



## Should we open borders? Yes, but not in the name of global justice

Borja Niño Arnaiz

To cite this article: Borja Niño Arnaiz (2022): Should we open borders? Yes, but not in the name of global justice, *Ethics & Global Politics*, DOI: [10.1080/16544951.2022.2081398](https://doi.org/10.1080/16544951.2022.2081398)

To link to this article: <https://doi.org/10.1080/16544951.2022.2081398>



© 2022 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.



Published online: 26 May 2022.



Submit your article to this journal [↗](#)




View related articles [↗](#)



View Crossmark data [↗](#)

# Should we open borders? Yes, but not in the name of global justice

Borja Niño Arnaiz 

Department of Political Science and Public Administration, Universidad Rey Juan Carlos, Madrid, Spain

## ABSTRACT

Some proponents of global justice question that opening borders is an effective strategy to alleviate global poverty and reduce inequalities between countries. This article goes a step further and asks whether an open borders policy is compatible with the objectives of global distributive justice. The latter, it will be argued, entails the ordering of needs, the assignment of priorities and the preference or subordination of some interests over others. In other words, global justice requires the establishment of conditions and restrictions on mobility. On the contrary, open borders claim an unrestricted and unconditional (not unqualified) freedom of movement, limited only by public health considerations, serious threats to national security or democratic institutions, but not by an aspiration for maximizing global redistributive utility. The main point is that not only would freedom of movement be instrumentalized, losing its presumptive moral force, but ultimately open borders as a remedy of global justice are an oxymoron. The article concludes with an alternative defence of freedom of international movement.

## ARTICLE HISTORY

Received 2 May 2022  
Revised 17 May 2022  
Accepted 19 May 2022



## KEYWORDS

Open borders; global justice; freedom of movement; distributive justice; human mobility

## Introduction

The argument for open borders as a remedy of global justice is often based on the following premises: (1) The world in its current state is unjust, millions of people lack access to the basic resources for a decent life; (2) borders (re)produce this injustice, as they spatially delimit opportunities and prevent people from moving where these are found; (3) a world with open borders would alleviate this situation by allowing people to migrate to the countries that offer the most opportunities.

The first of these premises seems difficult to rebut. As Thomas Nagel (2005, 113) says, '[t]his may be the least controversial claim one could make in political theory.' The fight against poverty is one of the biggest challenges of humanity. The idea of open borders is suggested by some theorists of global justice as a remedy to poverty (Carens

**CONTACT** Borja Niño Arnaiz  [ganguren42d@gmail.com](mailto:ganguren42d@gmail.com)  Department of Political Science and Public Administration, Universidad Rey Juan Carlos, Madrid, Spain

© 2022 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.  
This is an Open Access article distributed under the terms of the Creative Commons Attribution License (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

2013; Velasco 2016a, 2016b). The solution lies, we are told, in lifting restrictions on immigration and allowing free movement across borders. But to reach this conclusion we have to assume the second premise, namely, that the border regime is the source of the problems, and additionally, that poverty is at the root of international migration. Indeed, it is often argued that in a just world immigration would no longer be an issue (e.g. Rawls 1999, 9; Shachar 2009, 5).

The second premise is more questionable though. Poverty and inequalities precede borders, which – at least as we know them today – are a relatively recent invention dating back three centuries and a half to the Peace of Westphalia (Graziano 2018). Nor does the international regime devised by Western powers seem to be the only – not even the main – cause of the poverty of developing countries (Acemoglu and Robinson 2012). In fact, one does not need to cross state borders to encounter enormous inequalities in income and wealth. The national rich do not need borders, it suffices with the private property regime and the coercive apparatus of the state to ‘protect’ themselves. If anything, borders are just a small (but integral) part of that coercive apparatus designed to exclude the poor from the other side.<sup>1</sup> In this sense, rather than the origin, borders are the material expression of a profoundly unequal world, a sort of topography or spatial embodiment of inequality. If borders were the actual cause of global poverty and inequality, then it would make sense to call for their abolition. But to the extent that they are just one face of the problem, it does not seem that the solution lies in their opening, and much less in their removal. In fact, most cosmopolitan thinkers are extremely cautious when conceiving their ideal world, making it clear that they do not advocate for a world *without borders*, but for a world *with open borders* (Bauböck 2009; Carens 2013; Velasco 2016a, 2016b). In defending their permanence as jurisdictional demarcations, they implicitly recognize that borders are not the problem. The problem consists, above all, in the political, economic, and legal framework that perpetuates an unequal distribution of wealth.

Therefore, if borders are only a tiny part of that framework, it is unclear why their opening would be an effective, let alone definitive, solution to the problems that global justice confronts.<sup>2</sup> At best, a world with open borders would be a world with greater mobility, one from which only some could benefit; usually the people best situated in their countries of origin, who are not the most in need (Brock 2009). Consequently, it is difficult to see how this could help the poorest people who lack the minimum resources and skills to migrate (Pogge 2006) – hence the third premise is also controversial. Add to all this the problems of coordination and conflicts that would arise in the allocation of costs and benefits, not to mention the fact that many states would refuse outright to open their borders (as is already the case with the accommodation of refugees). The most we can look forward to for the moment is a world with partially open regional borders. However, even in that optimistic scenario, internal opening would most likely

---

<sup>1</sup>Yet passports are far more effective than barbed wire fences and huge walls in controlling movement and preventing unwanted immigrants from coming (Sager 2020).

<sup>2</sup>If anything, it could be objected that this dilemma between open borders and global distributive justice is not such, and that the solution consists in acting on all fronts: addressing the structural factors and reforming the perverse economic incentives that hinder the possibilities of developing countries; a more ambitious global redistributive scheme, so that people are not forced to leave their home countries; challenging the securitarian and xenophobic discourse that links immigration to crime; and last but not least, lifting restrictions on international mobility by opening borders. But, as we will see in [section 2.3](#), this strategy also fails.

come hand in hand with the closure of external borders (as in the European Union); or else new borders would spring within cities and neighbourhoods in the form of ‘a thousand petty fortresses’ (Walzer 1983, 38). But even those countries that democratically decided to open their borders, it remains to be seen how long it would take voters to punish their governments at the polls. Not because of selfishness or xenophobia, but only because the opportunity costs would be too high for those few well-intentioned countries.

Even so, leaving aside all the problems that could arise from the application of this measure, the argument itself is not very sound. If the idea of open borders starts from the empirically demonstrated premise that citizens in western democratic countries are for the most part reluctant to increasing immigration, it does not seem very likely that governments would risk opening borders with their citizenry against (Hidalgo 2019). Some propose open borders as a driving force for change, a mere way of challenging the ‘complacency’ of citizens in rich western democracies (Carens 2013, 296). But to have borders open we would first need to open people’s minds, not the other way around. With all that, the arguments put forward in this article do not depend on the greater or lesser effectiveness of the policy nor on its possible effects.<sup>3</sup> Instead, we will try to show why open borders as an instrument of global justice are at odds with freedom of movement.

### Open borders and global justice: two incompatible principles

But what do open borders mean? The first thing to note is that borders are never entirely open or closed, it is rather a matter of degree. Borders can be more or less open in a variety of ways depending on the recipient. According to Chandran Kukathas (2021), openness can be conceptualized along three dimensions: entry, participation, and membership. The easier it is to enter a country, participate in its affairs, and acquire formal citizenship, the more open the border is, and vice versa. Nonetheless, this should not lead us to believe that open borders are just *more open* borders, ‘rather, it entails that people can move freely across state lines and settle abroad regardless of their citizenship’ (Sager 2020, 14). In this line, Lea Ypi (2008) considers that any obstacle (physical or otherwise) to movement is in effect a restriction. It is very important to note, however, that open borders do not entail an unqualified right to move. As will become clear later, there are occasions when freedom of movement might be rightly curtailed, such as in the event of a pandemic or a terrorist attack. In this way, open borders should be understood as a *prima facie* unrestricted right to move across and settle in a different jurisdiction.

### Freedom of movement: means or end?

The appeal to global justice as the rationale for open borders instrumentalizes the latter for the advance of the first, whereby freedom of movement is no longer an end worthy

---

<sup>3</sup>Song (2019, ch. 5) has contested the premises (1) that global distributive justice requires global equality of opportunity and (2) that global distributive justice requires open borders. However, her case rests on empirical assumptions about the effects of open borders on global redistribution, and as such, it is subject to counterfactual considerations.

of respect and becomes a sort of remedy to an imperfect world (Bauböck 2009). This reasoning entails the risk of not only discounting freedom of movement, but also releasing those states that are already doing their 'fair' share (whatever that might be) from the rest of their responsibilities, such as abstaining from harmfully coercing peaceful immigrants (Huemer 2010).

Open borders as an imperative of global justice pose a second challenge: if they are conceived as a means in the fight against inequality and global poverty, freedom of movement no longer has significant value,<sup>4</sup> becoming a mere instrument of public policy subordinated to the achievement of a political objective (and thus susceptible of being sacrificed where circumstances demand). Therefore, in the event of a global redistributive policy, even if freedom of movement would retain its intrinsic value, it would certainly lose its presumptive value. It would no longer be the default position nor a *prima facie* right, and so only under the 'right' circumstances would it be allowed. Were we to apply this at the domestic level, the consequences for freedom of movement would be devastating, since it could arguably be curtailed for reasons of collective welfare. This has two further implications that should not be overlooked.

The first is that, if the common good or the general interest so requires, freedom of movement may be suspended (Loewe 2017). The general interest is an abstract principle that can be interpreted in a number of ways and is therefore subject to political manipulation and bargaining. It often goes far beyond an imminent danger to national security or a serious threat to public health – both cases in which internal and external freedom of movement could reasonably be (temporarily) suspended. As a result, those in power could abuse their discretion, making a partial interpretation of the general interest as an excuse to limit freedom of movement.

There is a second concern: if the objectives of distributive justice are fulfilled at some point, would states be entitled to close their borders? In fact, it is not necessary to imagine such a far-fetched scenario to raise the same question: could an individual state unilaterally close its borders if it considered that it had already contributed enough via the transfer of income<sup>5</sup>? In other words, can a state pay to close its borders? After having condemned so vehemently the happenstance of borders (Velasco 2016a) and their critical impact on people's lives (Kymlicka 2001), it is striking to suggest that the opening of borders is a simple currency with which to pay our obligations of justice.<sup>6</sup>

To sum up, under this instrumental conception, open borders are nothing but a strategy to achieve a political goal – the reduction of poverty and global inequality –, subject to electoral purposes and vulnerable to political manipulation. Moreover, once

---

<sup>4</sup>In a previous version, I claimed that a global redistributive scheme strips freedom of movement of its intrinsic value. But as the editors of the journal accurately pointed, it is rather a matter of weighting the different normative ideals at stake and deciding which should take priority in which situation. For example, traffic rules and private property rights do not negate the significance of freedom of movement, but they simply assert that there is an overriding interest that outweighs it. And just as the right to internal mobility can be overridden without denying its intrinsic value, so too can international movement. I would like to thank the editors for pressing me to address this point.

<sup>5</sup>For example, Wellman (2016, 94) defends that '[l]egitimate states may in some circumstances (i.e. if they have already done a sufficient amount to address the problems of those vulnerable to failed and rogue states) permissibly exclude even the most desperate foreigners.'

<sup>6</sup>In this line, Velasco (2016b, 65) says that '[i]t is not obligatory to open borders, but rejecting this option has its price.' That price can be paid in different currencies: 'if they eliminate the trade barriers towards the poorest countries, if they modify the existing international economic institutions, and/or if they intervene through some kind of redistributive tax in a more just share in the planet's resources' (Velasco 2016b, 62).

our distributive obligations have been realized (wherever the threshold may lie), freedom of movement would lose its *raison d'être*, becoming something superfluous and therefore dispensable. After all, if the reason to open our borders is the concern for the global poor, what prevents us from closing them once justice has been done? In the end, we might jump at similar conclusions to those who defend the right to exclude.<sup>7</sup>

### ***Priority, conditionality, and restrictions***

When we talk about open borders, we do not merely imply the relaxation of immigration controls, but an unrestricted freedom of movement between countries. In turn, lifting all restrictions does not only entail the absence of direct coercion on the subjects, but also the absence of all conditionality on the right to move (Ypi 2008). Note, however, that this is not exactly what the advocates of global justice suggest. In addition to the state not interfering with the attempt of individuals to cross the border, they demand that they be granted the full panoply of rights enjoyed by citizens, including access to social welfare programmes (Carens 2013). In other words, what is being demanded here is not just *freedom of movement* (understood as a negative duty of non-interference), but a *right to immigrate* (with the corresponding positive duties of assistance by the state).<sup>8</sup>

The idea of open borders seems deeply at odds with the principles of global distributive justice. The opening of borders is nothing but the removal of barriers to free transit, so that individuals can freely decide which country to live and work in, and with whom to cooperate and associate voluntarily. Distributive justice, by contrast, requires the intervention of the state (or other type of public authority) to 'fairly' allocate the benefits and burdens of social cooperation, usually through the exaction of taxes and the coercive transfer of resources from the richest to the poorest segments of the population. But how might distributive justice look like in the context of migration?

Let us begin with the countries of origin. Governments in developing countries could adduce reasons of justice to justify restrictions on the emigration of their qualified or wealthy citizens.<sup>9</sup> Such a policy could take the form of a ban on the emigration of highly qualified professionals most needed in their countries of origin (e.g. doctors, engineers, scientists, to mention just a few); or in a less draconian version, an obligation to work in the country for a certain amount of time or to pay a tax before departure. As for the receiving countries, let us imagine that a government committed to global justice decided to preferentially admit refugees and necessitous migrants, whilst at the same time setting a limit on the so-called 'economic' immigration. This policy would involve the poorest migrants taking precedence over the rich ones, and once the state's obligations of distributive justice had been discharged, the closing of borders to the latter.

<sup>7</sup>For example, David Miller (2016a) and Michael Blake (2020) defend the right to migrate only of those people whose basic rights are not adequately protected in their countries of origin or residence; whereas if they have their vital needs satisfied, they lose that right. Put it simply, some claim that rich states have a moral duty to let the poor in, whereas the others conclude that these states are only morally entitled to exclude the rich.

<sup>8</sup>This is not to deny that new residents are granted full citizenship rights (quite the contrary, the principle of equal treatment requires so), but rather to point out the implications that this would have for the receiving countries.

<sup>9</sup>In this sense, Ann Stilz (2016, 77) has argued that 'the choices of talented individuals can permissibly be limited for the sake of improving the welfare of the least well-off.'

However, a human right to migrate must be understood as the right of every human being, irrespective of their talents, resources or any other circumstances, to travel and establish their residence in any country. And, as such, ‘it attaches as much to the rich Canadian wishing to settle in Germany as it does to the desperate Somali trying to cross the border into Kenya’ (Miller 2016a, 49). We can now clearly see how these remedial policies come into conflict with the very idea of freedom of movement. In all these cases, the state would be favouring one type of immigration over another, or to put it bluntly, it would be restricting the freedom of movement of the relatively better-off for the benefit of the least advantaged.<sup>10</sup>

One could plausibly respond that both kinds of migration (qualified and unqualified, rich and poor) are in fact compatible, since qualified migrants contribute to the economy of the receiving country, thus compensating for an eventual cost imposed by less qualified migrants. Thus, all things considered, domestic distributive justice would go unaffected. This makes some sense, but as we have already said, insofar as migration is subject to terms and conditions, it is not free.

From the moment that borders are placed at the service of redistribution, the honourable cause of global justice perverts the very idea of open borders, since it legitimizes the promotion of one type of immigration (that of the relative poor) and the limiting of another (that of the relative rich). As a result, freedom of movement and open borders become empty signifiers. By this we do not pretend to suggest that such policies are necessarily unjust, but rather that the idea of open borders is not compatible with that of global distributive justice. In fact, global justice could under certain circumstances justify the imposition of severe restrictions on mobility and even the obligation to remain in one’s country.

If justice is concerned with the needs of the disadvantaged, just as it would not be morally wrong to prevent a rich person from entering a soup kitchen or to deny her the minimum subsistence income, to what extent would a government act badly if it forbade her entry into the country? Distributive justice, by its very nature, requires us to put needs in order of priority, and to give some (the most pressing) preference over others (the least pressing).

To this end, it might be helpful to distinguish between *interests* and *rights*. Just as my interest in a particular thing does not always give rise to a right to that thing, many of the claims of potential immigrants, however strong and legitimate, are not always adequately captured by the language of justice. And if what takes us to open our borders are the claims of justice, when there is no such claim, we are under no corresponding obligation to open them. According to Blake (2020) and Miller (2016b), what justice requires is access to a sufficient range of options.<sup>11</sup> In this sense, a state could not be accused of injustice for prohibiting the entry of persons whose only motivation was the maximization of their options, provided that they were already adequately covered in their country of origin. Similarly, it would not be unfair to deny

---

<sup>10</sup>The cosmopolitan egalitarian who defends a remedial view of free movement will in this case promote a migration policy that gives priority to the globally worst-off and therefore presupposes a regime of state control and selection’ (Bauböck 2009, 5). Even Carens (1987, 260–261) admits that there are special circumstances in which ‘priority should be given to those seeking to migrate because they have been denied basic liberties over those seeking to migrate simply for economic opportunities.’

<sup>11</sup>They do recognize, however, that a large part of the world’s population does not have access to that minimum number of suitable options.

entry to a person whose claims could be adequately addressed where she was currently living (Wellman and Cole 2011).

One might criticize this conception of justice for being too narrow. But no conception of justice, not even the most ambitious one, could plausibly demand an unrestricted freedom of movement, nor does it include the right to choose one's country of preference (Blake 2020). One can have access to a sufficient range of means to develop an autonomous life without having free rein to move all over the globe, so it is difficult to derive the principle of freedom of movement from the requirements of global justice. If freedom of movement is to be defended, it cannot be done by appeal to global justice. In conclusion, the remedial or instrumental argument fails at justifying unrestricted migratory rights for everyone, especially for those who already have access to an adequate set of opportunities. What is more, as we will argue in the next section, global justice may run counter to the very idea of open borders.

### *Two contradictory concepts*

The proposal of open borders as a remedy of justice stands in an unsolvable contradiction with the idea of open borders understood as an unrestricted right to freedom of movement between countries. This is because the obligations of justice are not unlimited, as enshrined in the Latin legal principle *ultra posse nemo obligatur* (no one is obliged beyond what she is able to do). Under normal circumstances, an act of justice should not place the duty-bearer (that whose interests and freedom are reduced) in a comparatively worse situation than that of the rights-holder (that who is benefited by the act).<sup>12</sup> If we apply this maxim to distributive justice, the obligations of the rich towards the poor should not exceed the point of absolute equality among the parties,<sup>13</sup> unless that inequality was the result of a relation of exploitation or past grievances.

This is not to defend radical egalitarianism, but to notice how any demand for justice (distributive or otherwise) has its limits. Therefore, if we try to reduce poverty and/or inequality by opening borders, considering that there are limits to redistributive duties, borders cannot be always open. If distributive obligations (X) from A to B are discharged in the form of open borders (Y), then borders need not remain open after a certain point in redistribution has been reached ( $X \geq Y$ ). At issue here is the stringency of distributive obligations, but on no account can they be unlimited. Several objections can be levelled against this approach:

1. The first objection is that open borders do not significantly alter the final distribution of goods, or else produce the desired effects in terms of redistribution, and so it would not be necessary to restrict freedom of movement for the sake of justice. In its more modest version, if open borders do not make a significant change in the final allocation of resources, then what is the point in keeping them open? The ideal scenario would be that the free flow of individuals by itself (without the intervention of the state) produced fair results over which no adjustment was necessary. But notice that this implies acknowledging the redundancy of justice, and it is most certainly not what

<sup>12</sup>This is a logical implication of the utilitarian principle of equal consideration of interests or Rawls's first principle of justice that all citizens have an equal right to basic liberties.

<sup>13</sup>Carens (1987, 262), however, thinks that this scenario still 'would not justify restrictions on immigration because of the priority of liberty.'



defenders of global distributive justice hold. In fact, they are usually quite sceptical of nation states and the free will of individuals assigning resources fairly. They advocate instead for the establishment of supranational democratic institutions with jurisdiction over a number of areas, including (but not necessarily restricted to) migration and distributive justice.

2. The second objection, somewhat more plausible, is that immigration benefits both sending and receiving countries, so that it is not a zero-sum game in terms of redistribution. But if it were indeed mutually beneficial, then the inequality between these countries would not be significantly diminished. And this is tantamount to asserting that inequality is a chronic disease with which we must learn to live. Alternatively, one could say that inequality is not a matter of global justice, but that what it really matters is the eradication of absolute poverty (*sufficientarianism*). But notice that this is not what most cosmopolitan accounts of distributive justice aim for. In fact, Thomas Nagel (2005) has argued that '[j]ustice as ordinarily understood requires more than mere humanitarian assistance to those in desperate need, and injustice can exist without anyone being on the verge of starvation.' Even if the concern were only with rising global living standards up to a subsistence level, justice would not require an indiscriminate policy of open borders, but a targeted admissions policy (Song 2019).

3. A more realistic account is that free immigration contributes to improving the situation of sending countries without critically undermining the welfare institutions of the countries of destination.<sup>14</sup> In this case, free immigration would have net positive redistributive effects on developing countries (transferring resources from the rich to the poor countries), and so open borders and global justice would appear to be compatible. If so, a reasonable degree of equality between sending and receiving countries could be achieved. But notice that in this situation immigration would no longer be required as a matter of justice, since everyone would have access to an equal range of opportunities in their respective countries.

An alternative and more promising reply is that only then would freedom of movement really make sense as a *principle* rather than as a mere *strategy*, so there would 'be no more reason to constrain free movement across borders' (Bauböck 2009, 4). But even in this ideal scenario immigration would keep altering the balance of wealth among countries, so that full equality could never be achieved. And as long as global justice cares about inequality, open borders would act as a mere counterweight to an imbalance that would never end. So, after all, freedom of movement as an ideal would be a mirage, an unreachable horizon.

4. Of course, one can respond that along with open borders, additional reforms must be undertaken in the world economic system. In this regard, the last objection that can be raised is that open borders are one among many other policies of global justice, and that freedom of movement must come hand in hand with a series of measures such as income transfer, restorative justice, and the like (Loewe 2017). But this brings us back to the starting point. If open borders (even as part of a package of global redistributive policies) are supposedly a condition of possibility of global justice, insofar as there is a

---

<sup>14</sup>Or inversely, that unrestricted emigration primarily benefits rich western societies, whilst depriving developing countries of their most qualified professionals that are so desperately needed in their places of origin. But since the so called 'brain drain' problem would rather speak in favour of more restrictive policies, let us assume for the sake of argument that immigration benefits sending countries the most, which are usually developing countries.

basic contradiction between the two, open borders are no longer a condition of possibility but a condition of *impossibility* for global justice. Let us elaborate on this idea. If global distributive justice depends not only on open borders, but also on complementary measures such as, say, income transfers and fair-trade agreements, among others, there are two possibilities:

- (a) That the various measures were mere aggregates, such that the absence of one would not thwart global distributive justice. In this case, global justice could be plausibly (although imperfectly) achieved. However, if they were mere aggregates, one could also do so without opening borders. Ultimately, open borders as an instrument of global justice are dispensable, and so their closing would not amount to an injustice.
- (b) That the various measures were jointly indispensable, such that one's absence would make global justice impossible to attain. But remember that global distributive justice does not require borders to be permanently open, because there is a limit to redistributive duties. But then, if we take borders out of the equation, global justice becomes unattainable.

To sum up, global justice does not only conflict with open borders as an ideal to strive for, but it is at odds with the very same principle of freedom of movement, either because it involves prioritization, conditionality and the subsequent establishment of restrictions, or simply because it does not require indefinitely open borders.

### In defence of free movement

Despite the relevance of the ideal of global justice, I believe that debates on human mobility should not be run in isolation, but with a certain autonomy from the said principle. And, except for extreme cases of grinding poverty, under no circumstances should freedom of movement be subordinated to global justice.<sup>15</sup> As Lea Ypi (2008, 394) has said, 'if restrictions on individual freedom of movement are endorsed, they are not endorsed because we are favouring a collectivist perspective aiming to increase the aggregate welfare (whatever that might mean) of either the sending or the receiving society.'

If we consider freedom of movement as a basic freedom essential to human autonomy and flourishing, it should not be sacrificed for the sake of greater distributive justice, however legitimate it may be. Otherwise, we run the risk not only of devaluing freedom of movement, but of 'releasing' states from their responsibilities once they have somehow discharged their distributive duties. The implications of this right become clearer when we compare it to other human rights such as freedom of expression, conscience or association. If we consider freedom of movement (both internal and external) as a fundamental right, once the threshold of subsistence has been met, no one should force a healthcare provider to remain in her country of origin, nor should a state

---

<sup>15</sup>'Are emigration decisions simply outside justice's domain?' asks Stiliz (2016, 69). Surprising though it may seem, yes. If fundamental freedoms responded to criteria of global justice, libertarian parties might have to be outlawed and climate change deniers censored. Additionally, governments have less invasive policy instruments at their disposal to avert the undesired effects of free movement, so mobility restrictions should always be the last resort.

prohibit the entry of foreign labour to ‘protect’ its citizens from external competition. This section presents a deontic case for free human mobility, advocating for the institution of a widespread right to both internal and external freedom of movement.<sup>16</sup> Note that we are talking about a right to freedom of movement, not about a right to immigration. This has two important implications.

The first refers to the distinction between positive and negative obligations (Blake 2020). It is not about encouraging immigration or imposing duties of assistance towards potential migrants (*positive* obligations), but about states not coercively interfering with people’s attempts at crossing borders (*negative* obligations) either by physically blocking their passage or putting a prohibitive price on visas. After all, freedom of religion does not command states to build houses of worship; freedom of association does not include the right to free land for my golf club; nor does freedom of expression compel anyone to finance the publication of my book. By the same token, freedom of movement between countries does not entail the public provision of the means to migrate (for example, through the subsidy of plane tickets) or an immediate entitlement to social benefits in the country of destination. Freedom of movement ‘is basically a negative liberty that puts political authorities under an obligation of non-interference with individuals exercising their right to free movement’ (Bauböck 2009, 10).

The second implication concerns citizenship rights. Just as mere presence in a territory does not automatically lead to the acquisition of social rights, neither does it enable the newcomer to participate in the political decision-making process. In short, freedom of movement, at least as it is understood here, gives rise only to the right to cross borders and establish residence in another country. However, this could lead to first- and second-class citizens: people who enjoy full rights while others are deprived of basic social and political rights. As this might be a problematic scenario incompatible with liberal principles, especially that of equality before the law, it would be morally unacceptable to grant some people rights that are systematically denied to others.

In fact, some authors oppose free immigration for fear that domestic social justice would be undermined by a massive influx of migrants, as they would have to be granted full rights, including social and political rights (Miller 2016a). This should make us wonder whether the fundamental problem lies in these scenarios – that of a free immigration but unequal in rights, or that of a restricted immigration but with the same rights – or, on the contrary and as we argue here, in our conception of domestic distributive justice. As Chandran Kukathas (2014, 385) puts it, ‘[i]f the price of social justice is exclusion of the worst-off from the lands that offer the greatest opportunity, this may be a mark against the ideal of social justice.’ In this vein, it may be worth recalling Milton Friedman’s words that one can have freedom of movement or a welfare state, but not both.<sup>17</sup>

Like all rights, freedom of movement would not be absolute or unconditional, but it should rather be understood as a *prima facie* right (Huemer 2010) whose violation would require the existence of a direct and imminent risk to national security, public health, fundamental rights and freedoms, or democratic self-determination. Thus, an eventual reduction in the wage of some workers or concerns for the loss of the alleged

---

<sup>16</sup>For a critical review, see Hosein (2013) and Miller (2016b).

<sup>17</sup>Friedman was thinking about the consequences, in his opinion negative, that the so called ‘pull effect’ would have on the public coffers. But morally speaking, there might be an actual tension between freedom of movement and the welfare state.

cultural ‘homogeneity’ would be out of the question (Kukathas 2021). The most important thing is that the risk is direct and imminent<sup>18</sup> direct because there must be no other way to avoid it, so that the last resort to tackle it is the temporary and subsidiary<sup>19</sup> suspension of freedom of movement; and imminent because it cannot be based on bad omens, unfounded suspicions nor questionable empirical premises.

In fact, all these clauses are already explicitly or tacitly acknowledged when it comes to internal mobility. For example, mobility within a country could be legitimately restricted in the event of a pandemic or a terrorist attack, just as access to a popular national park could be limited if there was a significant risk of environmental degradation. In other cases, restrictions on international mobility would not be justified, and they would constitute an illegitimate impingement on individual freedom (Loewe 2020).

## Conclusions

Throughout the article, we have tried to show the contradiction between the principles underlying the ideal of open borders and the requirements of global justice. The argument has been structured in three parts:

- (1) Distributive justice instrumentalizes freedom of movement, losing its presumptive moral force to become a remedy for global poverty. As a policy instrument, open borders are contingent on the fate of global justice. Consequently:
  - (a) If open borders are detrimental to global justice, then borders ought to be closed.
  - (b) If open borders are partially effective, freedom of movement as an end is unattainable.
  - (c) If global justice is achieved, freedom of movement becomes superfluous.
- (2) The goal of reducing global poverty and inequality forces us to prioritize some claims of justice over others, with the result that the interests of some potential migrants may be revoked by the more pressing needs of others. This can lead to the rejection of some migrants – presumably the more qualified and relatively better-off. In the end, open borders understood as unrestricted freedom of movement are incompatible with the requirements of global distributive justice.
- (3) What is more, open borders as a remedy of justice<sup>20</sup> are an oxymoron. To the extent that we aim at reducing global poverty and/or inequality through an open borders policy, and given that there are limits to the obligations of justice (redistributive or otherwise), borders can never be fully open.

---

<sup>18</sup>This discussion draws on Oberman (2016):.

<sup>19</sup>Subsidiary because alternative ways must be sought after to restore the free transit of people, and temporary because it cannot serve as a pretext to de facto annul freedom of movement indefinitely.

<sup>20</sup>This argument is based on the following two premises:

a) Distributive justice implies the transfer of items from those who possess more to those who possess less of a specific resource.

b) Resources are finite and often scarce, and so there is a limit to distributive obligations. In the context of fair enrichment, redistribution cannot place the giver in a position worse to that of the taker.

Freedom of movement, taken seriously, cannot be subordinated to the contingencies of a global redistributive scheme which, as legitimate and as laudable its objectives as they may be, is still primarily a political goal. On the contrary, freedom of movement should be understood as an unrestricted *prima facie* right whose repeal requires weighty competing considerations. Such compelling justifications may comprise, as stated above, public health reasons, imminent threats to national security or a serious risk of undermining democratic institutions; but they do not include, under any circumstances, an interest in maximizing the aggregate social welfare or utility. As we have insisted throughout the article, freedom of movement is too important to be subject to such instrumentalizing interests. The proposal of open borders as a policy at the service of global justice fails to appreciate the implications of such a measure and the significance of freedom of movement, seeing that it is ready to sacrifice the latter for the sake of an allegedly superior collective interest.

This article does not intend to conclude that freedom of movement between countries is unfeasible, let alone undesirable, but to ask whether opening borders is the best way to achieve the goals of global justice. If our aim is to raise the standards of living of the poorest people on the planet, it seems more sensible to go down the path of global redistributive policies and call for more ambitious reforms in the world economic and political institutions. Moreover, it would not be ethical to sacrifice the fight against poverty for the sake of a greater freedom of movement that, as we have already said, would only be within the reach of a few privileged people. If the enjoyment of this right comes at the price of the segmentation of mobility and the exclusion of the most disadvantaged, then the price is too high. Global justice is too urgent a challenge to fall on deaf ears. We are thus faced with the difficult task of reconciling the duties of global justice with an unrestricted right to move across borders.

In conclusion, and as a reason for optimism, we should note that there is already a realm in which freedom of movement is not considered to be in tension with distributive justice. At the regional level, free mobility is often seen as mutually beneficial in both economic and social terms. Such rapprochement often begins by the signing of trade agreements with the intention of promoting the free movement of goods, capital, and sometimes labour. And although they do not come without controversy, they do strengthen ties between countries insofar as they share common goals and they have a sense of mutual responsibility. Eventually, such agreements may lay the foundations for the creation of political bodies and legal institutions with redistributive powers, as in the case of the European Union. Current dynamics seem to point in this direction, which is good news for global justice activists and proponents of freedom of movement alike. We will have to keep a critical eye on how the events unfold, since these alliances can effectively advance freedom of movement and justice within some regions, but they can also lead to an ever-stricter control of their external borders, as it is happening in Fortress Europe.

### **Disclosure statement**

No potential conflict of interest was reported by the author(s).

## Funding

This work was supported by the Ministerio de Educación y Formación Profesional

## ORCID

Borja Niño Arnaiz  <http://orcid.org/0000-0001-9585-2473>

## References

- Acemoglu, D., and J. A. Robinson. 2012. *Why Nations Fail. The Origins of Power, Prosperity, and Poverty*. London: Profile Books.
- Bauböck, R. 2009. "Global Justice, Freedom of Movement and Democratic Citizenship." *European Journal of Sociology* 50 (1): 1–31. doi:10.1017/S000397560900040X.
- Blake, M. 2020. *Justice, Migration, and Mercy*. New York: Oxford University Press.
- Brock, G. 2009. *Global Justice: A Cosmopolitan Account*. Oxford: Oxford University Press.
- Carens, J. 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics* 49 (2): 251–273. doi:10.1017/S0034670500033817.
- Carens, J. 2013. *The Ethics of Immigration*. New York: Oxford University Press.
- Graziano, M. 2018. *What Is a Border?* Stanford: Stanford University Press.
- Hidalgo, J. 2019. *Unjust Borders: Individuals and the Ethics of Immigration*. New York: Routledge.
- Hosein, A. 2013. "Immigration and Freedom of Movement." *Ethics & Global Politics* 6 (1): 25–37. doi:10.3402/egp.v6i1.18188.
- Huemer, M. 2010. "Is There a Right to Immigrate?" *Social Theory and Practice* 36 (3): 429–461. doi:10.5840/soctheorpract201036323.
- Kukathas, C. 2014. "The Case for Open Immigration." In *Contemporary Debates in Applied Ethics*, edited by A. I. Cohen and C. H. Wellman, 376–388. Malden: Wiley Blackwell.
- Kukathas, C. 2021. *Immigration and Freedom*. Princeton: Princeton University Press.
- Kymlicka, W. 2001. "Territorial Boundaries: A Liberal Egalitarian Perspective." In *Boundaries and Justice*, edited by D. Miller and S. Hashmi, 249–275. Princeton: Princeton University Press.
- Loewe, D. 2017. "Justicia Distributiva Global e Inmigración." *REMHU, Revista interdisciplinar da Mobilidade Humana* 25 (50): 25–45. doi:10.1590/1980-85852503880005003.
- Loewe, D. 2020. "Cuando la libertad importa: Inmigrantes y movilidad libre." *Estudios Públicos* 157: 7–46. doi:10.38178/cep.vi157.3.
- Miller, D. 2016a. *Strangers in Our Midst. The Political Philosophy of Immigration*. Cambridge: Harvard University Press.
- Miller, D. 2016b. "Is There a Human Right to Immigrate?" In *Migration in Political Theory. The Ethics of Movement and Membership*, edited by S. Fine and L. Ypi, 11–31. Oxford: Oxford University Press.
- Nagel, T. 2005. "The Problem of Global Justice." *Philosophy & Public Affairs* 33 (2): 113–147. doi:10.1111/j.1088-4963.2005.00027.x.
- Oberman, K. 2016. "Immigration as a Human Right." In *Migration in Political Theory. The Ethics of Movement and Membership*, edited by S. Fine and L. Ypi, 32–56. Oxford: Oxford University Press.
- Pogge, T. 2006. "Migration and Poverty." In *Contemporary Political Philosophy: An Anthology*, edited by R. E. Goodin and P. Pettit, 710–720. Oxford: Blackwell.
- Rawls, J. 1999. *The Law of Peoples*. Cambridge: Harvard University Press.
- Sager, A. 2020. *Against Borders: Why the World Needs Free Movement of People*. London: Rowman & Littlefield International.
- Shachar, A. 2009. *The Birthright Lottery: Citizenship and Global Inequality*. Cambridge: Harvard University Press.

- Song, S. 2019. *Immigration and Democracy*. New York: Oxford University Press. doi:[10.1093/oso/9780190909222.001.0001](https://doi.org/10.1093/oso/9780190909222.001.0001)
- Stilz, A. 2016. "Is There an Unqualified Right to Leave?" In *Migration in Political Theory. The Ethics of Movement and Membership*, edited by S. Fine and L. Ypi, 57–79. Oxford: Oxford University Press.
- Velasco, J. C. 2016a. *El azar de las fronteras: Políticas migratorias, ciudadanía y justicia*. Ciudad de México: Fondo de Cultura Económica.
- Velasco, J. C. 2016b. "Open-Border Immigration Policy: A Step Towards Global Justice." *Migraciones Internacionales* 8 (4): 41–72. doi:[10.17428/rmi.v8i4.626](https://doi.org/10.17428/rmi.v8i4.626).
- Walzer, M. 1983. *The Spheres of Justice*. New York: Basic Books.
- Wellman, C. H., and P. Cole. 2011. *Debating the Ethics of Immigration. Is There a Right to Exclude?* New York: Oxford.
- Wellman, C. H. 2016. "Freedom of Movement and the Rights to Enter and Exit." In *Migration in Political Theory. The Ethics of Movement and Membership*, edited by S. Fine and L. Ypi, 80–101. Oxford: Oxford University Press.
- Ypi, L. 2008. "Justice in Migration: A Closed Borders Utopia?" *The Journal of Political Philosophy* 16 (4): 391–418. doi:[10.1111/j.1467-9760.2008.00326.x](https://doi.org/10.1111/j.1467-9760.2008.00326.x).