are democratically authorized in order to respect the moral equality of the citizens who participate in democratic procedures. Christiano contends that the value of democracy also imposes duties on foreigners to refrain from interfering with the laws of a democratic state.<sup>32</sup> Foreigners should respect the laws that democratic states authorize in order to respect the participants in their democratic procedures. So, theories of democratic authority might explain why foreigners should avoid resisting the immigration laws of other states.

Defenders of this democratic account of political obligation acknowledge that citizens lack duties to obey unjust laws in certain cases. Democratic authority is grounded in the requirement to express respect for other people and equal consideration of their interests. We disrespect the participants in democratic procedures by disobeying their directives. Yet we also disrespect people when we disregard their urgent interests or violate their rights. For this reason, adherents of democratic accounts of political obligations concede that citizens lack duties to comply with laws that democratic procedures authorize if these laws violate liberal or democratic rights. In authorizing the violation of rights, a democratic assembly impinges on the same values that justify democratic procedures in the first place and thereby undercuts the authority of this procedure. Christiano notes that disenfranchisement and the violation of basic liberties would render democratic institutions unjust and “since the authority of democracy is grounded in its justice, democracy no longer has authority when it disenfranchises some of its people” or violates their

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<sup>32</sup>Ibid., pp. 248–9.

rights.<sup>33</sup> If democratic institutions authorize laws that offend against the same values that underlie democracy, this injustice undercuts obligations to obey these laws.

Some immigration restrictions offend against the same values of equal respect and consideration that ground democratic authority. Christiano claims that citizens lack obligations to obey the law if the law violates basic rights. Joseph Carens and other political theorists argue that people have robust human rights to immigrate to other states.<sup>34</sup> They contend that a human right to immigrate protects fundamental interests, such as our interests in economic mobility and freedom of association. If Carens is correct, then immigration restrictions in general may express disrespect for foreigners by disregarding their fundamental interests. But, even if it is false that people have general human rights to immigrate to other states, it remains plausible that immigration restrictions that violate Minimal Standard treat people with disrespect and disregard. Some immigration restrictions prevent refugees and asylum-seekers from securing core liberal and democratic rights. Christiano claims that, if a law infringes on liberal or democratic rights, then this law lacks authority because this law expresses disrespect for people's equal moral status. Thus, if some immigration restrictions treat people with disregard in this manner, then prospective migrants lack obligations to comply with these immigration restrictions. Some migrants refrain from violating obligations to respect the participants in democratic procedures when they violate immigration laws. The value of democracy does not seem to impose duties to obey immigration laws on at least some migrants that states wrongly exclude.

#### **D. Epistemic Value**

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<sup>33</sup>Ibid., p. 70.

<sup>34</sup>Carens, *The Ethics of Immigration*, ch. 11.

One account of the obligation to obey the law invokes the epistemic value of democratic procedures. This account of political obligation holds that citizens have duties to defer to democratic political institutions because these institutions are reliable.<sup>35</sup> David Estlund gives an analogy with the criminal justice system to help motivate a theory of political authority along these lines. Suppose that a jailor believes an inmate is innocent of the crime for which he was convicted. Assume that the jailor has the ability to secretly free this inmate. Nonetheless, it seems that it would be wrong for the jailor to free the inmate. The jailor should defer to the criminal procedures that convicted the inmate because these procedures have epistemic value. These procedures tend to be reliable and justified from all reasonable points of view. So, the jailor should refrain from relying on his own judgment and he should instead respect the outcome of reliable criminal procedures.

Estlund argues that certain democratic procedures that involve open, free, and extensive debate and deliberation have a tendency to result in correct political decisions and, furthermore, citizens should comply with the outcomes of these procedures even if these procedures occasionally make mistakes. Perhaps we can adapt Estlund's account to support External Legitimacy. Certain political procedures may have a tendency to reach substantively correct decisions about immigration policy. So, prospective migrants should defer to these procedures. That is, foreigners should respect the outcomes of other states' democratic procedures if these procedures have epistemic value. Even if these procedures occasionally enforce unjust immigration restrictions, foreigners should comply with these restrictions because the procedures that authorized them tend to get things right.

Estlund holds that we should defer to democratic procedures if these procedures have a tendency to arrive at correct decisions. However, democratic procedures may be reliable in certain

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<sup>35</sup>David Estlund, *Democratic Authority* (Princeton, NJ: Princeton University Press, 2007); Estlund, "On following orders in an unjust war," *Journal of Political Philosophy*, 15 (2007), 213–34.

domains and unreliable in others. To establish that foreigners should respect the immigration laws of other states, we need to show that the procedures that authorize these laws have a tendency to be reliable with respect to immigration policy in particular. For example, I have good reason to defer to my doctor about what medications I should take. But I lack a reason to defer to my doctor about who I should marry, as I have no reason to think my doctor is reliable in this domain. The same point applies to democratic procedures. People should respect a state's immigration laws only if we have good reason to think that democratic procedures are reliable with respect to immigration law.

But we have two reasons to doubt whether actual democracies are reliable when it comes to immigration policy. First, I argued in Section I that some democracies appear to violate Minimal Standard. If this is correct, then this is one reason to suspect that democracies tend to produce unjustified immigration laws. The second reason to doubt whether actual democracies are reliable in this domain has to do with a more general hypothesis about the reliability of democratic institutions. Here is my hypothesis: democratic procedures are less likely to be reliable when these procedures authorize laws that affect the interests of people who are unable to participate in this procedure or who lack effective representation in this procedure. Estlund agrees that, in an ideal democratic procedure, "anyone whose interests are at stake in the decision is either present or represented by an effective spokesperson."<sup>36</sup> The justification of this hypothesis is straightforward. Political procedures that exclude affected groups (or at least affected, competent adults) tend to neglect the interests and rights of these groups because these groups lack the political influence that would give officials incentives to protect their interests.<sup>37</sup> If political procedures ought to authorize laws that are responsive to the interests and rights of the group in question, then these procedures will tend to be

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<sup>36</sup>Estlund, *Democratic Authority*, p. 175.

<sup>37</sup>John Stuart Mill wrote: "in the absence of its natural defenders, the interest of the excluded is always in danger of being overlooked: and, when looked at, is seen with very different eyes from those of the persons whom it directly concerns." Mill, *On Liberty and Other Essays*, ed. John Gray (New York: Oxford University Press, 1998), p. 246.

unreliable if this group is excluded. This hypothesis is, of course, partly an empirical one and I lack the space to support it here, although I believe that it is a relatively plausible claim on its face.

But one issue that differentiates immigration policy from other policy domains is that many of the people that immigration policy affects are excluded from participating in the democratic procedures that select immigration policy. Prospective migrants lack effective representation in democratic assemblies because prospective migrants usually do not have formal political influence in the decision-making of foreign states. If my hypothesis is true, then we can expect actual democratic institutions to ignore or discount the rights and interests of foreigners who want to immigrate. Moreover, I have assumed that Minimal Standard is true. So, the immigration policy of states should be responsive to some extent to the interests and rights of some prospective migrants, such as refugees. Thus, we can expect that actual democratic procedures will tend to be less reliable when it comes to immigration policy than they are with respect to other policy areas.

I am unable to conclusively establish that actual democratic procedures are unreliable about immigration policy here. Yet there is reasonable doubt about whether actual democracies are disposed to implement justified immigration policies. If democratic procedures are insufficiently reliable in a certain domain, then it is a mistake for individuals to defer to these procedures when they authorize laws in this domain. So, at first glance, the epistemic value of democratic institutions falls short of showing that it is wrong for foreigners to resist the immigration laws that these institutions authorize because foreigners can reasonably doubt whether democratic institutions are reliable in this area.<sup>38</sup>

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<sup>38</sup>I have refrained from discussing two prominent accounts of political obligation in this section: theories that appeal to duties of gratitude and samaritan duties. I have omitted discussion of these accounts because it seems clear that they are unable to justify External Legitimacy. Prospective immigrants usually lack duties of gratitude to foreign states because they normally have not received the requisite benefits from these states to activate these duties before they immigrate. Prospective immigrants lack samaritan duties to obey immigration laws because immigration restrictions are not generally necessary to rescue people from grave harms. So, these accounts of

#### **IV. Non-Interference and Self-Determination**

Standard arguments for political obligations fail to justify External Legitimacy. This might be unsurprising on reflection. Philosophers who appeal to (a-f) to defend political obligations usually aim to explain why the citizens of a legitimate state have obligations to obey this state's laws. These arguments are perhaps not meant to apply to foreigners.

But, even if migrants lack obligations to comply with the immigration laws of another state, they may have obligations to refrain from interfering with this state's enforcement of its laws. According to a common view, states have rights against external interference in virtue of the fact that they have rights to self-determination.<sup>39</sup> On this view, it is valuable for a political community to decide for itself which laws and rules to implement without external interference. If there is value in a society deciding law for itself, then external interference undermines this value. So, the importance of self-determination imposes duties on outsiders to abstain from interfering with a community's enforcement of its own laws and policies, even if some of these laws and policies are morally problematic. Christopher Wellman and Andrew Altman write that the decisions that legitimate states make may not "be morally optimal or even beyond serious moral criticism. But even if they could in practice be countermanded, the decisions should be respected" in order to honor a state's claim to self-determination.<sup>40</sup>

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political obligation also fail to justify External Legitimacy. For a discussion of these accounts of political obligation, see A. D. M. Walker, "Political obligation and the argument from gratitude," *Philosophy & Public Affairs*, 17 (1988), 191–211; Christopher Heath Wellman, "Toward a liberal theory of political obligation," *Ethics*, 111 (2001), 735–59.

<sup>39</sup>Andrew Altman and Christopher Heath Wellman, *A Liberal Theory of International Justice* (Oxford University Press, 2009); Bas van der Vossen, "The asymmetry of legitimacy," *Law and Philosophy*, 31 (2012), 565–92.

<sup>40</sup>Altman and Wellman, *A Liberal Theory of International Justice*, p. 7.

Migrants who evade, deceive, or violently resist immigration agents might violate a state's right against external interference. Resistance to immigration restrictions interferes with a state's capacity to enforce its immigration laws. So, this resistance might be wrong because it fails to respect a state's right against external interference. This argument for External Legitimacy goes:

1. Foreigners have obligations to refrain from interfering with a legitimate state's acts of making and enforcing immigration law in order to respect this state's right to self-determination, even if this state's immigration laws are morally unjustified.
2. If foreigners have obligations to refrain from interfering with a legitimate state's acts of making and enforcing immigration law, then it is wrong for foreigners to resist the immigration laws of these states.
3. So, it is wrong for foreigners to resist the immigration laws of legitimate states.

Call this: the *interference argument* for External Legitimacy. We might challenge premise 2 on the grounds that states' rights against interference only apply to certain public actors, such as other states or international organizations. Perhaps states lack rights against interference from private actors, such as ordinary migrants. Alternatively, we might worry that some forms of resistance to immigration law fail to constitute "interference" in the relevant sense. It sounds a bit overblown to claim that unauthorized migrants interfere with a state's sovereignty by evading or deceiving its immigration agents. But I will bracket these concerns here. I will assume that premise 2 is true.

However, premise 1 is problematic. To see why, note that states' rights to non-interference have limited scope. States are commonly thought to lack rights against external interference when they pose unjustified threats to outsiders. Consider:

*Invasion.* State A invades state B without provocation. B's military responds by launching attacks on military bases within the borders of A.

Let's assume that A's invasion of B is morally unjustified. It seems false that B's military violates A's right to non-interference. Notice that we can reject the view that A has a right against interference without accepting that any form of resistance to A is permissible. It would be wrong for B to annex large swathes of A in response to A's attack. Yet A lacks a right against resistance from B that is proportionate and necessary to avert the threat that A poses. Consider another case:

*Blockade.* State B is an enclave of state A—the territory of A completely surrounds B. State A decides to blockade state B. Although A refrains from violating B's territorial integrity, A prevents supplies from reaching B and stops the citizens of B from emigrating. This blockade results in significant hardship for B's citizens. B's citizens resist the border agents of surrounding states by evading, deceiving, and using defensive force against them in order to emigrate and import supplies from abroad.

Suppose that state A is acting impermissibly in blockading B. Do B's citizens violate A's right against interference by resisting A's blockade? The answer seems to be "no." State A poses an unjustified threat to B's citizens, even though A never violates B's territorial integrity. B's resistance to A's threat is therefore permissible.

Impermissible immigration restrictions pose unjustified threats as well. Here is an example:

*Restrictions.* There is a refugee crisis in state B. A large number of refugees want to immigrate to neighboring state A to escape violence and economic collapse. But state A only admits a few of these refugees and the human rights of the excluded refugees continue to lack protection (other countries also refuse to admit them). If A admitted these refugees, this would impose no net cost on A's citizens.

Let's assume that A's immigration restrictions are unjust. These immigration restrictions threaten to enable harm to prospective immigrants without adequate justification. If state A poses an unjustified

threat to outsiders, then it appears permissible for the citizens of B to resist this threat. It may be permissible for the refugees from B to evade A's border guards, deceive them, and use defensive force against them in certain cases, provided that these forms of resistance are necessary and proportionate to avoid or avert the threat that government agents pose to prospective immigrants. If this result is correct, then premise 1 of the interference argument is false.

But maybe there is some relevant difference between Invasion and Blockade on the one hand and Restrictions on the other that would explain why it is wrong for the refugees in Restrictions to resist immigration restrictions. One possibility is that the aggressing agents in Invasion and Blockade *intentionally* cause harm or high risks of harm to the citizens of the victim state, while the government in Restrictions only *foreseeably* causes harm or high risks of harm to foreigners. Public officials do not intend to harm prospective migrants in most cases where states restrict immigration. Rather, harm to these foreigners is a foreseeable but unintended side effect of restrictions on immigration. Yet it is unclear whether this fact would explain why resistance to immigration restrictions is impermissible. To illustrate, let's return to the case of Joel and Bill that I described in Section I. Suppose that Bill wants to prevent Joel from moving to his town not because Bill intends Joel any harm, but only because Bill wants to accomplish some other objective, such as limiting the population density of the town. Nonetheless, it seems permissible for Joel to take defensive action against Bill. If this is permissible for Joel, then it also appears permissible for prospective immigrants in Restrictions to take defensive action against immigration restrictions, even if public officials lack the intention to harm these foreigners.

An objector might argue that it is permissible to resist state A in Invasion and Blockade but not in Restrictions by citing the greater threat that A poses in the latter two scenarios. As I noted above, some philosophers believe that the value of collective self-determination grounds states'

rights against external intervention. Outsiders should avoid interfering with a state's territorial integrity and acts of enforcing its own laws in virtue of the fact that the processes of collective self-determination that occur within this state are valuable and worthy of respect. Let's assume that state A's actions in Invasion, Blockade, and Restrictions were self-determining in the appropriate sense. That is, A's decision to invade, blockade, and restrict immigration from B arose from a valuable process of collective self-determination. An objector could then argue that, in Restrictions, the injustice of A's immigration restrictions is insufficiently grave to justify interfering with A's sovereignty. More precisely, this objector might endorse the following view: (1) A's right to self-determination outweighs the claims of foreigners to immigrate to A in Restrictions, while (2) A's right to self-determination does not outweigh the citizens of B's rights to self-defense in Invasion and Blockade. We might think that state A poses a more unjust or greater threat to the citizens of B in Invasion and Blockade than A poses to refugees in Restrictions. For this reason, it is permissible in Invasion and Blockade for the citizens of B to resist A because their rights to self-defense override A's claim to self-determination. But, in Restrictions, the refugees' claims to immigrate do not outweigh A's claim to self-determination. So, it would be wrong for them to resist A's immigration laws.

Yet it seems false that, in Invasion and Blockade, the citizens of B have moral reasons to respect A's sovereignty and that these reasons happen to be outweighed in these cases. Instead, it appears that the reasons that B has to respect A's self-determination are *extinguished*, not merely outweighed. When a reason in favor of some action is extinguished, then this reason no longer counts in favor of this action. Here is an analogy. Suppose that Susan is walking down the street minding her own business. A mugger assaults her in order to get Susan's wallet. Susan responds by spraying pepper spray in the mugger's eyes, which allows her to run away. We can explain why

Susan's actions are permissible in two different ways. First, we might say that Susan's actions are permissible because Susan's right to defend herself outweighed the mugger's right against attack. Second, we might say that the mugger simply lacks any right to defend himself from Susan in virtue of the fact that he is the one who poses the unjustified threat. In other words, Susan's reasons to respect the mugger's right against attack are extinguished.

It is clear that the first explanation is false and the second explanation is correct. This is so because the mugger has forfeited his right against attack by culpably posing an unjustified threat to Susan. As a result, it is unnecessary for Susan to balance the mugger's right against attack against her own right to self-defense in order to justify attacking the mugger. In the same way, the value of self-determination fails to outweigh the refugees' moral reasons to avoid resisting A's threats in Invasion, Blockade, and Restrictions because the government of A has forfeited A's right against (proportionate and necessary) interference in these cases. Thus, the citizens of B do not need to weigh the value of self-determination against their own rights in order to justify resisting A's threats. As a result, state A lacks rights against interference in Restrictions as well as in Invasion and Blockade.

So, it appears that premise 1 of the interference argument is false. States that impose unjust immigration restrictions are liable to resistance. More generally, we should reject External Legitimacy. As we saw in Section III, prominent theories of political obligation fail to explain why prospective migrants have obligations to respect the immigration laws of other states. In this section, I have argued that states' rights against interference also fall short of establishing that migrants should avoid resisting unjust immigration laws. In light of the failure of these two strands of arguments for External Legitimacy, we should conclude that this view is likely false. This conclusion must remain tentative because I may have neglected to consider some other theory of

political obligation or legitimacy that successfully shows that foreigners do have obligations to respect the immigration laws of other states. Nonetheless, we have good reason to reject the view that migrants do something wrong in resisting impermissible immigration laws.

## **V. Conclusion**

In this article, I have defended resistance to unjust immigration restrictions. If a state enforces unjust immigration restrictions, then foreigners can evade this state's immigration agents, deceive these agents, and even use defensive force against them. Yet whether the defensive argument can justify resistance to border agents in practice depends on the permissibility of existent immigration restrictions. Perhaps most actual immigration restrictions are justified. If so, then the defensive argument is unable to justify resistance to immigration restrictions in the real world. But it may be that a revisionary view about the ethics of immigration is true and existent immigration restrictions are generally unjust. My argument would then imply that disobedience and resistance to immigration restrictions are often justified in practice. If immigration restrictions are in fact unjust, then the defensive argument can help vindicate actual acts of resistance to immigration laws.