

The Right to Move versus the Right to Exclude: A Principled Defense of Open Borders

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1. The Immigration Debate

The debate over immigration policy is of critical import in the twenty-first century. Literally millions of people, perhaps hundreds of millions, would like to move across national borders to live in a different society from the one they currently occupy. These would-be migrants often have extremely strong reasons for wishing to move – commonly, they aim to escape severe poverty, oppression, and physical danger – and most would dramatically improve their own life prospects by doing so, far more than their lives could be improved by any other realistic change they might contemplate. Society stands to gain much; some economists have estimated that world GDP could be *doubled* by a global open borders policy.¹

Yet most of these would-be migrants are unable to move due to legal restrictions imposed by national governments. Proponents of restriction warn of a variety of negative consequences that might befall wealthy countries upon opening their borders – economic costs for poor domestic workers, fiscal burdens for the state, undesired cultural changes, even a collapse of the institutions of liberal democracy. They believe that these potential harms justify serious restrictions on the freedom of movement of foreign-born individuals. So a good deal is at stake in this debate.

Usually the debate is conducted in consequentialist terms: does immigration create net benefits or net costs for society? But another aspect of the debate is deontological: Do individuals have a *right* to move where they wish? Do governments have a right to restrict movement into “their” territory? If both rights exist, which one, if either, takes precedence?

Here I shall focus on the deontological aspect of the debate. I shall argue that individuals have a right to migrate, and that this right is not outweighed or otherwise defeated by any of the reasons commonly given for restricting immigration. States, on the other hand, do *not* have a right to restrict migration. Restrictionists sometimes, indeed, cite genuine rights held by domestic citizens, but, as I shall argue, none of these genuine rights actually give rise to a right to restrict migration.

2. The Right to Move

In this section, I explain the grounds for a general, individual right to freedom of movement regardless of national boundaries.²

2.1. The Right Against Harmful Coercion

Individuals have a prima facie moral right to be free from harmful coercion.

¹ Clemens 2011. But note that this sort of estimate depends on unrealistically enormous numbers of workers migrating.

² The argument of this section is based on Huemer 2010a.

What do I mean by this? Harmful coercion is, roughly, an exercise of force, or a threat to exercise force, in a way that interferes with another person's freedom and causes that person to be worse off than they would otherwise be. This includes, among other things, force deployed to restrict a person's physical movements in a way that sets back their interests, and it includes threats of force directed against third parties to prevent those third parties from beneficially interacting with the victim.

Harmful coercion is not *always* wrong. In positing only a "prima facie" right, I leave it open that the right may in some cases be outweighed or otherwise defeated by competing moral considerations. The effect of a "prima facie right" is to establish a moral *presumption*: whenever it is proposed to coercively harm someone, we should begin with the assumption that this is probably morally wrong, until proven otherwise. The proponent of harmful coercion has the burden of providing moral reasons that overcome this general presumption. In positing a "right" against harmful coercion, I am granting this presumption a certain moral strength, such that one person's interest in not being coerced is not overruled merely by the prospect of producing slightly greater benefits for others. At minimum, a rights-violation must produce *much* greater expected benefits than harms if it is to be justified.

The existence of such prima facie rights is supported by firm ethical intuitions common to people of almost any political persuasion. It is not as though, for example, either conservatives or liberals have trouble seeing what might be wrong with the government's coercively interfering with and harming individuals. For this reason, the premise of a right against harmful coercion is a fair, nonpartisan starting point in a debate about immigration. Thus, for example, it is widely accepted that John may not force Mary to have sex with him, even if John would derive greater pleasure from this than the suffering Mary would experience. Sam may not force consumers to patronize Sam's store instead of his competitor's store, even if Sam needs the business more than his competitor does, and even if the customers are otherwise indifferent between the two stores. Mary may not coercively prevent Sally from moving into her neighborhood, even if Mary would be made much more upset by Sally's presence than Sally would be by being excluded from the neighborhood.

Why do I posit only a prima facie right against harmful coercion, rather than an *absolute* right (one that could never be justly violated)? Many ethicists believe that it is permissible to violate the rights of an individual in certain circumstances, such as when doing so is necessary to prevent disastrous consequences.³ If killing one innocent person would somehow prevent World War III, then it may be justified to kill the innocent person. My argument here does not require any stance on that issue. I require only the premise that there is *at least* a prima facie right to be free from harmful coercion.

Why do I take the trouble to speak of both "harm" and "coercion" – isn't this redundant? No, it is not. Some forms of coercion (paternalistic coercion) can be beneficial – for instance, if I forcibly stop you from smoking cigarettes, I may thereby benefit you. Some philosophers hold that such beneficial coercion is perfectly alright.⁴ At the same time, some forms of harm are non-coercive. If I put you out of business by fairly competing with you in the marketplace and providing a superior product, then I have non-coercively harmed you. Most would say that this is normally perfectly alright. Again, my argument does not require taking a stand on either of those issues. I only claim that, when an action is *both* harmful and coercive, it is normally wrong, barring special circumstances.

³ See Huemer 2010b on the problems with absolutism

⁴ See Hanna 2012.

What circumstances might justify harmful coercion? This is open to controversy, and no complete answer can be given here. Nor is a complete answer required. It is enough to note that there are widely shared, non-ideological intuitions about some reasons that count, and others that do not count, as adequate justifications for harmful coercion. For example, one may sometimes deploy harmful coercion for purposes of self-defense or defense of innocent third parties, as in the case of shooting an attempted murderer to prevent him from completing the crime. One may also deploy harmful coercion against an individual who has been convicted of a crime, for purposes of punishment. And perhaps one may deploy harmful coercion to prevent a *much* larger harm from befalling others, as in killing one innocent person to save a thousand others.

On the other hand, the great majority of reasons for harmful coercion clearly do not succeed as justifications. One may not, for example, deploy harmful coercion against a person for the purpose of converting that person to the correct religion. One may not harmfully coerce a person on the grounds that other members of that person's race have committed serious crimes. One may not harmfully coerce a person in order to prevent that person from fairly competing with oneself in business.

My argument, fortunately, will not require any controversial claims about difficult cases; it will be enough to rely upon uncontroversial intuitions about easy cases, such as the foregoing.

2.2. Migration Restrictions Are Harmful and Coercive

Migration restrictions typically *dramatically* set back the interests of potential migrants, rendering them far worse off than they would be in the absence of such restrictions. Of course, the level of harm varies greatly depending on the potential migrant's initial situation. Residents of prosperous nations are perhaps only modestly harmed by being unable to move to another prosperous nation of their choice, whereas residents of poor and politically unstable nations are much more seriously harmed. But in almost all cases, there is a harm when a person is stopped from traveling where they wish.

Migration restrictions are also coercive. They are not, for example, mere recommendations or requests issued by the state. They are legal commands, enforced by armed guards hired by the state. The borders are physically blocked by these guards, and individuals who enter a country without the government's authorization are frequently forcibly removed.

All this is hardly in dispute. Nevertheless, one might deny that, in restricting immigration, the state actually *harms* potential immigrants. Instead, one might claim, the state merely *allows* a harm or *fails to provide a benefit*. There are two reasons one might think this.

First, one might think that the harms typically suffered by individuals who are unable to migrate – harms such as poverty, oppression, and physical danger – are not caused by the state that refuses to admit these individuals. Rather, these harms are, typically, caused by their *home* state, that is, the government of the country in which these individuals were born. To harm a person, one might think, is to *cause* a harm that they suffer; therefore, it is the home country's government, not the government of the desired destination country, that harms these would-be immigrants.

While superficially plausible, the preceding argument is not correct. It is not true that the only way of harming a person is to be the originating cause of a harm that they suffer. Another way of harming a person is to be the obstacle that prevents them from alleviating, preventing, or escaping a harm that originates from some other cause. If you are fleeing from a criminal, and I bar your only avenue of escape,

so that the criminal is then able to attack you, then I, too, have thereby harmed you. The criminal who directly causes the harm bears the primary responsibility, but some responsibility must also be borne by the individual who actively prevents the victim from escaping.

This is analogous to the case of the potential migrant who seeks to escape from an oppressive or corrupt state: that state bears primary responsibility for its own harmful actions. But an agent who blocks the individual's avenue of escape also thereby becomes partly responsible for the harm that the individual suffers. This would include the government of a neighboring country, when that government forcibly bars the individual from leaving his country of origin.

A second reason one might deny that immigration restrictions are harmful is that countries with immigration restrictions only prevent would-be immigrants from obtaining a benefit that would have been provided by those very countries. In general, if I prevent you from obtaining a benefit *from myself*, this counts as a case of my failing to benefit you, not my *harming* you.⁵ By contrast, if I prevent you from obtaining a benefit from some third party, *then* I harm you. So if the United States were to forcibly bar people from migrating to *other* countries, then the U.S. would thereby harm these would-be migrants. But if the U.S. bars people from migrating *to the U.S.*, one might think, this is merely a case of the U.S.'s failing to benefit the would-be migrants, rather than a case of the U.S.'s harming them.

This argument, however, rests on a confusion inherent in the loose use of the expression "the U.S." American society as a whole is not an agent; *it* cannot admit or exclude anyone, nor can it have moral responsibility for helping or harming anyone. The agent that allows or prohibits immigration is the U.S. *government*. In forcibly excluding would-be immigrants from "the U.S." (that is, the geographical area), "the U.S." (that is, the government) thereby prevents those would-be immigrants from obtaining benefits from various *private individuals* in the country. Of course, the government also prevents potential immigrants from obtaining benefits from the government, and *that* is not a harm but a mere failure to benefit. The harming occurs when the government prevents potential immigrants from working for and trading with various private, non-governmental agents.

2.3. Starving Marvin

The preceding observations support the following basic argument for a right to freedom of movement:

1. Individuals have a prima facie right to be free from harmful coercion.
2. Immigration restrictions are harmful and coercive.
3. Therefore, individuals have a prima facie right to be free from immigration restrictions.

The argument is illustrated by the following hypothetical scenario.

Starving Marvin: Marvin is very hungry. He plans to travel to a nearby marketplace to buy some food. In the absence of outside interference, Marvin would succeed: he would reach the marketplace, where he would obtain sufficient food through voluntary trade with other marketplace participants. Unfortunately for Marvin, however, Sam does not want Marvin to trade in the marketplace. Sam arms himself, stands in the roadway, and physically bars Marvin from reaching the marketplace. As a result, Marvin is unable to obtain food.

⁵ See McMahan 1993, pp. 259-60; Kagan 1991, p. 107.

In this case, Sam acts wrongly and in violation of Marvin's rights. Note that Sam is not merely refusing to help Marvin, nor is Sam merely *allowing* a harm to occur. By coercively limiting Marvin's freedom of movement in a manner that prevents Marvin from obtaining benefits through interaction with third parties, Sam is actively harming Marvin.

This is analogous to the immigration restrictions imposed by the current U.S. government as well as the governments of every other prosperous nation. Would-be immigrants seek to better their lives, and often to meet their basic human needs, through trading in new marketplaces they do not presently have access to. The governments of wealthy nations coercively block these would-be immigrants from reaching these markets, resulting in these individuals' continuing to suffer severe poverty, or simply have diminished life prospects. Just as it is wrong for Sam to do this to Marvin, it is wrong for the government to do this to millions of would-be immigrants.

2.4. Failed Arguments for Restriction

One *could* accept the preceding argument but maintain that there are special circumstances that outweigh the prima facie rights of would-be immigrants to be free from harmful coercion. However, most of the reasons commonly given for restricting immigration do not in fact cite factors that could plausibly be thought to override the right against harmful coercion.

For instance, it is said that immigrants drive down wages for low-skill domestic workers and make it harder for these workers to find jobs.⁶ But the desire to limit market competition is not a sufficient justification for harmful coercion. Sam could not justify his maltreatment of Marvin by citing his fear that, if allowed to fairly compete in the marketplace, Marvin might drive up the prices that Sam's nephews and nieces would have to pay for food – or even that Marvin might outcompete one of Sam's nephews for a job. The reason, plausibly, is that Sam's nephew does not have a *right* to buy bread at a particular price, nor to be employed by a particular employer or in a particular job. If anyone has rights over a particular job, it is the employer who pays the wages for that job; if, therefore, the employer should choose to give that job to Marvin, no one can complain of injustice.⁷ In this case, Sam has no justification for resorting to violence or threats of violence to stop Marvin from being chosen.

It is also said that an excess of immigration may change the culture of a nation in ways that the present citizens dislike.⁸ But the desire to forestall peaceful cultural changes is not an adequate justification for harmful coercion either. Sam could not justify his maltreatment of Marvin by citing Marvin's unusual language, religion, or clothing style, and Sam's fear that Marvin might teach these unusual cultural practices to others in the Marketplace. This is because Sam has no *right* that others practice the culture that Sam prefers; hence, Sam may not use harmful coercion to enforce that preference.

Some argue that the state owes special duties to its own citizens, to promote their welfare or protect their rights, that it does not owe to non-citizens who merely wish to become citizens.⁹ While this may be true, this, again, does not seem sufficient to justify the sort of harmful coercion at issue. Sam undoubtedly has special duties to his own family members that he does not have toward Marvin (who is a complete

⁶ National Research Council 1997, pp. 6-7; Borjas 1999. But note that economists generally agree that immigration benefits the economy overall; see Simon and Moore 1989, pp. 357-61; Caplan 2007, pp. 58-9.

⁷ Cf. Huemer forthcoming, section 2.

⁸ Tamir 1993, pp. 158-60; Walzer 1983, pp. 38-41.

⁹ Isbister 2000; Heath 1997.

stranger to Sam). Nevertheless, Sam could not justify coercively barring Marvin from the marketplace on the grounds that Marvin would otherwise compete economically with Sam's family. Special duties of care must operate within the constraints set by other people's rights. One's duty to care for one's own children may obligate one to expend greater resources on one's own children than on other children – but it does not suspend the rights of other children. It does not enable one to benefit one's own children by harmfully coercing other people's children.

Similarly, the state's special duties may require the state to expend greater resources on helping its own citizens than on helping foreign nationals. But this provides no sort of exemption from respecting the *rights* of foreign nationals; hence, it does not justify harmful coercion against foreigners.

3. The Right to Exclude

In this section, I consider three reasons why one might think that national governments have a right to restrict immigration.

3.1. Freedom of Association

Individuals and organizations have a right to freedom of association. This is a broad, vague right to enter into a variety of relationships with other persons or organizations. A person may choose whom to marry, whom to befriend, whom to work for, which clubs to join, and so on. The right to *associate* is bilateral – it requires the consent of the other party, and the right is held against third parties; that is, the parties to the association have a claim that others not interfere with their association.

Freedom of association also includes a right to freedom *from* association, or, if one prefers, freedom of *dissociation*. The right *not* to associate is *unilateral* – one may choose not to enter into any of a variety of relationships with other persons or groups, and one may claim this right against all others. I may not force you to marry me, nor may any third party force you to do so, and similarly for many other forms of association.

One might think that this right to freedom from association entails a right to restrict immigration.¹⁰ In particular, it would seem, members of a polity have the right to choose whom to admit to that polity *and whom not to admit*. The way they exercise this right is through the democratic process. If that process results in rules that exclude Marvin from joining the polity, then Marvin's exclusion is simply in accordance with the freedom of association rights of the existing members.

The problem with this argument is that, while immigration restrictions might satisfy certain citizens' desires to dissociate from would-be immigrants, these restrictions at the same time conflict with other citizens' desires to *associate* with those immigrants. Some existing citizens would like to hire immigrant workers, rent apartments to immigrant tenants, and so on, and the immigrants themselves would also like to enter into these associations. Those citizens who oppose immigration (hereafter, "restrictionists") are not only choosing to eschew associations between *themselves* and the immigrants; they are coercively preventing their fellow citizens from associating. In general, while one has a right to refuse associations, one does not have the right to prevent others from voluntarily associating with each other.

¹⁰ Walzer 1983, pp. 39-41; Wellman 2008, pp. 110-14. This argument is discussed further in my (forthcoming, section 3), where I argue that illegal immigration violates no one's rights.

Now, you might think that there is simply a conflict of rights here – the association rights of immigrant-friendly citizens conflict with the dissociation rights of restrictionists. And you might think that the solution to such a conflict is to employ the democratic process – in the ideal case, to take a direct vote, but perhaps letting elected representatives decide is an acceptable alternative.

This not correct. To see why it is not correct, note two important points. First, an individual's association rights cannot legitimately be cancelled by a majority vote. For instance, if Sue and Rob want to marry, their right to do so is not cancelled or outweighed if a majority of their neighbors want them not to marry. However large that majority may be, Sue and Rob may justly ignore the wishes of their neighbors.

The second important point is that the weight of an association right is a function of how intimate the association in question is. Thus, the right to choose whom to marry is extremely important, the right to choose one's friends slightly less important, and so on. At some point, one reaches a kind of "association" so impersonal and so tenuous that one can scarcely claim rights of control over it at all. Thus, suppose Sam wishes not to *live in the same neighborhood* as Marvin. Living in the same neighborhood is a kind of "association," in a broad sense of that word. But it is such an impersonal and tenuous sort of association that one cannot claim rights to control whom one "associates" with in that sense. If Marvin moves into Sam's neighborhood through, let us say, renting an apartment from a willing landlord, Sam cannot then claim this as a violation of Sam's freedom of association rights. Indeed, to recognize such broad rights to control such tenuous associations would be to authorize almost unlimited interference in other people's lives.

With these points understood, what should we make of restrictionists' appeal to their freedom of association rights? Restrictionists aim to prevent third parties from entering into certain voluntary trade relations with each other (especially employment contracts); in support of their right to do this, they cite their alleged right to control whom they do or do not share a country with. Notice that the restrictionists are not simply appealing to their right to refuse to enter into employment contracts or other trade relations with immigrants. They are appealing to a right to control an extremely tenuous and impersonal sort of "association," that of "belonging to the same country as x." Each of us shares that sort of association with millions of other people, almost all of whom we should nonetheless regard as complete strangers to us, and whom we should generally say that we have no genuine interaction with. If there is any sort of association that does not give rise to a right of control, surely this is it.

By contrast, the voluntary associations that immigration restrictions interfere with, such as employment agreements and personal social relations, are far more substantial and *do* plausibly give rise to rights of control. These association rights, as argued above, are not outweighed or cancelled by the fact that a majority of others oppose the associations in question. Thus, the right to freedom of association supports migration rights and does not support a right to restrict migration.

3.2. The Right to Control Public Resources

When individuals move to a new country, they thereby cause the government of the new country to expend material resources on social services for the immigrants. For example, budgets for law

enforcement and public schools are larger, due to the presence in the U.S. of millions of immigrants (both documented and undocumented), than they would otherwise be.¹¹

The citizens of a country have a right to control the expenditure of such public resources. This right is not unlimited – certain purposes for public spending are illegitimate, and perhaps certain other purposes are obligatory. But it is plausible that citizens have a right to decline to expend public resources on providing social services for individuals who are not presently citizens. In many cases, government services have a public goods aspect that makes it difficult to avoid spending money on services for, say, immigrants, without at the same time lowering the quality of services for native-born citizens. For instance, the state could not feasibly avoid providing police protection to immigrants, without also diminishing protection for native-born citizens. The only feasible way for citizens to exercise their right to limit public expenditures, it is argued, is to exclude immigrants from the nation.¹²

Here again, it may seem that we have a clash of rights: the freedom of movement and freedom of association rights of potential immigrants clash with citizens' rights over public resources. The question is, does an agent's provision of a certain good give that agent a right to harmfully coerce others, in ways that would otherwise be impermissible, simply because such coercion is necessary to avoid providing the good to others to whom the agent does not wish to provide it?

Suppose that Sam voluntarily provides certain goods to those who occupy the marketplace. For one, Sam provides free bread to all poor people in the marketplace who ask for it. Because of the policy Sam has voluntarily adopted, if Marvin were to make it to the marketplace, Sam would then provide free bread to Marvin. But Sam, for whatever reason, does not want to provide free bread to Marvin, nor does he want to alter his policy. Does this give Sam the right to forcibly exclude Marvin from the marketplace? Certainly not. Sam may choose to exclude Marvin from Sam's free bread program. But Sam has no right to forcibly exclude Marvin from trading with any of the *other* people in the marketplace who would be happy to trade with him.

Similarly, the state might choose to exclude immigrants from social welfare programs, if current citizens do not want thus to expend public funds. But the state has no right to exclude potential immigrants from trading with private citizens who wish to trade with them. Surely the state's choice to provide social welfare programs does not give the state a new right to harmfully coerce would-be immigrants in this way that would be wrongful if there were no social welfare programs.

That is perhaps the easy case. What about the case of public goods, especially goods for which it is difficult or impossible to exclude people who happen to be in a given area from receiving them? Sam, too, might provide public goods of this kind. Suppose that in years past, the marketplace was occasionally flooded by the local river. A few years ago, Sam, out of the goodness of his heart, built a dam that protects the marketplace from flooding. This inevitably benefits everyone who happens to be in the marketplace. Now suppose that Sam, for whatever reason, has decided that he does not want Marvin to enjoy this benefit. If there were no dam, Sam would have no right to forcibly bar Marvin from reaching the marketplace (which belongs to no one). Does the mere fact that Sam has provided a good that benefits everyone in

¹¹ "Welfare" spending is commonly cited in the immigration debate, but it is something of a red herring; education, law enforcement, and health care are the major sources of costs borne by the government as a result of immigration. See National Research Council 1997, p. 10; Congressional Budget Office 2007, p. 3.

¹² Kershner 2000, pp. 145-6.

the marketplace suddenly give Sam the right to bar anyone Sam chooses from reaching it? Surely not. If this were so, it would be too easy to morally take over any geographical area: just provide a good that inevitably falls on everyone in that area, and the area is effectively yours, as you can exclude anyone you wish from using it.

What does this tell us about the right to control resources? When an agent (whether an individual or a collective agent) has rights of control over certain resources, this normally includes a right to expend those resources on whomever the agent chooses, and it includes a right *not* to expend the resources on people whom the agent does not wish to benefit. But it does not introduce new rights for the agent to coerce or otherwise interfere with potential beneficiaries in order to prevent them from being in a position to benefit. The agent, in other words, may control who receives benefits by *manipulating the expenditure* itself; the agent may not control who receives benefits by manipulating other people. Thus, the state may perhaps alter its pattern of expenditures to direct benefits away from immigrants; but it may not coercively redirect *the people themselves* to prevent them from getting in the path of the benefits.

Could the state avoid expending resources on immigrants, while still admitting them to its jurisdiction? There are a variety of ways this could be done. As suggested above, the state can bar immigrants from receiving benefits from social welfare programs. Legal immigrants are already barred from receiving means-tested federal assistance for the first five years after immigrating.¹³ (Of course, illegal immigrants never qualify for welfare.) This time period could be extended, and the range of programs could be expanded. The state could even refuse to provide public schooling for children of immigrants, or could charge immigrant families for schooling. The state could charge higher tax rates for immigrants or charge a special fee for migrating, so as to render immigration revenue-neutral for the state.¹⁴

My point is not that any of these moves would in fact be the best policy. My point is that any of the above alternatives would be less harmful and coercive than forcibly excluding immigrants from the entire country. In general, harmful coercion is only justified when it is genuinely necessary; that is, it is impermissible to harmfully coerce innocent people in pursuit of some goal, if there exists a viable alternative that is harmless and non-coercive, or at least much less harmful and coercive.

So, even if one thought (mistakenly) that it was in general permissible to harmfully coerce others to prevent them from obtaining a benefit from oneself, surely one may not do this if one can achieve the same goal without the harmful coercion.

3.3. The Right of Political Self-Defense

Suppose we add more to the story of Marvin. For reasons that will emerge later, I shall call this case “Voting Marvin.”

Voting Marvin: As in the case of Starving Marvin, except that, in addition to engaging in voluntary trade, Marvin, if admitted to the marketplace, will most likely join a gang of hooligans who reside there.¹⁵ The addition of Marvin will increase the gang’s willingness and ability to unjustly victimize other people in the marketplace by, for example, robbing other people and forcing them to obey the gang’s unjustified commands. Marvin will encourage the gang to act in this way because Marvin simply does

¹³ Broder and Blazer 2015.

¹⁴ The U.S. government already charges non-trivial fees for green card and citizenship applications; see USCIS 2017.

¹⁵ Jason Brennan (2016, p. 5) introduces the term “hooligan” to describe irrational voters.

not believe that these sorts of actions are wrong. Sam, knowing all this, coercively bars Marvin from reaching the marketplace.

A case could be made that Sam's actions are now at last justified. It is often permissible to engage in harmful coercion for the purpose of defending oneself or innocent third parties from unjust coercion or harm by others. The fact that an aggressor, due to moral error, does not *believe* that his unjust acts (for instance, robbery or unprovoked coercion) are wrong does not exempt that aggressor from defensive force. In the above case, Marvin poses a threat to the rights of innocent users of the marketplace, via Marvin's own future wrongful behavior, despite that Marvin does not realize that this behavior is wrongful. Thus, it is permissible to use force to forestall that threat.

How is this analogous to the case of prospective immigrants? Some argue that immigrants from poor and oppressive nations are likely to import the political values of those nations to their new home. They will vote in accordance with those values, in addition to possibly influencing existing citizens to vote similarly. If too many immigrants arrive, the result will be that the receiving nation alters its values and policies in a destructive and rights-violating direction.¹⁶

This argument is usually made by conservative or libertarian thinkers. This is understandable, because immigrants in the United States disproportionately lean Democrat,¹⁷ and conservative and libertarian thinkers tend to view typical Democratic policies as rights-violating and even contrary to the basic values on which the nation was founded. It is not simply that a large influx of immigrants could lead to more Democratic election victories. What is more likely, in fact, is that both the Democrats and the Republicans in the U.S. would shift their policy positions in a direction more congenial to the new voters. Both might start to favor greater government intervention than they otherwise would have. This greater government intervention might impoverish the nation and violate the rights of many individuals, notwithstanding that the (new) electorate favored it.

By supporting rights-violating policies, the new immigrant voters would be comparable to Voting Marvin, who effectively encourages a gang to violate the rights of individuals. Just as (arguably) it is permissible to coercively bar Marvin from getting into the position where he would intentionally bring about rights-violating actions, it is (arguably) permissible to coercively bar immigrants from joining a prosperous liberal democracy. This coercion is harmful to the potential immigrants, but in this case harmful coercion is necessary for self-defense, and self-defense is a legitimate justification for such coercion.

Exactly which government interventions count as rights violations is a matter of longstanding, complicated, and often bitter dispute. For obvious reasons, we cannot answer that question here. Let us grant for the sake of argument that many immigrants would indeed favor rights-violating policies due to their failure to realize that the policies violate rights. Does this justify excluding them from the country?

There are several reasons to think it does not. The first is that we would not contemplate similar levels of harmful coercion against native born citizens who also intended to vote badly. Suppose, for example, that the only feasible way to prevent your neighbor, who has deeply misguided political beliefs, from going to the polls and voting for President every four years is to hire thugs to beat him up on election day. Every

¹⁶ Anomaly 2017.

¹⁷ Patten and Lopez 2013.

four years, he tries to go to the polls, and every time, the only thing that will stop him is a group of thugs who hurt him badly but only temporarily.

It would seem impermissible to hire the thugs. And this does not seem to depend upon your neighbor's being a fellow-citizen. It would be impermissible, too, to hire thugs to beat up a misguided voter in another country. It would remain morally impermissible even if it were somehow legal.

This is not to deny that misguided voting can be wrongful, or that it can lead to the adoption of seriously rights-violating policies. Nor is it to deny that defensive force is often justified to forestall wrongful behavior that would lead to serious rights violations. Plausibly, however, it is wrong to hire the thugs because to do so is a disproportionate response to the wrong of misguided voting. To hire the thugs causes a known, serious harm to your neighbor, with near 100% probability, for the sake of very slightly reducing the probability of a speculative, controversial harm.

To explain: the alleged harm of incorrect voting is controversial in the sense that there is no general agreement on what the right way of voting is. Because of this, you should, in normal cases, at least harbor significant uncertainty as to whether your neighbor's policy preferences are actually wrong. The harm is also speculative, because the policy consequences of a given vote are usually unpredictable. Politicians' stated policy positions are typically extremely vague and minimally informative; rival politicians usually are not very far apart on the political spectrum; and once in office, they are not bound to stick to the positions that they took during the campaign. What laws will be passed during a given politician's tenure is also unpredictable due to the chaotic nature of the political system. Of course, political partisans often have very strong opinions about these sorts of things – both about what policies a given politician will pursue and about what policies are right or wrong. But this is because political partisans tend to be irrationally overconfident on this subject.

But even if you knew with a very high degree of confidence that the way your neighbor planned to vote was the wrong way of voting, it would remain the case that the expected harm of this misguided vote would be extremely small, due to the tiny probability that the vote would actually make a difference to the election outcome.

Here is a rough way of estimating this probability, taking the case of a U.S. Presidential election for illustrative purposes. Over the past four elections, voter turnout has averaged 130 million.¹⁸ So assume that exactly 130 million votes will be cast, excluding your neighbor (the precise number is not important). For simplicity, assume that every vote will be for either candidate A or candidate B. Candidate A's vote total will thus be either 0, or 1, or 2, or . . . or 130 million. Of these 130,000,001 alternatives, there is exactly one case in which your neighbor's vote would be decisive: that is the case in which the other voters (all voters except for your neighbor) are exactly tied, that is, candidate A's vote total (excluding your neighbor) is 65 million exactly. In that case, your neighbor decides the outcome; in all other cases, his vote makes no difference. Now, since there are 130,000,001 alternatives, if you knew nothing else about the system, you would reckon each alternative to have a probability of 1/130,000,001. In fact, however, you know that A's vote total is likely to be close to 65 million, since, empirically, most U.S. Presidential elections are reasonably close. Thus, if the election is reasonably typical, it will be antecedently highly probable that A's vote total will be between 60 and 70 million, with totals closer to 65 million being more likely. Taking considerations like this into account, the probability of the vote total being exactly 65 million

¹⁸ Wikipedia 2017.

is perhaps around 1 in 10 million. Now, there are a variety of complications one could take account of (yes, including the electoral college), but nothing that would vastly increase the probability estimate. So the probability of a single vote being decisive in a national U.S. election is on the order of one in ten million, and that is as precise as we need to be for present purposes.

Given the very small probability that your neighbor's vote will actually make a difference to anything, it seems that engaging in seriously harmful coercion against him is unjustified. This is in accord with our common sense judgment about the case.

To apply this to the case of immigration, note that forcibly preventing an individual, for the duration of that person's life, from migrating creates a harm of at least comparable magnitude to having a person beaten up once every four years. Indeed, the movement restriction may be far worse. If given a choice between being beaten up once every four years and living in a severely impoverished, oppressive, and unsafe country throughout my life, I would choose the former. Therefore, if having your neighbor beaten up every four years would be a disproportionate response to the threat of his incorrect voting, then excluding an individual from the country, with the result that the person must spend his life in a severely impoverished, oppressive, unsafe country, must also be a disproportionate response to the threat of that individual's incorrect voting.

Now, when it comes to immigration policy, the probability of immigrants' having an effect on election outcomes would increase with the number of immigrants admitted. But note also that *the harm of restriction* increases in proportion to the number of immigrants excluded. If, for example, one million potential immigrants are prohibited from entering the country, the harm thereby done is one million times greater than the harm of excluding one person. Meanwhile, the expected harm that these immigrants would create through voting is presumably not as much as (and surely not *more than*) one million times the expected harm created by a single voter.¹⁹ So, if excluding a single person from the country is a disproportionate response to the threat of a single misguided voter, then presumably excluding a million people from the country is also a disproportionate response to the threat of a million misguided voters.

In the above example, we assumed that you know how your neighbor will vote; similarly, in speaking of immigrant voters, we have spoken of them as a block, as if all will vote a particular way. But now we need to take into account individual variation, and the accompanying uncertainty about how any individual will vote, or indeed whether a given individual will vote at all. To return to Voting Marvin, suppose that Sam does not actually know how Marvin will behave on entering the marketplace. Based entirely on average characteristics of Marvin's ethnic group, Sam guesses that Marvin will probably encourage the hooligans' rights-violating activities. But Sam has no proof of that; in particular, Sam has no evidence specific to Marvin *as an individual* that indicates that he in particular is a hooligan-sympathizer.

In this case, it looks even less permissible to harmfully coerce Marvin for purposes of forestalling his speculated future misbehavior. Those concerned with the fundamental values of liberal democracy might here reflect that among these values is the principle that individuals should be presumed innocent until proven guilty, and that individuals should be judged on their own individual behavior, rather than the characteristics of their group.

¹⁹ The probability of swinging an election outcome must increase at a decreasing rate, since the probability is bounded from above at 1.

I turn now to the final reason why the threat of misguided immigrant voters does not justify immigration restriction. This is that there exists a less coercive and less harmful alternative that would be a reasonably good way of pursuing the desired end. The alternative is to permit immigration without granting voting rights to those who immigrate. This can be done through guest worker programs or grants of legal residency, without granting citizenship. The United States is already home to over 13 million green card holders, who may legally reside in the country indefinitely but have no voting rights.²⁰ There is no obvious reason why millions more could not be added.

Some might argue that these residents deserve the right to vote, but we need not address that issue here. The important point is that, surely, it would not be better if the 13 million green card holders had been completely excluded from the country, rather than being granted legal residency without the right to vote. Similarly, for the millions of additional people who wish to immigrate but have so far not been permitted to do so, surely it would be preferable to simply grant them green cards, rather than continuing to exclude them entirely. My claim is not that this is in fact *the best* policy. My claim is simply that this is morally superior to a policy of complete exclusion. And again, it is not permissible to harmfully coerce a person or group of people, if one can effectively pursue one's aims with a less harmful, less coercive alternative.

4. Conclusion

The basic case for mobility rights is powerful and intuitive: individuals have a prima facie right not to be coercively harmed. To forcibly prevent someone from moving to a location where they would beneficially trade with willing partners is, on its face, to coercively harm that person. Such behavior is presumptively wrong.

Common arguments for immigration restriction do not overcome that presumption. Thus, it is not a satisfactory justification for harmful coercion to cite one's desire to prevent normal marketplace competition, or to prevent peaceful cultural change, not even if the alleged beneficiaries of one's action are people to whom one has special duties of care.

The case for the state's right to restrict immigration turns on three arguments, all of which fail. First, it is said that citizens' right to freedom of association entails a right to exclude new people from the country. But the relation of "being in the same country as so-and-so" is such a tenuous and impersonal "association" that one can hardly claim rights of control over whom one stands in that relation to. By contrast, the business and personal relations that some citizens would voluntarily form with immigrants are substantial enough to give rise to a freedom-of-association claim. Immigration restrictions violate the free association rights of citizens who wish to trade with foreigners, as well as the rights of the foreigners themselves.

Second, it is said that citizens' right to control the use of public funds gives them a right to exclude immigrants, to prevent the government from spending money on social services for immigrants. But the fact that one provides some set of benefits does not give one a right to coercively interfere with others, in ways that would not otherwise be permissible, simply so that one can direct others out of the path of those benefits. One *may*, however, direct the provision of benefits to desired recipients. Thus, the state

²⁰ Lee and Baker (2017) put the population of lawful permanent residents at 13.2 million as of January, 2014.

may perhaps restrict immigrants from receiving social welfare benefits so that immigration becomes revenue neutral.

Third, it is said that citizens may coercively exclude immigrants with false political views, in order to protect themselves from the effects of unjust social policies. But this seems to be a disproportionate response to the threat of misguided voting. Similarly harmful and coercive actions to prevent native-born citizens with false political beliefs from voting would not be permissible. It may, however, be permissible to restrict immigrants from voting, as is done with lawful permanent residents who are not citizens. The existence of this harmless, non-coercive alternative renders it impermissible to pursue the harmful, coercive remedy of excluding immigrants from the country.

In sum, there is a right to migrate, and no right to exclude. Therefore, all national governments should repeal their immigration quotas and admit as many noncriminal immigrants as are able and willing to come.

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