

Daimon. Revista Internacional de Filosofía, en prensa, aceptado para publicación tras revisión por pares doble ciego.

ISSN: 1130-0507 (papel) y 1989-4651 (electrónico) <http://dx.doi.org/10.6018/daimon.537961>

Licencia [Creative Commons Reconocimiento-NoComercial-SinObraDerivada 3.0 España](#) ([texto legal](#)): se pueden copiar, usar, difundir, transmitir y exponer públicamente, siempre que: i) se cite la autoría y la fuente original de su publicación (revista, editorial y URL de la obra); ii) no se usen para fines comerciales; iii) se mencione la existencia y especificaciones de esta licencia de uso (CC BY-NC-ND 3.0 ES)

The right to migrate: a matter of freedom or justice?¹

El derecho a migrar: ¿una cuestión de libertad o de justicia?

BORJA NIÑO ARNAIZ²

Abstract: This paper investigates one of the central questions in the ethics of migration: is migration a matter of freedom or justice? The former claims that it is a human right, whereas the latter defends a remedial right to immigrate as a way to meet the requirements of global distributive justice. These arguments seem to enter into an intractable contradiction. On the one hand, if freedom of movement is a human right, it should not be subordinated to the maximization of justice. On the other hand, in a non-ideal world an open-borders policy would be of little help in the assignment of priorities, and its redistributive effects would be suboptimal. The solution, I will argue, lies in a package of global redistributive measures. More open borders now can bring us closer to justice, and only then would immigration make sense as a human right.

Key words: right to migrate, freedom of movement, global justice, open borders, human rights, ethics of migration.

Resumen: Este trabajo investiga una de las preguntas centrales en la ética de las migraciones: ¿son las migraciones una cuestión de libertad o de justicia? El primero reivindica la inmigración como un derecho humano, mientras que el segundo defiende un derecho subsidiario a inmigrar como forma de satisfacer las demandas de justicia distributiva global. Estos argumentos parecen entrar en una contradicción irresoluble. Por un lado, si la libertad de movimiento es un derecho humano, no debería subordinarse a la maximización de la justicia. Por otro lado, en un mundo no ideal una política de fronteras abiertas serviría de poca ayuda a la hora de asignar prioridades, y sus efectos redistributivos serían subóptimos. La solución, sostendré, pasa por un paquete de medidas redistributivas globales. Unas fronteras más abiertas en la actualidad pueden ayudarnos a avanzar en la senda de la justicia, momento en el cual cobraría sentido la inmigración como derecho humano.

Palabras clave: derecho a migrar, libertad de movimiento, justicia global, fronteras abiertas, derechos humanos, ética de las migraciones.

1. Introduction

Migration is a relatively new subject of study in political philosophy. This lack of attention is largely due to the widely shared philosophical intuition that justice finds its primary field of action within societies built around (nation-)states (Loewe, 2007, 24). This in turn is explained by the cognitive bias of methodological nationalism, which takes states as the central

Recibido: 04/09/2022. Aceptado: 01/12/2022.

¹ This work is part of the research project “Movilidad humana, libertad y autonomía: hacia una propuesta normativa de la inmigración” (Fondecyt 1200370).

² Doctoral candidate in political philosophy at Adolfo Ibáñez University (Chile). Contact: ganguren42d@gmail.com. Lines of research: ethics of migration, global justice, liberalism. Recent publications: “Should we open borders? Yes, but not in the name of global justice”, *Ethics & Global Politics*, 15 (2), 55-68 (2022); “Libertad de movimiento, exclusión de inmigrantes y derecho a viajar”, *Revista Internacional de Pensamiento Político*, 17, 645-662 (2022).

unit of social analysis and conceives of them as self-sufficient containers of a homogeneous society with clearly delimited and impermeable borders. Mobility within the state territory goes mostly unremarked, whereas mobility across borders is seen as an anomaly in need of justification (Sager, 2016). Despite the initial delay, significant progress has been made in the last two decades in the study of migration from a philosophical perspective.

This burgeoning area of political philosophy, known as the ethics of migration, deals with the normative aspects of migration, interrogating itself about the principles of justice that should govern the “movement and settlement of people across state borders” (Fine, 2013, 255). The first and perhaps most controversial question concerns the presumptive right of states to control their borders and establish the terms of admission; or, conversely, the presumptive right of migrants to cross borders and settle in another country. But the ethics of migration covers a wide range of topics, from the limits to the state action in the design of its admission policies to the rights and duties of immigrants (including irregular ones, refugees, and temporary workers) (Hosein, 2019). The ethics of migration is not only concerned with “justice-in-migration”, that is, the right of individuals to migrate or the right of states to exclude them, but it also conceives of migration as an instrument for the promotion of other ends of justice, such as global equality of opportunity (Owen, 2021, 241).

Broadly speaking, we can distinguish two different deontological arguments in favor of open borders: on the one hand, freedom of movement as a human right with inherent moral value independent of other ethical considerations and, on the other, freedom of movement as a remedy of global justice³. The former is a direct and independent argument for open borders, whereas the latter deems them necessary as long as and to the degree that rich states do not live up to their duties of global distributive justice (Bader, 1997, 38; Bader, 2005, 337). The present article examines these two distinct arguments in detail. Even if they appear to be in contradiction, leading us to a dead end, there could be a way forward if we understand each of them in the right context.

2. The freedom of movement argument

One of the most important arguments in support of open borders finds its normative basis in the fundamental value of freedom of movement. Some of the most notable proponents

³ There are other arguments in favor of (more) open borders that appeal to the principles of non-domination (Sager, 2017), antidiscrimination (Mendoza, 2014) and democratic legitimacy (Abizadeh, 2008), which warn against the negative externalities of current immigration controls. However, strictly speaking, they are not arguments for open borders, but for immigration reform.

of this argument are Huemer (2010), Carens (1992, 2013), Kukathas (2012, 2014), Oberman (2016), Hidalgo (2019), and Loewe (2020). Despite the (sometimes huge) gap that separates these authors —some are libertarian, others are liberal egalitarian—, their positions tend to converge in the defense of immigration. David Miller (2016a) has identified three different strategies that are commonly employed to justify a human right to migrate: the direct, the instrumental, and the *cantilever* argument.

The first argues that the right to immigrate protects basic human interests, most importantly, unimpeded bodily locomotion. To this end, it appeals to the intrinsic value of freedom of movement as a constitutive aspect of personal autonomy which, “alongside the other basic freedoms of thought, speech and association, [is] also a core aspect of what it means to be free” (Bauböck, 2009, 7). As Carens says (2013, 249), we have a vital interest in being free, and the freedom to move where we want is a fundamental aspect of freedom. For this reason, there is a presumption in favor of freedom of movement; and, since immigration restrictions are a *prima facie* rights violation and an impingement on individual freedom, the burden of proof lies on those who oppose it. However, this argument on its own cannot ground a human right to migrate, for a right to travel would suffice to warrant freedom of international movement. Migration also involves residence in a territory and membership in a new community. There is no point in being able to travel freely to other countries if one cannot enjoy the opportunities they offer on a more or less sustained basis —autonomy would be equally thwarted. This is why most authors tend to resort to the other two strategies in the defense of open borders.

The second is an instrumental argument for the right to migrate as a necessary condition for the exercise of other fundamental rights already recognized, such as freedom of association, occupation, expression, and conscience. Freedom of movement is considered to be a constitutive aspect of these valuable freedoms, making it valuable as well (Hidalgo, 2019, 14). For Oberman (2016), we have a personal and political interest in accessing the full range of existing life options, not only those available in our country. And, if human rights are meant to protect access to the full range of existing life options, then we should have the human right to access the full range of existing world countries⁴. This argument is especially powerful in cases

⁴ Oberman’s (2016) argument is more complex, but it can be summarized in the following points: (1) Humans have essential political and personal interests. (2) These interests are protected by human freedom rights. (3) These human freedom rights are *expansive* (they grant access to the full range of existing life options) and *extensive* (they belong to citizens and foreigners alike). (4) Freedom of movement protects essential political and personal interests. (5) Therefore, freedom of movement must qualify as a human freedom right that grants citizens and

where one does not have enough means to lead an autonomous life in her country of origin, in which case migration becomes a matter of justice (see the next section). However, hence the name, migration is a right that belongs to every human being equally: “[i]t 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, 2016b, 49).

The third is known as the *cantilever* argument, although I find it more appropriate the names argument ‘by analogy’ or ‘of logical extension’. It consists in extrapolating an already recognized right to another that has not yet been recognized on the basis of their similarities or the logical implications derived from it⁵. The already recognized rights are the human right to internal freedom of movement and the human right to emigrate. In the first case, it is said that “[t]he radical disjuncture that treats freedom of movement within the state as a human right while granting states discretionary control over freedom of movement across state borders makes no moral sense” (Carens, 2013, 239; see also Oberman, 2016, 35-38). After all, the interests one may have in moving within a state may be the same as those another may have in moving between states: practicing a religion, joining loved ones, pursuing a professional career, realizing personal projects, beginning from scratch elsewhere..., none of these interests stop at the border. In the second case, it is considered a logical, legal, and moral nonsense to assert a right to emigrate without the corresponding right to immigrate (Dummett, 1992, 173; Cole, 2000, 46; Velasco, 2016, 205). The human right to emigration becomes an empty signifier if there is no symmetrical obligation on the part of states to permit immigration. This asymmetry or inconsistency with existing mobility rights calls for the recognition of a human right to immigrate that makes the human right to emigrate effective⁶.

Opposition to these arguments has come from detractors and proponents of the right to immigrate alike. The former appeal to domestic social justice, the preservation of culture and national identity, territorial and property rights, freedom of association, democratic self-government, the singularity of state coercion, and the right to avoid unwanted obligations⁷. But since our aim is to confront the two principal arguments for open borders, we will focus on the

foreigners alike access to the full range of existing life options, not only those available in their country of residence.

⁵ In terms of propositional logic, this is a classic *modus ponendo ponens* argument, whereby, if P implies Q and P is true, then Q is also true.

⁶ There are several critiques of this argument. See, among others, Yong (2017, 466-474), James (2019), and Arcos Ramírez (2020).

⁷ For an overview of the different arguments for and against, see Fine (2013) and Song (2018).

objections that supporters of the global justice argument raise to the freedom of movement argument.

One of the main problems with this line of argument is that, in conceiving of freedom of international movement as a human right, it fails to provide adequate normative guidance in non-ideal circumstances. How are we to determine admission priorities in the case that not all would-be migrants can be admitted into a country? If everyone has an equal right to immigrate, it is not clear what grounds there could be for prioritizing the admission of one person over another, even if the claims of the former were more urgent than the latter's⁸. In this sense, the idea of a human right to migrate is at odds with the widely acknowledged principle of priority to the disadvantaged (Higgins, 2013)⁹. Such prioritization is incompatible with the very nature of human rights, which require the equal treatment of all persons. The only permissible criterion for the allocation of visas would be to draw lots between prospective applicants, but this too is likely to render suboptimal results from the point of view of justice.

A second justice-related objection is that it is not safe to deposit full responsibility on the free will of individuals for complying with the principles of social justice (Seglow, 2005, 327). Instead, we tend to bestow on centralized political institutions the authority to direct (or coerce) individuals into complying with said principles. Open borders enable the free movement of people (as well as goods and capital) across countries. This might be beneficial to the migrant, the receiving country, and perhaps even the sending country, but it is unlikely to result in a fair allocation of the benefits and burdens of social cooperation by any relevant standard of distributive justice. On the contrary, open borders could end up benefiting those who are relatively better-off (for example, the Nigerian practitioner who emigrates to Canada to make more money or the American employer who hires an unauthorized immigrant to save

⁸ A reviewer told me that this problem is ultimately irrelevant. Just as we do not tend to dismiss freedom of religion for failing to settle all religious disputes, we should not dismiss freedom of movement for failing to provide adequate normative guidance in today's world. I agree. However, there is an important difference between the two: freedom of religion concerns *self-regarding* actions that do not typically affect the lives, liberty, health, property, and well-being of others in morally significant ways, whereas freedom of movement concerns *other-regarding* actions that have a potentially larger impact on all these aspects. Unlike the former, the latter will often clash with other people's rights, hence the need for traffic regulations and property rights. According to James (2019, 8), this explains why the state usually grants freedom of religion *full* range of enjoyment, but freedom of movement only an *adequate* range of enjoyment. Although I do not necessarily endorse this conclusion, I believe there is some truth in the argument that freedom of movement is more likely to conflict with other fundamental freedoms. In such cases, we will have to find ways to accommodate it with (and, when this is not possible, to adjudicate among) competing claims. This problem may be sort out, but it is not irrelevant at all.

⁹ Furthermore, as Wilcox (2007, 277) has noted, "[i]f every person has a fundamental right to immigrate to the country of her choosing, the corresponding duties to admit immigrants must be assigned equally to all states. Yet this would seem to be incompatible with the liberal egalitarian intuition that affluent societies have stronger duties to admit immigrants than poorer societies".

in costs) and harming those who are relatively worse-off (the Nigerian compatriots left behind or the American employees whose working conditions get worse).

A third objection consists in calling the plausibility or internal coherence of the human right to migrate into question. Advocates of the freedom of movement argument claim that immigration restrictions violate the negative right of individuals to cross borders. However, the right to immigrate involves something more than unfettered mobility across borders. It accords to the new residents a series of rights, placing citizens under the corresponding obligation to stand up for their protection (Blake, 2013). The state provides a number of services and maintains the infrastructures necessary for the proper functioning of social life. What is more, the very act of migrating is made possible by the state's building of roads, running of public transport, regulating traffic, and protecting the safety of travelers. Therefore, the depiction of migration as a purely negative right is misleading. But even if migration were a genuine negative right, one could still deny the existence of negative rights altogether. In this vein, Caleb Yong (2017, 466) has argued that a strong right to negative liberty is implausible, because it would rule out most uncontroversial ordinary regulations that constrain our everyday conduct on behalf of the public interest (such as taxation, minimum wage, traffic rules...) for the sake of allowing quite trivial actions. Accordingly, if there is no strong right to negative liberty in general, there can be no strong right to migration as a negative liberty in particular.

3. The global justice argument

The conventional argument for open borders as a matter of global justice goes something like this: (1) Justice requires that everyone has access to the means necessary to lead an autonomous life. (2) The world in its current state is unjust: millions of people lack access to the means necessary to lead an autonomous life. (3) Borders (re)produce this injustice, as they prevent access to the means necessary to lead an autonomous life¹⁰. (4) A world with open borders would allow these people access to the means necessary to lead an autonomous life. (5) Therefore, justice requires open borders.

This is a remedial argument for open borders in a non-ideal world where people do not have access to the means necessary to lead an autonomous life (Bauböck, 2009). According to Goodin (1992, 8), “[i]f we cannot move enough money to where the needy people are, then we

¹⁰ Borders serve two functions: on the one hand, they spatially circumscribe sets of opportunities and, on the other, they regulate access to them (Cavallero, 2006: 98).

will have to count on moving as many of the needy people as possible to where the money is”. As long as rich countries do not fulfill their duties of global distributive justice, they must allow the entry of immigrants. The long-term goal may be to establish effective mechanisms of global redistribution, but in the meantime, we cannot turn our backs on all these people who knock on our door. In this sense, open borders are an imperative of justice here and now. In this argument, the right to immigrate is subsidiary and necessary only to the extent that it advances the ends of global distributive justice (Loewe, 2017, 32).

Proponents of the global justice argument contend that affluent states ought to open their borders inasmuch as migration is an effective way of fighting against poverty and/or reducing inequalities between countries. This argument rests on a normative and an empirical claim: “(a) members of affluent societies have strong obligations to mitigate global poverty; and (b) policies favoring open borders are an effective means for fulfilling these obligations” (Wilcox, 2009, 817). Even if these premises were normatively and empirically plausible, the conclusion that rich states are under an obligation to open their borders as a matter of justice is implausible for at least two reasons. The first is that global redistributive duties can be discharged in a currency other than the admission of immigrants¹¹, and needy people should not be forced to leave their countries to receive the assistance they are entitled to (Oberman, 2011). The second is that one can have access to an adequate range of opportunities to lead an autonomous life without having free rein to move all over the world (Wellman, 2016, 88). No theory of justice, not even the most ambitious one, claims the right to choose the country of residence à la carte. In this sense, it seems implausible to extend the principle of freedom of movement on a global scale from the requirements of justice (at least in absolute, as opposed to relative, terms¹²).

To the extent that our obligations of justice are limited, it is not necessary to keep borders completely open. In fact, this could turn out to be detrimental to the objectives of global justice, as it could lead to an exodus of skilled professionals from developing to developed countries (Brock, 2009, 191). Even in less dramatic cases, a state that fulfilled its obligations

¹¹ Other options might be to undertake structural reforms in the international political and economic institutions, to sign fairer trade agreements with developing countries, to establish a global redistributive tax, to transfer income directly to the affected countries, to send humanitarian aid, debt cancellation and/or capacity building at origin.

¹² I have argued elsewhere (Niño Arnaiz, 2022) that open borders are incompatible with the objectives of global distributive justice, but I was thinking about absolute deprivation in particular. If one adopts an egalitarian metric such as Rawls’ theory of justice, they might not be incompatible after all. For one thing, even if global redistributive policies were successful, inequalities between countries would never completely disappear, and so individuals would continue to experience disadvantages of relative deprivation due to morally arbitrary facts that would grant them the right to immigrate. For another thing, a cosmopolitan reading of the lexical priority of freedom that Rawls establishes would forbid limiting the freedom of individuals to migrate to other societies for the sake of greater socioeconomic equality (Loewe, 2007, 32). Carens (1987, 262) makes this same point.

of distributive justice (via humanitarian aid or development cooperation, for example) could decide to close its borders unilaterally¹³. There is another reason why justice may be at odds with freedom of movement. Distributive justice aims at an equitable share of the costs and benefits derived from social cooperation. This involves the assignment of rights, on the one hand, and the imposition of obligations and constraints on individual freedom, on the other. An essential aspect of the latter is freedom of movement, that is, the right to move to and settle in the country of one's choice. However, this could deliver a suboptimal result from the point of view of justice and common welfare (for instance, the aforementioned "brain drain"), giving rise to the establishment of conditions and restrictions on mobility. On the contrary, open borders claim an unconditional and unrestricted freedom of movement, limited only by serious threats to public health, national security, and democratic self-government, but not by an aspiration to maximize aggregate welfare and global redistributive utility (Ypi, 2008, 394; Niño Arnaiz, 2022).

Another argument contends that open borders are the corollary of the application of the principle of moral equality on a global scale (Loewe, 2007). For cosmopolitan luck egalitarians, the contingencies of birth should not determine a person's life chances, and no one should be disadvantaged for morally arbitrary facts that escape her control (Shachar, 2009). This premise, which in principle no one disputes¹⁴, has radical implications for immigration. If birthright citizenship (either by *ius soli* or *ius sanguinis*) is a morally arbitrary fact—in the sense that no one deserves to be born where they were born—for which nobody should be disadvantaged, then people should have the right to migrate to other countries to offset this brute bad luck (Carens, 2013; Velasco, 2016). However, that citizenship is morally arbitrary does not mean that it is irrelevant from the standpoint of justice. As Michael Blake has argued:

An impartial liberalism will condemn some disparities in the holdings of goods as unjustifiable to those who share liability to a coercive system of political and legal institutions. Shared citizenship, that is, gives rise to a concern with relative deprivation that is absent in the international realm. Thus, what looks like partiality is in fact the implication of an impartial principle under a different set of circumstances (Blake, 2001, 260).

It is possible for us to acknowledge moral equality, and yet insist that this moral equality will have distinct implications in distinct political contexts [...] Mobility rights and political rights might be understood as resulting from the need to justify political authority to specifically those

¹³ At present, this scenario seems far-fetched.

¹⁴ Disagreements arise, in any case, when it comes to interpreting what the implications of this moral equality are. Some consider that nationality is irrelevant, and that we should treat everyone equally with the exception, perhaps, of our loved ones (*strong cosmopolitans*). For others, some degree of partiality towards compatriot is permissible and even desirable, for it enables a moral division of labor (*weak cosmopolitans*) (Miller, 2016b, 22-24).

individuals who face such authority [...] [W]e can be moral egalitarians and none the less justify distinct political rights under distinct political circumstances (Blake, 2005, 235).

In short, justice does not seem to require fully open borders because: (1) there are other ways of providing people access to the means necessary to lead an autonomous life than opening borders; (2) justice could justify the imposition of conditions and restrictions on mobility in some cases; and (3) justice demands different treatments in different contexts, without it being a deviation from the liberal principles of impartiality and moral equality. In this argument, open borders are subordinated to the realization of justice, and are necessary only to the extent that they advance its goals. For this reason, the defense of open borders cannot rest *solely* on the ideal of global justice. The foundations of freedom of international movement must be sought elsewhere.

For Bader (1997, 29), open borders, understood as an unrestricted right to free movement across countries, are “no *effective remedy*” to global injustice, and they may even turn out to be counterproductive! To begin with, the proportion of the global poor who stand to benefit from this right is very small, and the main beneficiaries do not usually belong to the poorest segments of the population, but are among the richest and most educated of their respective countries¹⁵. In fact, the departure of these people may exacerbate the problem of “brain drain”, leaving their worst-off compatriots worse off still¹⁶. Additionally, open borders could release corrupt and incompetent governments from their responsibility to take care of the domestic poor, since they could just “export” the poverty surplus. For these reasons, the author is quite skeptical of the effectiveness of free immigration as an anti-poverty measure. But the arguments for open borders as a remedy of justice have other disadvantages at the theoretical level: “[t]hey are not direct and straightforward, they do not imply a strong individual right to immigration, and they do not hold even in an ideally just world” (Bader, 2005, 340-341).

Seglow (2006, 236) has given three additional reasons why opening borders is not a good idea for the purposes of global justice. First, it imposes too high costs on the most disadvantaged, forcing them to bear the burden of emigration to seek assistance. Second, the net redistributive effects of an open-borders policy are uncertain and unpredictable. We do not know how many and what type of people would migrate, let alone where and with what consequences. While it is possible that some of the worst-off reap the fruits of immigration, this

¹⁵ As a general rule, it is not the poorest who emigrate, but those with sufficient resources, qualifications, and aptitudes to do so. To put it bluntly, the emigrant is not that who is *willing*, but that who is *able* (Velasco, 2012, 465). See also Pogge (1997).

¹⁶ For a contrary view, see Mendoza (2015) and Oberman (2015).

is unlikely to meet the requirements of any reasonable principle of social justice such as equality of opportunity. Open borders would yield at best a “principle-independent gain”. Third, this gain would nonetheless come at the expense of another important element of justice: the right to collective self-determination, which presumably includes the right of a people to decide who is to become a member of the polity¹⁷. In his view, articulating institutional mechanisms of redistribution at the global level is preferable to opening borders¹⁸ (Seglow, 2005, 328): On the one hand, targeted redistributive policies are more likely to promote the objectives of global justice than the indiscriminate migration of people. On the other hand, while there would still be some people who chose to emigrate, most do so out of necessity and would rather stay in their home country.

If the purported goals of global distributive justice can be achieved without the need to open borders, then freedom of international movement does not seem to be a *necessary* condition of global justice. In this sense, rich countries which did their fair share of the global redistributive duties by, for example, transferring large amounts of resources to or lifting their trade barriers to the importation of goods from poor countries¹⁹, would not be obliged to open their borders as a matter of justice. Moreover, this argument does not provide *sufficient* reason to migrate to those people whose rights are already protected and whose needs are adequately covered in their countries of origin. And even if they did not have access to the means necessary to lead an autonomous life in their country of origin, justice would not grant them the right to migrate to the country of their choice, but to any one country which provided them effective access to these means. In conclusion:

In the absence of a supplementary argument, it is difficult to see how freedom of movement across borders could be a necessary condition for fulfilling the requirements of distributive justice if the relevant requirements of distributive justice (however that is understood) actually could be realized without movement across borders (Fine, 2018, 654).

4. Freedom of movement and global justice: a compromise

As we have seen, the freedom of movement argument and the global justice argument differ in two important ways. The first concerns the range of people who stand to benefit from the right to immigrate. The freedom of movement argument would grant this right to everyone,

¹⁷ Some authors question that immigration undermines self-determination in any relevant sense, and so deny the right of states to exclude immigrants on its behalf. For an excellent discussion of this point, see Fine (2010) and van der Vossen (2015).

¹⁸ Conversely, Whelan (1988, 11-13) has emphasized the advantages of immigration versus distributive justice.

¹⁹ I am taking no stance on the efficacy of these measures.

whereas the global justice argument would only grant it to those people whose basic needs are not met in their country of origin and who therefore have a claim of justice to be admitted elsewhere. But since not everyone falls within this category, the global justice argument has a more limited scope, and in no case would it amount to a human right to migrate. For example, if a Mexican blue-collar worker and a Norwegian white-collar worker wished to migrate to the USA, *ceteris paribus*, only the first would have a genuine claim of justice to be admitted. On the contrary, under the freedom of movement argument both would qualify as immigrants. A second way in which these two arguments differ is that, while the global justice argument requires rich states to admit poor people as long as they do not comply with their redistributive duties, the freedom of movement argument would continue to require a right to immigrate even after these duties had been met (Oberman, 2011, 255).

The freedom of movement argument may be more appealing at the level of ideal theory, but it fails to provide adequate normative guidance in conditions of partial compliance (Wilcox, 2007, 274). In our world, immigration takes place against the backdrop of gross economic inequalities and an international institutional regime that condemns many countries to underdevelopment. While the ultimate goal may be to change the structural conditions that underlie the bulk of international migration, until such goal is attained (if ever), abstract appeals to future reforms may be of little help to the poor of today. In the long run, the transformation of the world economic and political order might reduce the demand for migration, but in the long run we are all dead. In the meantime, we cannot ignore the claims of justice of those we confront here and now (Carens, 1992, 35). The most pressing normative challenges concerning immigration require immediate, tangible, and real-world solutions. “Open borders may be a second-best solution in this context, but they are urgently demanded by justice” (Wilcox, 2014, 131).

A common objection is that migration is fundamentally epiphenomenal, “a small symptom of a pandemic strain called poverty and global injustice” (Velasco, 2012, 468), and that other things being equal, most people would prefer to stay in their home countries. But other things are not equal: abject poverty and human rights violations are the order of the day (Carens, 1992, 34-35). As long as this situation persists, many prospective migrants will have a claim of justice to be admitted. Until the living standards of the poor are substantially raised, migration will continue to be a legitimate way out of poverty, and affluent states will have an unavoidable obligation to keep their borders much more open than they currently are (Bader,

1997, 37-38; Seglow, 2006, 244). What is more, until we reach a point of rough equality in life prospects between the different countries, people will have an incentive to migrate.

I said before that given the availability of alternative ways to discharge global redistributive duties, there is no need for rich states to open their borders as a matter of justice. While this is possible in theory, it could not be further away from reality. Global injustice is very likely to remain as a stain in our moral record for the foreseeable future, so we cannot turn a blind eye on immigrants knocking on our door. In Fine's (2018, 655) words:

While it is plausible in principle that freedom of movement may not be necessary for the realization of distributive justice, in practice it is difficult to deny that some movement will be necessary and thus that some opening of borders might be a requirement of distributive justice — at least in the world as we know it.

One could respond that if rich states are not willing to comply with their obligations of distributive justice via wealth transfer, they will not be willing to open their borders either, and that we gain nothing by adding a new obligation to the list that is even more unpopular than the first. Most of the real-world constraints that prevent rich states from complying with their redistributive duties also prevent them from opening their borders. Furthermore, it is usually not a good idea to focus on the symptoms rather than the root causes. However, this is not a convincing argument from a moral point of view. I agree with Seglow (2006, 245) that it is a mistake to dismiss a theory as utopian simply because it does not align with the prevailing views of a particular society at a particular point in time. These views are shaped by the contingent interests of dominant groups and are therefore open to change. A utopian theory is instead one which does not meet any reasonable ethical baseline.

Unlike global income redistribution, which is clearly experienced as a net loss by some, immigration is often an engine of economic development that benefits receiving as well as sending countries as a result of remittances²⁰, let alone the migrants. Moreover, this position is more consistent with liberalism, in that it entails an expansion of the sphere of personal autonomy through the recognition of the right to migrate and the assumption of individual responsibility by the migrants (Whelan, 1988, 13; Loewe, 2017, 39-40). Despite its many merits, we should not play all our cards to immigration. Just as we cannot turn a deaf ear to the immigrants who knock on our door, we cannot forget about all those people who remain trapped in their countries either. Open borders are no substitute for global redistributive policies, but neither should they be dismissed just because other alternatives exist. Different policies have

²⁰ Lea Ypi (2008, 402) casts doubt on this, but she supports her claim with anecdotal empirical evidence. See Oberman (2015, 240-243) for a more rigorous assessment of the effects of emigration on sending societies.

different goals, and even though borders may be productively put at the service of global justice, they are only a patch. The ultimate goal should be the radical transformation of the status quo.

To sum up, although the arguments from freedom of movement and global justice for (more) open borders seem to point in different, sometimes opposing directions, it may be possible to find a middle ground. Global justice calls for more (although not fully) open borders in situations of systematic human rights violations. Freedom-based arguments are not helpful in these situations, because they cannot provide helpful guidance for the allocation of priorities to migrants with more urgent needs if everyone has an equal right to migrate irrespective of their circumstances. On the other hand, the proposal of open borders as a remedial right prescribes for non-ideal conditions what can only be achieved under ideal ones (Bauböck, 2009, 5). The solution lies in a comprehensive policy of global justice, of which migration policy is a part, until we reach the point at which there is no more reason to restrict freedom of movement as a matter of justice. In other words, more open borders *now* could bring us closer to a more just world in which there would *then* be no longer any need to keep them closed. Even if “we cannot claim that the [current] demands of distributive justice support the freedom of everyone everywhere to move across any and all borders” (Fine, 2018, 659), freedom of movement would certainly be a necessary feature of a just world. Borrowing Oberman’s words (2011, 265), “[i]n a just world, people would continue to have many reasons to migrate, but poverty, at least of an extreme kind, would not be one of them”.

References

- Abizadeh, A. (2008), “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders”, *Political Theory*, 31 (1), 37-65. DOI: <https://doi.org/10.1177/0090591707310090>
- Arcos Ramírez, F. (2020), “¿Existe un derecho humano a inmigrar? Una crítica del argumento de la continuidad lógica”, *DOXA: Cuadernos de Filosofía del Derecho*, 43, 285-312. DOI: <https://doi.org/10.14198/DOXA2020.43.11>
- Bader, V. (1997), “Fairly Open Borders”, in V. Bader (ed.), *Citizenship and Exclusion*, London: Macmillan, 28-60.
- Bader, V. (2005), “The Ethics of Immigration”, *Constellations*, 12 (3), 331-361. DOI: <https://doi.org/10.1111/j.1351-0487.2005.00420.x>
- Bauböck, R. (2009), “Global Justice, Freedom of Movement and Democratic Citizenship”,

- European Journal of Sociology*, 50 (1), 1–31. DOI: <https://doi.org/10.1017/S000397560900040X>
- Blake, M. (2001), “Distributive justice, state coercion, and autonomy”, *Philosophy & Public Affairs*, 30 (3), 257-296. DOI: <https://doi.org/10.1111/j.1088-4963.2001.00257.x>
- Blake, M. (2005), “Immigration”, in R. G. Frey and C. H. Wellman (eds.), *A companion to applied ethics*, Malden: Blackwell Publishing, 224-237.
- Blake, M. (2013), “Immigration, Jurisdiction, and Exclusion”, *Philosophy & Public Affairs*, 41 (2), 103–130. DOI: <https://doi.org/10.1111/papa.12012>
- Brock, G. (2009), *Global Justice: A Cosmopolitan Account*, New York: Oxford University Press.
- Carens, J. (1987), “Aliens and Citizens: The Case for Open Borders”, *The Review of Politics*, 49 (2), 251–273. DOI: <https://doi.org/10.1017/S0034670500033817>
- Carens, J. (1992), “Migration and morality: A liberal egalitarian perspective”, in B. Barry and R. Goodin (eds.), *Free movement: Ethical issues in the transnational migration of people and of money*, Pennsylvania: Pennsylvania State University Press, 25-47.
- Carens, J. (2013), *The Ethics of Immigration*, New York: Oxford University Press.
- Cavallero, E. (2006), “An immigration-pressure model of global distributive justice”, *Politics, Philosophy & Economics*, 5 (1), 97-127. DOI: <https://doi.org/10.1177/1470594X06060621>
- Cole, P. (2000), *Philosophies of Exclusion: Liberal Political Theory and Immigration*, Edinburgh: Edinburgh University Press.
- Dummett, A. (1992), “The transnational migration of people seen from within a natural law tradition”, in B. Barry and R. Goodin (eds.), *Free movement: Ethical issues in the transnational migration of people and of money*, Pennsylvania: Pennsylvania State University Press, 169-180.
- Fine, S. (2010), “Freedom of Association Is Not the Answer”, *Ethics*, 120 (2), 338-356. DOI: <https://doi.org/10.1086/649626>
- Fine, S. (2013), “The Ethics of Immigration: Self-Determination and the Right to Exclude”, *Philosophy Compass*, 8 (3), 254–268. DOI: <https://doi.org/10.1111/phc3.12019>
- Fine, S. (2018), “Migration”, in S. Olsaretti (ed.), *The Oxford Handbook of Distributive Justice*, Oxford: Oxford University Press, 640-663.
- Goodin, R. (1992), “If people were money...”, in B. Barry and R. Goodin (eds.), *Free movement: Ethical issues in the transnational migration of people and of money*, Pennsylvania: Pennsylvania State University Press, 6-22.

- Hidalgo, J. (2019), *Unjust Borders: Individuals and the Ethics of Immigration*, New York: Routledge.
- Higgins, P. (2013), *Immigration Justice*, Edinburgh: Edinburgh University Press.
- Hosein, A. (2019), *The Ethics of Migration: An Introduction*, Oxon/New York: Routledge.
- Huemer, M. (2010), “Is there a right to immigrate?”, *Social Theory and Practice*, 36 (3), 429-461. DOI: <https://doi.org/10.5840/soctheorpract201036323>
- James, M. (2019), “Can the right to internal movement, residence, and employment ground a right to immigrate?”, *Ethics & Global Politics*, 12 (2), 1-18. <https://doi.org/10.1080/16544951.2019.1571359>
- Kukathas, C. (2012), “Why Open Borders?”, *Ethical Perspectives*, 19 (4), 650-675. DOI: <https://doi.org/10.2143/EP.19.4.2182830>
- Kukathas, C. (2014), “The Case for Open Immigration”, in A. I. Cohen and C. H. Wellman (eds.), *Contemporary Debates in Applied Ethics*, Malden: Wiley Blackwell, 376–388.
- Loewe, D. (2007), “Inmigración y el derecho de gentes de John Rawls. Argumentos a favor de un derecho a movimiento sin fronteras”, *Revista de Ciencia Política*, 27 (2), 23-48. DOI: <https://dx.doi.org/10.4067/S0718-090X2007000300002>
- Loewe, D. (2017), “Justicia Distributiva Global e Inmigración”, *REMHU: Revista interdisciplinar da Mobilidade Humana*, 25 (50), 25–45. DOI: <https://doi.org/10.1590/1980-85852503880005003>
- Loewe, D. (2020), “Cuando la libertad importa: Inmigrantes y movilidad libre”, *Estudios Públicos*, 157, 7–46. DOI: <https://doi.org/10.38178/cep.vi157.3>
- Mendoza, J. J. (2014), “Discrimination and the Presumptive Rights of Immigrants”, *Critical Philosophy of Race*, 2 (1), 68-83. DOI: <https://doi.org/10.5325/critphilrace.2.1.0068>
- Mendoza, J. J. (2015), “Does Cosmopolitan Justice Even Require Restrictions on Migration?”, *Public Affairs Quarterly*, 29 (2), 175-186.
- Miller, D. (2016a), “Is There a Human Right to Immigrate?”, in S. Fine and L. Ypi (eds.), *Migration in Political Theory: The Ethics of Movement and Membership*, Oxford: Oxford University Press, 11–31.
- Miller, D. (2016b), *Strangers in our midst: The Political Philosophy of Immigration*, Cambridge: Harvard University Press.
- Niño Arnaiz, B. (2022), “Should we open borders? Yes, but not in the name of global justice”, *Ethics & Global Politics*, 15 (2), 55-68. DOI: <https://doi.org/10.1080/16544951.2022.2081398>
- Oberman, K. (2011), “Immigration, Global Poverty and the Right to Stay”, *Political Studies*,

- 29, 253-268. DOI: <https://doi.org/10.1111/j.1467-9248.2011.00889.x>
- Oberman, K. (2015), "Poverty and Immigration Policy", *American Political Science Review*, 109 (2), 239-251. DOI: <https://doi.org/10.1017/S0003055415000106>
- Oberman, K. (2016), "Immigration as a Human Right", in S. Fine and L. Ypi (eds.), *Migration in Political Theory: The Ethics of Movement and Membership*, Oxford: Oxford University Press, 32–56.
- Owen, D. (2021), "Global justice and the governance of transnational migration", in L. Weber and C. Tazreiter (eds.), *Handbook of Migration and Global Justice*, Cheltenham: Edward Elgar Publishing, 241-256.
- Pogge, T. (1997), "Migration and Poverty", in V. Bader (ed.), *Citizenship and Exclusion*, London: Macmillan, 12-27.
- Sager, A. (2016), "Methodological Nationalism, Migration and Political Theory", *Political Studies*, 64 (1), 42-59. DOI: <https://doi.org/10.1111/1467-9248.12167>
- Sager, A. (2017), "Immigration Enforcement and Domination: An Indirect Argument for Much More Open Borders", *Political Research Quarterly*, 70 (1), 42-54. DOI: <https://doi.org/10.1177/1065912916680036>
- Seglow, J. (2005), "The Ethics of Immigration", *Political Studies Review*, 3, 317-334. DOI: <https://doi.org/10.1111/j.1478-9299.2005.00026.x>
- Seglow, J. (2006), "Immigration justice and borders: towards a global agreement", *Contemporary Politics*, 12 (3-4), 233-246. DOI: <https://doi.org/10.1080/13569770601086154>
- Shachar, A. (2009), *The Birthright Lottery: Citizenship and Global Inequality*, London: Harvard University Press.
- Song, S. (2018), "Political Theories of Migration", *Annual Review of Political Science*, 21, 385-402. DOI: <https://doi.org/10.1146/annurev-polisci-082317-093019>
- van der Vossen, B. (2015), "Immigration and self-determination", *Politics, Philosophy & Economics*, 14 (3), 270-290. DOI: <https://doi.org/10.1177/1470594X14533167>
- Velasco, J. C. (2012), "Fronteras abiertas, derechos humanos y justicia global", *Arbor. Ciencia, Pensamiento y Cultura*, 188 (755), 457-473. DOI: <https://doi.org/10.3989/arbor.2012.755n3001>
- Velasco, J. C. (2016), *El azar de las fronteras: Políticas migratorias, ciudadanía y justicia*, Ciudad de México: Fondo de Cultura Económica.
- Wellman, C. H. (2016), "Freedom of Movement and the Rights to Enter and Exit", in S. Fine

- and L. Ypi (eds.), *Migration in Political Theory: The Ethics of Movement and Membership*, Oxford: Oxford University Press, 80–101.
- Whelan, F. (1988), “Citizenship and Freedom of Movement: An open admission policy?”, in M. Gibney (ed.), *Open borders? Closed societies? The Ethical and Political Issues*, Westport: Greenwood Press, 3-39.
- Wilcox, S. (2007), “Immigrant Admissions and Global Relations of Harm”, *Journal of Social Philosophy*, 38 (2), 274-291. DOI: <https://doi.org/10.1111/j.1467-9833.2007.00379.x>
- Wilcox, S. (2009), “The Open Borders Debate on Immigration”, *Philosophy Compass*, 4 (5), 813-821. DOI: <https://doi.org/10.1111/j.1747-9991.2009.00230.x>
- Wilcox, S. (2014), “Do duties to outsiders entail open borders? A reply to Wellman”, *Philosophical Studies*, 169, 123-132. DOI: <https://doi.org/10.1007/s11098-012-9902-y>
- Yong, C. (2017), “Immigration Rights and the Justification of Immigration Restrictions”, *Journal of Social Philosophy*, 48 (4), 461-480. DOI: <https://doi.org/10.1111/josp.12212>
- Ypi, L. (2008), “Justice in Migration: A Closed Borders Utopia?”, *The Journal of Political Philosophy*, 16 (4), 391-418. DOI: <https://doi.org/10.1111/j.1467-9760.2008.00326.x>