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Global justice and freedom of movement: On the circularity of statist arguments

Justicia global y libertad de movimiento: Sobre la circularidad de los argumentos estatistas

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Abstract: The relationship between global justice and freedom of movement is disputed by cosmopolitans and statists. Cosmopolitans tend to defend open borders on grounds of global justice, whereas statists hold that there is no human right to freedom of movement across borders. To the extent that principles of justice apply only within states, and freedom of movement is part of the scheme of basic liberties that justice requires, it appears to follow that freedom of movement is properly restricted to the state level. The article challenges this assumption. By examining three prominent statist theories of global justice, the article shows that they do not justify restricting the scope of freedom of movement to citizens. This is because the grounds of justice invoked by these theories—cooperation, democracy, and coercion—rely on an implicit premise that involves circular reasoning, in that they are contingent upon prior membership in the state: if only citizens contribute to society, participate in the democratic process, and are subject to state coercion in the relevant way, it is precisely because they are citizens.

Key words: global justice, freedom of movement, open borders, distributive justice, immigration, statism.

Resumen: La relación entre la justicia global y la libertad de movimiento es objeto de controversia entre cosmopolitas y estatistas. Los cosmopolitas suelen defender las fronteras abiertas en aras de la justicia global, mientras que los estatistas sostienen que no existe un derecho humano a la libertad de movimiento a través de las fronteras. En la medida en que los principios de justicia solo se aplican dentro de cada Estado, y la libertad de movimiento forma parte del conjunto de libertades básicas que la justicia exige, podría concluirse que la libertad de movimiento se circunscribe al ámbito estatal. El presente artículo cuestiona tal conclusión. A partir del análisis de tres destacadas teorías estatistas de la justicia global, el artículo demuestra que estas no justifican limitar el alcance de la libertad de movimiento a los ciudadanos. La razón es que los fundamentos de la justicia esgrimidos por estas teorías —la cooperación, la democracia y la coerción— se basan en una premisa implícita que incurre en un razonamiento circular, puesto que dependen de la pertenencia previa al Estado: si solo los ciudadanos contribuyen a la sociedad, participan en la toma de decisiones democráticas y están sujetos a la coerción estatal en un sentido relevante, esto se debe precisamente a que son ciudadanos.

Palabras clave: justicia global, libertad de movimiento, fronteras abiertas, justicia distributiva, inmigración, estatismo.

1. Introduction

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The relationship between global justice and freedom of movement is controversial. Cosmopolitans tend to argue for (more) open borders on grounds of global justice.[2] According to them, "the moral equality of citizens and foreigners requires states to open their borders by eliminating all or most restrictions on immigration" (Higgins, 2013: 60). The argument rests on the idea that people should not be disadvantaged by morally arbitrary factors beyond their control. 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 and to whom they were born—for which nobody should be disadvantaged, then people should have a right to immigrate to other countries to offset this brute (bad) luck (Carens, 2013; Velasco, 2016; Loewe, 2018). Open borders would contribute to the cause of global justice in at least two ways: on the one hand, they would allow disadvantaged migrants to access opportunities available in rich countries (Bader, 2005); on the other, they would disincentivize the spatial clustering of negative externalities in poor countries (Ball-Blakely, 2021).

By contrast, statists believe that citizenship, despite being arbitrarily assigned at birth, is still morally significant in that it triggers subjection to a common system of laws that regulate the terms of social cooperation. Even if all persons have equal moral worth, principles of justice are sensitive to the institutional context and political relationship in which people stand (Miller, 1998; Blake, 2001; Sangiovanni, 2007). Accordingly, it is possible to acknowledge the equal moral worth of all persons and yet insist that this moral equality has different implications for justice in different institutional contexts. On this view, the right to freedom of movement "is a specific implication of moral equality which applies only within the context of shared liability to the state" rather than something people are owed merely by virtue of their personhood (Blake, 2005: 229).

The position one adopts in the debate on global justice tends to influence one's position in the open borders debate. "Those who think that all persons everywhere are entitled to treatment as political equals tend to be advocates for open borders; if the community of people to whom rights are distributed includes *everyone*, then restrictions on immigration are inherently unfair" (Blake, 2008: 964). By appealing to our shared humanity and the moral equality of all persons, cosmopolitans endorse open borders as a way of countering the unequal

[2] Open borders have been defended by cosmopolitans on other grounds, most notably, in terms of freedom of movement and individual autonomy. On this view, immigration restrictions interfere with people's ability to make important personal decisions and pursue their life plans and projects, including where to live, whom to associate with, and which educational and professional paths to follow (Oberman, 2016). In this article, I focus on arguments from global justice, in particular, statist arguments. I have explored the relationship between the arguments from global justice and freedom of movement from a cosmopolitan perspective in Niño Arnaiz (2025).

effects of the country of birth and the international order more broadly on people's life chances. Statists do not deny that everyone has equal moral worth. Their disagreement lies instead in the scope of principles of justice. "Since internationalists [or statists] reject a global scheme of equal protection for basic rights, global equality of opportunity, and global economic egalitarianism, they are not bound by their background commitments to accept the free migration view" (Yong, 2016: 819–820). To the extent that principles of justice apply only within states, and freedom of movement is part of the scheme of basic liberties that justice requires, it appears to follow that the scope of freedom of movement is properly restricted to citizens.

My aim in this article is to challenge this widespread assumption. In particular, I will argue that even if the grounds of justice are restricted to the state level, freedom of movement need not be. To this end, I will adopt a strong statist position, according to which justice "applies only to a form of organization that claims political legitimacy and the right to impose decisions by force [i.e., the state], and not to a voluntary association or contract among independent parties concerned to advance their common interests" such as supranational institutions and international treaties (Nagel, 2005: 140). I take this stance not because I think it represents the most accurate depiction of the world. The current international order is far from autarkic. States and their citizens are enmeshed in a complex web of social relations, trade networks, and institutional arrangements that span across borders (Cohen & Sabel, 2006). Therefore, the stark divide that statists draw between the domestic and the international realm, with duties of distributive justice holding in the former while being completely absent in the latter, is untenable both from an empirical and normative point of view (Valentini, 2011; Hassoun, 2012).

The reason for adopting such a position is purely strategic. I want my argument to hold even in the face of statist authors such as Nagel (2005), Sangiovanni (2007), and Blake (2001), according to whom duties of distributive justice arise only among people who share an institutional context and stand in a given political relationship, that is, among citizens of the same state. If these theories do not justify restricting the scope of freedom of movement to citizens, then neither will cosmopolitan theories of global justice. There are several statist theories, each of which identifies a different premise or condition as a ground of justice. In this article, I will focus on the most prominent grounds: cooperation, democracy, and coercion. The basic idea is that freedom of movement is part of the scheme of basic liberties that justice

requires; and that justice is grounded in, and therefore its scope is coextensive with, cooperation, democracy, and/or coercion.

There are three different senses in which cooperation, democracy, and coercion (X) might be said to ground justice: in the first sense, X is a *precondition* of justice; in the second, X is a *constitutive aspect* of justice; in the third, X is *instrumental* to justice.[3] Each of these grounds of justice takes on a different meaning of ground: cooperation is a precondition of justice; democracy is constitutive of justice; and coercion is instrumental to justice. To put it succinctly: principles of justice arise out of a collective enterprise due to the need of its participants to establish fair terms of social cooperation among them through coercive means and according to democratic principles and procedures. The argument against the global scope of freedom of movement goes as follows:

(P1) Cooperation/democracy/coercion is a ground of justice.

(P2) Justice requires freedom of movement.

(P3) Cooperation/democracy/coercion is properly restricted to the state level.

(C) Therefore, freedom of movement is properly restricted to the state level.[4]

Each argument is based on a different ground of justice, which in turn corresponds to a different conception of 'ground'. If we want to refute the conclusion that freedom of movement is properly restricted to the state level despite being grounded in principles of justice whose scope is coextensive with the state, we will need to show that there is nothing in the grounds of justice that precludes the extension of freedom of movement across borders.

[3] I draw here on Abizadeh's (2007: 324) useful discussion of the three ways in which justice may be said to 'require' a basic structure.

[4] The foregoing argument is different from the compatriot partiality argument (Macedo, 2018) and the social trust argument (Miller, 2016). Although they all appeal to considerations of domestic distributive justice, the latter are concerned about the effects of immigration on disadvantaged citizens and the level of public support for redistributive policies, respectively. By contrast, the argument discussed here concerns the prior question whether states may legitimately restrict immigration. The arguments therefore operate at two different levels: the compatriot partiality and social trust arguments operate at the regulative level (should states close their borders?), whereas the present argument operates at a more fundamental level (should states have a right to close their borders?). A principle of regulation is a maxim that we adopt in light of the evaluation of its likely effects, and therefore whose aptness depends on the empirical circumstances in which it is applied (i.e., it is fact-sensitive). A fundamental principle, on the other hand, expresses our first-order normative ideals, and therefore its justification does not depend on the empirical circumstances in which it is applied (i.e., it is fact-insensitive). This distinction draws from Cohen (2003).

2. Cooperation

The first argument contends that social cooperation is a ground of justice. According to Andrea Sangiovanni:

> equality as a demand of justice is a requirement of reciprocity in the mutual provision of a central class of collective goods, namely those goods necessary for developing and acting on a plan of life. Because states (except in cases of occupied or failed states) provide these goods rather than the global order, we have special obligations of egalitarian justice to fellow citizens and residents, who together sustain the state, that we do not have with respect to noncitizens and nonresidents (Sangiovanni, 2007: 4).

Citizens contribute, through their collective efforts (from the payment of taxes and political participation to mere compliance with the law), to the creation and maintenance of a set of institutions (i.e., the state) that provide people with basic public goods and services and "free us [citizens of the state] from the need to protect ourselves continuously from physical attack, guarantee access to a legally regulated market, and establish and stabilize a system of property rights and entitlements" (Sangiovanni, 2007: 20). Without other citizens' contributions, "we would lack the individual capabilities to function as citizens, producers, and biological beings" (Sangiovanni, 2007: 21). Accordingly, every citizen is due a fair share for her contribution to the joint social product. Although the cooperation or reciprocity argument does not in principle preclude the extension of principles of justice (and hence freedom of movement) across borders[5]—or else deny the increasing level of interdependence among countries—, until there is a global institutional order in place with the regulative, productive, and protective capacities of the state, there will be no such need, and it would indeed be impracticable to do so (Meckled-Garcia, 2008).

It seems to me that the most plausible conception of 'ground' in this case is to be a *precondition* of.[6] In order for justice to arise, there needs to be a group of people working together to produce a bundle of goods and services to the distribution of which principles of justice (ought to) apply. In a hypothetical fully autarchic world, "because there are no social and political institutions regulating the distribution and production of basic collective goods

[5] In fact, Sangiovanni himself suggests that his cooperation or reciprocity argument may be compatible with "a prima facie claim in favor of open borders" (2007: 37).

[6] It might be argued that cooperation is instrumental to justice, in the sense that people need to cooperate with each other to establish political institutions that implement principles of justice. But I think that this insight is better captured by conceiving of cooperation as a precondition of justice (see the discussion in the main text). On the other hand, cooperation is not constitutive of justice, since there is no principle of justice that calls for social cooperation simpliciter—other than the duty to establish just institutions, which is best understood as a moral or natural duty (Rawls, 1999: 293–294). In fact, cooperation can occur, however imperfectly, without principles of justice regulating its terms.

between […] peoples, there is also no basis for redistribution. In the absence of such interaction," there would be no "demand for distributive egalitarianism" (Sangiovanni, 2007: 27). By the same token, in a hypothetical state of nature, where there are no social and political institutions regulating the distribution and production of basic collective goods among people, there would be no demand of justice other than the moral duty to establish minimally just social and political institutions. That is, if people did not cooperate with each other, there would be no just or unjust distribution of goods and services, not only because there would probably be no goods and services to distribute to begin with, but also because justice, it may be argued, is relational—it arises among participants in a scheme of social cooperation.

It is in this context that we must understand the meaning of the verb 'preclude': reciprocity precludes the extension of principles of justice to foreigners because they do not contribute to the production of goods and services that are to be distributed among participants in the scheme of social cooperation, who are themselves members of the state. Distribution to foreigners would be inappropriate inasmuch as undeserved. There are at least two problems with this argument. The first, and more obvious, is that foreigners do participate in the global supply chain. In an increasingly globalized world, countries not only depend on each other for the production of goods and services, but national markets are so deeply interconnected that economic shocks in one country are immediately felt across borders. The second, and more important, problem relates to the fact that foreigners are deliberately excluded from the state, and thus from contributing to the scheme of social cooperation, even if many would rather participate in it should they ever have the chance. As Cole notes:

> those inside the boundary are able to contribute to the national wealth because they are on the inside, and the outsiders are unable to contribute because they are on the outside: the fact that they are potential immigrants means that they wish to enter and make a contribution (Cole, 2012: 218).

The reason why citizens are presumptively entitled to exclude prospective immigrants—namely, that they do not contribute to the funding of state institutions and the production of public goods and services—is itself entailed by their exclusion from membership—the fact that they are not members means that they do not have the opportunity to contribute in the first place. In other words, the fact that prospective immigrants have not contributed to society cannot be invoked as an independent reason for denying them the opportunity to become members, since what is at stake is precisely whether they should be allowed to become members and contribute to society (Hillier-Smith, 2025: 332). The thrust of the cooperation argument is not that citizens contribute more to society than foreigners—for even citizens do not contribute

to the same extent—but rather that those who are able to contribute should not free ride on the efforts of others. To be undeserved, then, foreigners should benefit from the goods and services produced by citizens without contributing their fair share to society. To the extent that this is not the case, the argument from cooperation fails.

3. Democracy

The second argument posits that democracy grounds justice, in the sense of being a *constitutive aspect* of it.[7] Following Christiano (2006: 83), I submit that "a society is just when it is structured [in such a way as] to advance the interests of its members equally." It follows from this that justice cannot exist in an autocratic regime, where laws and policies are imposed against (or, at least, regardless of) people's will, and thus without taking their interests into equal consideration. In the face of diversity of interests, cognitive bias, moral fallibility, and reasonable disagreement about what justice requires,

> the only principle for collective decision making that can guarantee that each can see that he is treated as an equal […] is the principle that each person ought to have an equal say in the process of collective decision making (Christiano, 2006: 87).

The principle of equality thus understood holds that those who have roughly equal stakes in collective decisions should have an equal say in their making. This is usually the case of modern democratic societies, whose members inhabit a 'common world', meaning that all or nearly all their fundamental interests are roughly equally at stake in the decisions made by the state. By contrast, people do not have roughly equal stakes in the decisions made by other states and international institutions. Accordingly, it would be unfair to give everyone in the world an equal say in the latter, for some might reasonably complain that "their interests are being given less than equal consideration on the grounds that others are given an equal say in matters that affect their interests more deeply than the interests of the others" (Christiano, 2006: 102).

I will take this argument at face value. What could the verb 'preclude' mean in this case? If democracy precludes the extension of principles of justice to the global level, it must be because foreigners are not entitled to participate in the collective decision-making process that

[7] Democracy may be instrumental to justice, but I doubt that democracy in and of itself necessarily produces just outcomes, otherwise there would be no need for a political constitution that places some decisions beyond the reach of (a contingent majority of) the people. Democracy is also not a precondition of justice, but the other way around. There can be no equal rights of democratic participation without an institutional framework that upholds basic principles of justice and ensures the background conditions for political agency. By contrast, there can be, at least in theory, a more or less just regime even if it is not fully democratic. Suffice it to say, for it to be fully just, it needs to be fully democratic. This is why democracy is a constitutive aspect of justice.

determines the content of laws and policies of other states to the authority of which they are not subject and therefore whose decisions do not equally affect their interests. To the extent that foreigners are not required to comply with the laws and policies of other states, it would seem as though their exclusion from those states (and hence from the scope of principles of justice) is warranted. However, this ignores the fact that foreigners are subject to the immigration laws and policies of other states and that they are usually required to comply with them under threat of penalty (Abizadeh, 2008). If democracy requires that everyone who is subject to the exercise of political power have a say in how that power is exercised, it follows that foreigners should have a say in the immigration laws and policies of other states, or else that states should abstain from exercising political power over immigrants through their border regimes.

More importantly, to say that foreigners may be legitimately excluded because they are not subject to the laws and policies of other states does not settle the argument, since it builds the conclusion into the premise. This is because foreigners are by definition not subject to the laws and policies of other states. Therefore, in order to justify the exclusion of foreigners from the domain of democracy, it is not enough to say that they are not subject to the laws and policies of other states, for they are not subject to their laws and policies precisely because they are excluded from the domain of democracy. As Abizadeh (2016: 113–114) points out, if whether one is subject to the coercive power of the state depends on whether one has been admitted, then the fact that one is not subject to the coercive power of the state because she has not yet been admitted cannot be cited as an independent *justification* for denying her admission.

One might object that the argument that prospective immigrants should be included in the demos because they are subject to the exercise of political power also begs the question, since who is subject to the exercise of political power depends on who belongs to the demos, which in turn depends on who is subject to the exercise of political power. Therefore, by suggesting that prospective immigrants should be included in the demos because they are subject to the exercise of political power, it seems that I am implicitly assuming that they already belong to the demos, for otherwise they would not be entitled to participate in the exercise of political power because they would not be subject to it in the first place. However, I do not need to commit myself to Abizadeh's unbounded demos thesis in order to refute the statist conclusion, but only to the principle of democratic justification, according to which those who are subject to the exercise of political power should be entitled to participate in how that power is exercised.

I do not even need to argue that prospective immigrants should be included in the demos. This is because what is at stake is not whether prospective immigrants are subject to the exercise of political power—recall that the statist denies that—but rather whether the argument that foreigners should be excluded from the demos because they are not subject to the exercise of political power can be made without begging the question. The potential circularity in the argument stems from the statist assumption that foreigners do not belong to the demos because they are not subject to the exercise of political power, since the fact that they are not subject to the exercise of political power is itself the product of their prior exclusion from the demos. If, as the objection goes, who is subject to the exercise of political power depends on who belongs to the demos, then the statist cannot argue that the exclusion of foreigners from the demos is justified by the fact that they are not subject to the exercise of political power, since foreigners are not subject to the exercise of political power precisely because they are excluded from the demos. In short, the statist cannot justify the exclusion of foreigners from the demos on the grounds that they are not subject to the exercise of political power without begging the question. Hence, the argument from democracy also fails.

4. Coercion

The third argument holds that coercion grounds justice. According to Blake (2001), citizenship gives rise to special duties of justice among those who share liability to the coercive web of legal and political institutions of the state. This coercion is both a prima facie violation of the liberal principle of autonomy and necessary to establish a pattern of settled expectations without which people could not lead autonomous lives. Since we cannot eliminate state coercion, Blake contends, it must be justifiable to everyone subject to it, especially to those who fare worse, which requires us to show that no other principle of justice could make them any better off. This justification takes the form of egalitarian distributive justice:

> We have to give all individuals within the web of coercion, including those who do most poorly, reasons to consent to the principles grounding their situation by giving them reasons they could not reasonably reject—a process that will result in the material egalitarianism of the form expressed in the difference principle, since justifying our coercive scheme to those least favored by it will require that we demonstrate that no alternative principle could have made them any better off (Blake, 2001: 283).

The same is not true of the international order. "There is, internationally, no institutional equivalent to the state" (Blake, 2013b: 89). International institutions do not exert direct coercive power over individuals, but they rely on the coercive apparatus of (member) states to enforce

their rules. "To be sure, states are frequently subject to international pressure and coercion," but "the targets of international coercion are—with some very few exceptions, having largely to do with international criminal procedure—states, rather than persons" (Blake, 2013b: 97).

More importantly, the fact that there is some coercion at the global level does not entail that we should extend egalitarian principles of distributive justice to the global level. According to Blake, the point of justice, and the reason why states are justified in exercising coercion over individuals, is to allow these individuals to pursue their life plans autonomously: "all individual persons are entitled to those institutions and circumstances under which they are treated as moral equals, and under which their capacity for autonomous functioning is maintained and protected" (Blake, 2013b: 113). The problem with international coercion, he argues, is most troubling when it impinges upon the institutions and circumstances needed for autonomous functioning. However, even in those cases, "we do not care so much about relative holdings of wealth and goods between states, […] as how these holdings are used to promote or undermine the democratic self-government of others" (Blake, 2013b: 122).

There is more than one possible interpretation of 'ground' in this case, but I believe that the most plausible one is that coercion is *instrumental* to justice.[8] It is instrumental because in the absence of state coercion, individuals would be unlikely to comply with all their duties of justice, nor would a fair distribution of the benefits and burdens of social cooperation obtain. And if the latter were indeed possible without state coercion, political institutions would be redundant, for it would entail that the free will of individuals is sufficient to bring about a just distribution of goods. In Rawls's words:

> a society in which all can achieve their complete good, or in which there are no conflicting demands and the wants of all fit together without coercion into a harmonious plan of activity, is a society in a certain sense beyond justice. It has eliminated the occasions when the appeal to the principles of right and justice is necessary (Rawls, 1999: 249).

So, when we say that coercion 'precludes' the extension of principles of justice to foreigners, we could either mean that they are morally exempt from coercion or that they cannot actually be coerced. The second interpretation would only be plausible if foreigners lacked the requisite capacities for autonomy. But since this is rarely the case, let us focus on the first

[8] Coercion is not constitutive of justice, in the sense that being coercive is not part of what it means for an institution to be just. Sheer coercion is neither a precondition of justice, but rather an obstacle to it. I cannot see how a tyrannical regime might be a precondition of justice. To say that state coercion must be justified to all those subject to it via justice is not to say that absent state coercion justice ought not to exist. We should strive to achieve justice whether or not we already share the relevant political institutions, to which end state coercion (that is to say, political institutions) is instrumental.

interpretation. To say that foreigners are morally exempt from coercion means that other states must not subject them unilaterally to the exercise of political power. To do otherwise would violate their right not to be coerced without justification. What form should that justification take?

According to some, state coercion is only justified if those subject to it are given a right of democratic participation (Abizadeh, 2008). According to others, state coercion can be justified under a framework of justice (Blake, 2001). Be that as it may, the fact remains that foreigners are coerced without justification, since they are excluded both from the democratic process and from the scope of justice. On the one hand, they do not have a say in the immigration laws and policies of other states even though they are required to comply with them. On the other hand, they fall outside the scope of justice, that is, the range of people who have claims and duties of justice, despite being subject to border coercion (Chang, 2011: 102–103; Holtug, 2020: 133–134). In fact, borders are one instance of coercion among many at the international level (Goodin, 2016), yet principles of justice are restricted to the state level.

One might object that border coercion is significantly different from state coercion. Miller (2010) goes so far as to argue that borders are not coercive in the relevant sense, since they do not aim to force migrants to remain in their country of origin, but only to prevent them from entering a particular country without authorization. According to him, preventative (as opposed to compelling) laws are not coercive or invade the autonomy of people who have no actual interest in the proscribed action or are otherwise left with an adequate range of options. As he writes, "coercion involves forcing a person to do some relatively specific thing, and prevention involves forcing a person not to do some relatively specific thing while leaving other options open" (Miller, 2010: 114). Prevention and coercion might be understood as opposite ends of a continuum: on one end, the agent has all but one course of action available (prevention); on the other, the agent has only one course of action left (coercion) (Miller, 2009: 220, fn. 29). On Miller's account, compelling laws would qualify as coercive, whereas preventative laws would amount to prevention. To the extent that prospective immigrants are left with an adequate range of options to choose from, border controls do not coerce them.

This response is problematic, however, because it implies that a slave who has an adequate range of options and no actual interest in escaping his master's dominion is not subject to coercion when the latter threatens him with the use of force should he ever attempt to escape (Abizadeh, 2010: 126–127). The question at issue is not whether borders are coercive in a

morally problematic way, but whether they are coercive in the relevant sense. By conflating both questions, Miller can only respond negatively to the latter at the cost of stripping coercion of its distinctive characteristic: the threat of force. If what makes a threat of force coercive is that it leaves its subjects with a less than adequate range of options rather than the threat of force itself, then very few immigrants are indeed subject to border coercion in the relevant sense. Miller could argue that the concept of coercion is necessarily a moralized one, in the sense that there is no such thing as a coercive threat of force that is not morally wrong. But this is exactly the cost that Miller cannot afford, since it would make the wrongness of any threat of force contingent on the personal (even adaptive) preferences and available options of those subjected to it. The only way for him to avoid such a counterintuitive implication without morally condemning all instances of border coercion is to separate the wrongness of coercion from the threat of force, such that the fact that a threat of force is coercive does not entail that it is always morally wrong. But if what makes a threat of force coercive is not the number of options available but the threat of force itself, then border controls are coercive in the relevant sense regardless of whether they leave prospective immigrants with an adequate range of options.

Even if foreigners are subject to the immigration laws and policies of other states, the fact remains that they are not subject to the pervasive web of laws and policies of these states that regulate most aspects of their citizens' lives. Only the latter can have their autonomy and political agency systematically denied by the state; and it is precisely to protect them against this sort of threats that they must be afforded a robust set of entitlements, including the right to freedom of movement across borders. Foreigners do not need a comparable right to avoid domination by the state, because they are not subject to the authority of that state. The fact that they are foreigners means that they are subject to a different authority. The problem with this argument, however, is that it cites the absence of state coercion against foreigners as a reason for exclusion, when this very fact is itself the product of their prior exclusion. To illustrate, suppose that an immigrant tries to cross the border without authorization, but she is intercepted by an immigration officer called Blake. When the immigrant asks the officer why she is not allowed to enter, the officer replies that only citizens have a right to freedom of movement across borders. But the immigrant, not happy with the answer, insists:

- *Why do foreigners not have a right to freedom of movement across borders?*
- Because they are not subject to state coercion.
- *Why are foreigners not subject to state coercion?*

- Because they are not citizens of the state.
- *Why are foreigners not citizens of the state?*
- Because they are not subject to state coercion.

It did not take much pressure on Blake to confess: the fundamental reason why foreigners, unlike citizens, have no right to freedom of movement across borders is that they are not subject to state coercion. But this is part of what it means to be a foreigner: citizens are subject to state coercion, whereas foreigners are not. Therefore, to put foreigners' lack of a right to freedom of movement across borders down to the absence of state coercion is redundant. As Abizadeh rightly observes:

> To justify a particular regime of border control, we need a *justification* for who should be permitted to have equal stakes in the society by virtue of residence in it, not a *description* of who already has equal stakes in the society by virtue of residence in it. If whether or not someone has equal stakes in a society depends on how coercive state power is exercised over boundaries, then the fact of equal stakes cannot be cited as a justification for how the state exercises its power over boundaries (Abizadeh, 2016: 113).

To say that foreigners are not entitled to freedom of movement across borders because they are not subject to state coercion is pretty much like saying that women were not entitled to vote because they were not represented in parliament or that slaves were not entitled to hold property because they were not considered legal subjects. The injustice may have been more blatant in the case of women and slaves, since their exclusion was due to morally arbitrary reasons and they were subjected to the coercive power of the state to a greater extent, but in all of these cases their lack of rights is (or was) put down to a difference that is (or was) itself the product of their prior exclusion from citizenship.

5. Conclusion

The article has explored whether domestic principles of justice justify restricting the scope of freedom of movement to citizens. Unlike cosmopolitans, who contend that principles of justice are global in scope, statists believe that principles of justice are properly restricted to the state level. The position one adopts in the debate on global justice tends to influence one's position in the open borders debate. Whereas cosmopolitans tend to defend open borders on grounds of global justice, statists hold that there is no human right to freedom of movement across borders. According to the latter, although everyone has equal moral worth, the principle of moral equality has different implications for justice in different institutional contexts.

Citizens have special duties of justice toward each other by virtue of their joint participation in and shared subjection to a coercive web of legal and political institutions that regulate the terms of social cooperation among them. Given that foreigners do not contribute to the scheme of social cooperation and are not subject to the laws and policies of other states, they are not entitled to equal consideration of their claims. As a result, statists reject that freedom of movement extends across state borders.

To the extent that principles of justice apply only within states, and freedom of movement is part of the scheme of basic liberties that justice requires, it appears to follow that freedom of movement is properly restricted to the state level. In this article, I have argued that there is nothing in the grounds of justice that precludes the extension of freedom of movement across borders. First, foreigners are not free riders who benefit from the goods and services produced by citizens. To the contrary, they are forcibly excluded from the scheme of social cooperation to which they wish to contribute. Second, the unilateral exclusion of immigrants violates a core tenet of democracy, according to which those who are subject to the exercise of political power are owed a democratic justification. Foreigners are subject to the immigration laws and policies of other states, but they have no say in them. Finally, state coercion is a prima facie violation of the liberal principle of autonomy, so it must either be justified to foreigners by including them in the scope of justice or eliminated altogether (Blake, 2011: 557).

Nevertheless, the underlying problem with the above arguments is that the qualifying features for cooperation, democracy, and coercion, and therefore the right to freedom of movement, are contingent upon prior membership in the state. Basically, what these arguments are doing is to select a morally relevant feature that is distinctive of citizens (i.e., cooperation, democracy, and coercion) in order to restrict the scope of freedom of movement to them. The problem is not so much that the selected features are beyond foreigners' control, but that they are implicit in the very definition of citizen. After all, if citizens are allowed to contribute to society, entitled to participate in democratic decision-making, and pervasively subject to state coercion, it is precisely because they are citizens. In other words, these arguments engage in circular reasoning, in that they assume what they purport to demonstrate. Therefore, we cannot rely on such premises to determine the scope of freedom of movement.

Even if I am right that statist theories of global justice do not justify restricting the scope of freedom of movement to citizens, it does not follow that there is a human right to freedom

of movement across borders.[9] These are two different questions: the former asks who has a right to freedom of movement (scope), the latter asks who is bound by and responsible for fulfilling this right (site). To illustrate this point, it is useful to compare the scope and site of freedom of movement with the scope and site of justice. The site of justice refers to the phenomena or entities (e.g., individual actions, social practices, institutional rules, etc.) that are properly regulated according to principles of justice (Abizadeh, 2007: 323). By contrast, the scope of justice consists of the agents (usually persons) who have claims and duties of justice (Tan, 2012: 1). Just as the site of justice does not determine its scope, neither does the site of freedom of movement determine its scope.

In other words, the fact that states have a duty to protect freedom of movement does not entail that only citizens have a right to freedom of movement; and vice versa, the fact that freedom of movement accrues to all persons regardless of their citizenship does not entail that other states should bear the duties that its recognition would impose. That would require a different argument, since it is not enough that everyone has a right to freedom of movement. If we want to conclude that there is a human right to freedom of movement *across borders*, we need to show that states have the same duties to all persons regardless of their citizenship (Arcos Ramírez, 2020: 300). This is an important insight that cosmopolitan theories tend to overlook. To the extent that the scope of justice is not global, statists are not committed to open borders. But neither can they assume that the scope of freedom of movement is properly restricted to citizens from the fact that the scope of justice is not global. Whether there is a human right to freedom of movement across borders ultimately depends on what *grounds* freedom of movement.

Again, it is useful to compare the grounds of freedom of movement with the grounds of justice. "The grounds are those considerations or conditions based on which individuals are in the scope of principles" (Risse, 2012: 5). The grounds will determine not only the scope, but also the site of justice. For example, if principles of justice arise out of a collective enterprise due to the need of its participants to establish fair terms of social cooperation among them through coercive means and according to democratic principles and procedures, much will depend on who is allowed to contribute to the cooperative scheme, entitled to participate in the democratic decision-making process, and subject to the laws and policies that regulate the

[9] For one, there could still be other values or moral principles independent of justice that explain why states have a right to exclude. For example, statists might appeal to freedom of association (Wellman, 2008), collective ownership of state institutions (Pevnick, 2011), the right to avoid unwanted obligations (Blake, 2013a), and democratic self-government (Song, 2019).

interactions among members. Statists cannot just assume that the state is the appropriate site of justice and that its scope is in turn given by those individuals who cooperate with one another to uphold the main institutions of the state and who share liability to its coercive web of laws. These are questions that cannot be determined a priori without a theory of justice.

By the same token, statists cannot just assume that the state is the appropriate site of freedom of movement and that its scope is in turn given by those individuals who cooperate with one another to uphold the main institutions of the state and who share liability to its coercive web of laws. We need a theory of freedom of movement that tells us not only who has a right to freedom of movement (scope) and who is bound by and responsible for fulfilling this right (site), but also whether cooperation, democracy, and coercion are indeed the proper grounds of freedom of movement.[10] Only once we determine the grounds of freedom of movement will we be able to tell whether there is a human right to freedom of movement across borders and whether other states are obligated to protect this right. Statist theories of global justice cannot provide such an answer because by making freedom of movement dependent on cooperation, democracy, and coercion, they mistakenly conflate the scope and site of freedom of movement with the grounds of justice and make the former coextensive with the latter. This puts the cart before the horse: whether freedom of movement should be restricted to the state level or there is a human right to freedom of movement across borders will determine who is allowed to contribute to society, entitled to participate in the democratic process, and subject to state coercion, not the other way around.

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[10] I have developed such a theory in Niño Arnaiz (2026).

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