

THE ETHICS OF IMMIGRATION POLICY

Abstract

This article concerns the normative basis for immigration policy. In particular, I consider the implications of three fundamental liberal values, namely democracy, liberty and equality. First, I argue that democratic theory seriously questions the right to national self-determination when it comes to immigration. This is because potential immigrants may be coercively affected by immigration policy and, on a standard account of democratic legitimacy, this implies that potential immigrants should have democratic influence on such policies. In particular, I defend these claims against David Miller's defence of national self-determination. Second, I consider the importance of the right to freedom of movement and argue, again against Miller, that this right constitutes a weighty consideration in favour of allowing immigration in many cases. Third, I consider the importance of equality. In particular, I consider an argument for restrictive immigration policies, according to which immigration threatens to undermine social cohesion and so the basis for the welfare state. I challenge this argument in two respects. First, I point out that the empirical evidence for the claim that ethnic diversity undermines the welfare state is not as clear as some have assumed. Second, I point out that this argument for restrictive policies assumes that equality has domestic rather than global scope. Finally, I suggest that even if we are global egalitarians, we should aim for something less than (completely) open borders.

Keywords

Democratic legitimacy • freedom of movement • equality • David Miller • cosmopolitanism

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1 Introduction

As migration causes higher levels of diversity in liberal Western nation-states, heated debates over immigration policy follow. Anti-immigration nationalist parties are on the rise in large parts of Europe, and mainstream political parties adjust their policies to accommodate concerns about social cohesion, liberal values, drains on the welfare state and ensuring that labour market demands are met. Of course, different Western states face different kinds of challenges in this regard. Indeed, it is often assumed that many European states, and particularly the Nordic countries, face special challenges, both because they have (at least until recently) been relatively homogenous and because large welfare states are assumed to be especially attractive for poor, low-skilled migrants.

By "immigration policy", I mean policies that aim to control the numbers of people who immigrate to a particular country or area, and/or aim to select among them, for example, on the basis of education, occupation, financial assets, nationality, ethnicity, culture, religion or, more generally, what is sometimes called "potential for integration". I focus on such policies at the level of the nation-state, although much of what I say will be equally relevant to, for example, supra-national institutions such as the European Union.

Many political discussions of immigration policy focus on empirical claims about, for example, migration patterns, socio-economic costs and benefits, and the impact of immigration on social cohesion, but it is worth stressing that, more often than not, such discussions either presuppose or (perhaps implicitly) invoke *values*, including the value of national self-determination, social cohesion, a national

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culture, liberty and the welfare state. Indeed, at the end of the day, an immigration policy (like any other policy) will express values, or some conception of what is fair, good or right. Note that the point is not just that a policy based on values is *desirable*, but that it is *unavoidable*. Even an immigration policy that aims only at securing the socio-economic growth of the host society and attaches no intrinsic significance to the interests or rights of migrants expresses values, in this case, those of national egoism.

This also means that a central part of assessing an immigration policy will consist in assessing the values on which it is based, or can be seen to express. However, in political discussions of immigration such values are usually vaguely stated at best, and hardly ever explicitly justified. A case in point is the Danish liberal-conservative government's repeated insistence that its immigration policy is "firm and fair", where it is never explained what it is about the firm policy that is supposed to make it fair. Likewise, when (parts of) the opposition complains that this policy is "inhumane" or "indecent", it is hardly ever explained how, exactly, we are to understand the values of humanity and decency in the context of immigration policy.

The particular aspect of immigration policy I shall be focussing on in this article concerns the issue of open versus closed borders. An assumption usually made, implicitly or explicitly, in liberal states is that they have an extensive right of national self-determination to limit immigration. Similarly, such a right is explicitly argued for by at least some political theorists (Miller 2007: Ch. 8; Walzer 1983). However, on the face of it, severely restrictive immigration policies seem in tension with core liberal values such as liberty and equality. As Joseph Carens (1995: 332) puts it: "Citizenship in Western liberal democracies is the modern equivalent of feudal privilege – an inherited status that greatly enhances one's life chances." Thus, rich Western liberal societies forcibly prevent poor migrants from entering and gaining access to the privileges their own citizens inherit by birthright.

In my discussion of open versus closed borders, I focus on the implications of core liberal values, including democracy (Section 2), liberty (Section 3) and equality (Section 4). This, I believe, provides an interesting focus because these are values to which liberal states are already committed but have generally not sought to discern the implications of, in any degree of detail, with respect to immigration policy. My focus will thus pave the way for a critique of existing migration regimes that is internal in the sense that it points to inconsistencies between the values and practices of liberal Western states.

2 Democratic legitimacy

As pointed out above, liberal nation-states usually consider themselves to have an extensive right of self-determination to limit immigration. In line with this, David Miller argues that while states have such an extensive right, they nevertheless owe rejected migrants an explanation for their exclusion, where: "An adequate explanation will be one that links immigration policy to the general goals of the society in question.

These goals will reflect existing national values and will ideally be set through a continuing process of democratic debate" (Miller 2007: 222). According to Miller's liberal nationalism, while nation-states need to take into consideration the interests of, for example, refugees, they are entitled to give priority to the interests of their own citizens, including an interest in national self-determination. This involves the shaping of immigration policies according to domestic social and economic needs and national cultural values, as expressed through a process of democratic deliberation.¹

However, if we are to see this not only as a process of determining how national values are to be reflected in immigration policy, but also as a process in which this policy gains democratic legitimacy, we need to pose the question of *who* has the right to democratic participation? On the standard conception of state sovereignty, accepted by Miller, states are only obligated to involve their own citizens in decisions about border control. However, as has recently been argued by Arash Abizadeh, this claim is inconsistent with a standard account of democratic legitimacy, according to which coercive regulation must be democratically justified to all those coercively impacted by such regulation. Thus, the idea is that state coercion can only be justified to the extent it can be justified to those who are coerced, and it can only be justified to them to the extent they have democratic influence on the state enacting the coercion. Furthermore, since border control and the exclusion of migrants constitute coercion, it can only be justified to the extent would-be immigrants have democratic influence on the state that excludes them, which, obviously, they do not (Abizadeh 2008: 45).

More specifically, Abizadeh (2008: 39) assumes that the core value behind liberalism and democracy is personal autonomy, which involves controlling (to some extent at least) and so being the author of one's own life. Following Joseph Raz (1986: 372–373), personal autonomy requires: (1) the ability to make plans and to comprehend the means necessary to realize them, (2) an adequate range of valuable options to choose from, and (3) freedom from coercion and manipulation by others. Note that, by virtue of (3), coercion *always* violates autonomy.

Restrictive immigration policies constitute a threat to both the second and the third dimension of autonomy, because they may deny potential immigrants access to an adequate range of valuable options (namely if they do not have access to such a range in their country of origin or somewhere else where they are in fact able to go) and they coercively prevent such immigrants from entering. In fact, coercion may take either of two forms here (Abizadeh 2008: 40): *coercive acts* directly and pre-emptively deprive a person of options she would otherwise have had (as when potential immigrants are forcibly denied access at the border, or illegal immigrants are arrested and subsequently deported), whereas *coercive threats* express an intention to act in ways that prevent a person from choosing an option she might otherwise have chosen (as when immigration laws and practices communicate that potential immigrants will not be allowed access and that certain sanctions will be imposed if they try).

While coercion violates autonomy, the liberal state cannot exist in the absence of coercive measures, and so the question arises how these measures can be justified to those over whom they are exercised, consistently with the liberal idea that they are free and equal individuals. Here, the democratic theory of popular sovereignty holds that coercive measures are justified to these very people by virtue of their democratic participation and thus influence on, the coercive rules to which they are exposed. These rules will then be the outcome of their own deliberation and influence as equals (Abizadeh 2008: 41). And it is exactly this form of participation potential immigrants are denied. Therefore, according to Abizadeh, existing restrictive immigration policies do not have democratic legitimacy.

This further implies that such policies cannot be justified by appeal to national self-determination, because national self-determination has been illegitimately narrowed down to include only the participation of citizens. Rather, to have legitimacy, restrictive immigration policies would have to be the product of some form of global democratic procedure. In Abizadeh's words, the *demos* of democratic theory is unbounded. This does not necessarily mean that a "world government" should enact immigration policies; there may be a delegation of power to control immigration from an international democratic institution to nation-states, perhaps provided that they live up to certain standards sanctioned by the unbounded *demos*.

Recently, however, Abizadeh's argument from democratic theory has been criticized by Miller. Miller argues that Abizadeh's conception of coercion is too wide and in any case fails to show that coercion undermines autonomy. According to Abizadeh, what coercive acts and coercive threats have in common is that they deliberately deprive people of options they otherwise would have chosen and/or have had. However, argues Miller, there are many cases in which this is quite unproblematic and does not infringe on people's autonomy. Suppose Peter asks Jane to go to a nearby Thai restaurant. Jane, who hates Thai food, makes it clear to Peter that if he goes to the Thai restaurant she will not be joining him. While this does deprive Peter of an option he would otherwise have chosen (going to the Thai restaurant with Jane), he still has plenty of valuable options left (including that of going to another restaurant with her) and his independence has not been undermined. Therefore, neither the second nor the third condition for autonomy has been thwarted. In fact, we should not even call this a case of coercion (Miller 2010: 113).

On this basis, Miller (2010: 114) distinguishes between *coercion* and *prevention*, where coercion involves forcing an individual to do some relatively specific thing, whereas prevention involves forcing a person not to do some relatively specific thing, while leaving other options open. On this account, Jane prevents Peter from going to the Thai restaurant, but she does not coerce him. Had she, on the other hand, insisted on going to the nearby Japanese restaurant, she would have coerced him.

Miller further argues that one form of prevention consists in threatening coercion if a person performs a particular act. He

considers a case in which his obnoxious neighbour persists in trying to enter his house, but where he prevents the neighbour from entering by locking the door. Eventually he informs the neighbour that if he does not stop bothering him he will call the police. According to Miller, this is a case in which coercion may eventually occur – namely if the police removes the neighbour – but where coercion was not involved when Miller merely refused to allow his neighbour to enter his house. Since every other option remained open to his neighbour, it was a case of prevention (Miller 2010: 114).

Miller's (2010: 116–117) point here is that while restrictive immigration policies may prevent potential immigrants from entering, they need not coerce them. While individuals who are refused entry are being denied an option, this is the only option they are being denied. For example, they still have the option of trying to immigrate to another country. And while it is true that if they nevertheless try to enter they may be arrested and deported, and so coerced, this does not make the policy of refusing entry coercive, just as Miller's refusal to give his obnoxious neighbour access to his house does not constitute coercion. Therefore, according to Miller, restrictive immigration policies may have democratic legitimacy even if the potential immigrants they exclude are also excluded from the *demos* that give these policies legitimacy.

However, Miller's case for the democratic legitimacy of restrictive immigration policies seems to me unpersuasive. First, his distinction between coercion and prevention introduces a highly unorthodox picture of what coercion is (see also Abizadeh 2010). Consider, for example, a law that makes it illegal to smoke. By Miller's account, this law is preventive rather than coercive. After all, it forces people *not to do* some relatively specific thing (smoke), while leaving other options open. Also, while it is true that people who violate the law may be sanctioned (e.g. fined), this is the kind of threatened coercion that Miller considers an instance of prevention. But this seems wrong. A law that makes it illegal to smoke and threatens to sanction perpetrators is a clear instance of state coercion. Furthermore, if we accept Miller's claim that instances of prevention (unlike instances of coercion) need not have democratic legitimacy, it implausibly follows that states can legitimately pass such laws in the absence of the democratic control of their citizens.

Second, it seems to me that in his argument, Miller is implicitly trading on the fallacious idea that acts of coercion are necessarily unjustified. Consider again the case in which Miller locks his door to keep out his obnoxious neighbour. To the extent we are hesitant to call this a case of coercion, I suggest that this is because we consider his act entirely justified. But this is not a good reason to resist the label of "coercion". After all, many instances of coercion are entirely justified, including laws that force people to pay taxes (which, according to Miller, is a case of justified coercion). Indeed, we can point out to Miller's neighbour that, unlike potential immigrants who are denied entry, he has democratic influence on the laws that prevent him from entering and that this is at least part of the reason why he can justifiably be denied access.

To support my claim that what is doing the moral work in Miller's example is our judgement that he is *entitled* to lock his door and to threaten with calling the police, rather than that it is an act of what Miller calls prevention, consider a case in which the neighbour is prevented from entering his *own* house by Miller. For example, suppose Miller barricades the neighbour's door and threatens to call Hell's Angels to have him removed if he tries to enter. As in the case in which Miller locks his own door, he is here forcing his neighbour not to do a very specific thing and so, according to Miller, these are both cases of prevention. Nevertheless, I take it that we would not hesitate to speak of coercion in this new case. And if so, what Miller's original case of the obnoxious neighbour shows may not be that what he calls "prevention" is distinct from coercion, but rather that we may sometimes (mistakenly) be inclined not to call acts coercive if we believe that they are clearly justified.

Third, Miller's account has the curious implication that while restrictive immigration policies may have democratic legitimacy even if potential immigrants are not included in the *demos*, illegal immigrants must be included in the *demos* if they are to be deported. This is because Miller (2010: 116) concedes, if I understand him correctly, that the act of deporting them is coercive. Thus, potential immigrants gain access to democratic influence on the immigration law by breaking it and entering.

Finally, there is the issue of whether restrictive immigration policies are compatible with an adequate range of valuable options – and so autonomy – for would-be immigrants. However, since this is an issue that also pops up in connection with the discussion of freedom of movement, I shall postpone my discussion to the next section.

In conclusion, in spite of Miller's objection, democratic theory does seem to seriously question state self-determination when it comes to immigration.

3 Freedom of movement

While political theorists who favour the right of states to close their borders have often appealed to national self-determination and democratic rights, theorists in favour of (more) open borders have often appealed to freedom of movement (Carens 1992, 1995; Cole 2000; Trebilcock 1995). Freedom of movement – a core value in the liberal tradition of political theory along with, for example, freedom of speech and freedom of conscience – seems to imply that individuals should be free to cross national boundaries and to settle down abroad if they so desire.

To assess the importance of freedom of movement, we need to consider how this liberty can be justified. I shall briefly consider two justifications here, namely an *interest-based* and an *autonomy-based* justification. According to an interest-based justification, freedom of movement protects some particularly basic interests that individuals have. Thus, freedom of movement protects our interest

in fleeing political, religious, and personal oppression and persecution, in escaping famine and poverty, in accessing jobs, educations, and communities (including our families) we find valuable, and more generally protects our interest in pursuing happiness wherever we consider it most likely to be found (Holtug 2010a: 269).

The second justification for freedom of movement I want to consider is autonomy-based. Consider again the Razian conception of autonomy, referred to above. As transpired from my discussion in Section 2, autonomy requires both an adequate range of valuable options to choose from, and freedom from coercion and manipulation by others. Freedom of movement can be said to protect both these dimensions of autonomy because people may be unable to access an adequate range of valuable options unless they are permitted to move and because it precludes coercive efforts by others to limit one's movement. Thus, whether we assume an interest-based or an autonomy-based justification of freedom of movement, there seem to be powerful reasons not to restrict people's right to cross borders and to settle down in another country than where they currently live. Indeed, given the importance assigned to the protection of interests and/or autonomy in liberal theory, liberals in particular seem under pressure to distance themselves from restrictive immigration regimes.

Interestingly, most people seem to acknowledge the force of (at least one of) these justifications when it comes to the issue of *emigration*. Thus, restrictive emigration policies are generally considered illiberal and oppressive, as witnessed by the attitudes of most Westerners to such policies of the former communist regimes in Eastern Europe. Presumably, resistance to these policies was, to a large extent, motivated by the thought that they thwarted strong interests among Eastern Europeans in escaping political oppression and social stagnation, or limited their range of valuable options.

This is interesting not only because it suggests that most of us acknowledge the force of (at least one of) these justifications for freedom of movement, but also because most people, including most liberals, are much more inclined to accept restrictions on immigration than on emigration. But, in fact, the *very same* interests and access to options are protected by the right to emigrate and the right to immigrate. For example, just as we may need to be able to emigrate to escape political or religious oppression, we may also need to be able to immigrate (to somewhere else). For this reason, some theorists have suggested that the widespread asymmetrical attitude to emigration and immigration is *paradoxical* (Cole 2000: Ch. 3; Cole 2006). We should be as concerned with the right to immigrate as we are with the right to emigrate.

Nevertheless, as Miller (2007: 205) has argued, there is an important question of the scope of freedom of movement that needs to be answered. Thus, we do not usually take freedom of movement to imply that people can go wherever they want. After all, freedom of movement does not give me the right to enter other people's houses, or to occupy the space they are presently physically occupying with their bodies. So the right to free movement needs to be restricted in various ways.

Here, Miller (2007: 207) suggests that people have a claim to an adequate range of options, but not to any particular option they happen to prefer. This is in line with the Razian conception of autonomy outlined above, but with the important specification that “adequate” is defined relative to generic human needs, not to whatever more specific interests particular people may have. Thus, according to Miller, people can claim access to a reasonable choice of, for example, occupation, religion, cultural activities and marriage partners, but not to, say, the option of being able to enjoy opera. In this way Miller (2007: 207) holds that rights to immigration should be based on basic needs of the kind that would be required to ground a human right.

Miller then points out that, in many cases, potential immigrants cannot make claims of this kind. For example, a Swede who wants to take up a job in Germany cannot reasonably claim that she does not have access to an adequate range of options in Sweden. A Tutsi facing ethnic cleansing in Rwanda, on the other hand, *can* make such a claim. But even this, Miller maintains, does not give her a right to migrate to Germany, because her right is to having an adequate range of options, not to having it provided in any particular place. So if she has access to such options in, say, a neighbouring country or, for that matter, in Sweden, she cannot claim that she has a *right* to immigrate to Germany. More generally, according to Miller, there cannot be a right to migrate to wherever one wants. And states may legitimately deny entry to potential immigrants, either because these immigrants have access to an adequate range of options in their country of origin or because they have such access in another country that is willing to let them in. Freedom of movement must be curtailed to accommodate this point.

This also allows Miller to respond to the emigration-immigration paradox. In order to be able to obtain an adequate range of options, individuals may need to be able to exit a country in which such options do not exist for them, but they do not need to be able to enter a *particular* country, and so the right to emigrate is not accompanied by a general right to immigration.²

I now want to raise four objections to Miller’s account of freedom of movement and the right of states to exclude potential immigrants. The first pertains to his claim that only basic needs can found rights to immigration. When Miller claims that people have a right to an adequate range of options regarding, for example, religion, presumably this does not mean that they have a right to access a *particular* religious community, but only to a range of different communities to choose from. For example, a Protestant does not have a right to have access to a community of fellow Protestants (say, if such a community does not exist in his country of residence). This further implies that, according to Miller, he cannot have a right to migrate to a country where he could access such a community either. Similarly, and for the same reason, people do not have a right to join and settle with their families insofar as this involves crossing state borders.

Obviously, this means that people can have very weighty interests in immigration that are not catered for by Miller’s construal of freedom of movement. Indeed, in some cases, reuniting with one’s

family or being able to express one’s religion in a community of fellow believers may be more important to people than having access to, for example, an adequate range of job opportunities. Furthermore, these interests cannot merely be dismissed as idiosyncrasies or whims that just happen to be important to people. They are integral parts of what many people consider prerequisites for a meaningful or worthwhile life. For this reason, I believe we should be wary of placing too much emphasis on Miller’s distinction between needs and interests in our account of freedom of movement.

Second, in light of the fact that people may have strong interests in migrating to specific countries, the question arises of what reasons nations can give to nevertheless exclude them. As we have seen, Miller argues that states have a right to national self-determination that, to a significant extent, outweighs the interests of potential immigrants. However, I suggested in the last section that the ways in which such self-determination is currently exercised do not have democratic legitimacy. To have such legitimacy, immigration policies would have to be more sensitive to the voices of potential immigrants.

This, of course, does not imply that there cannot be interests within a nation that need to be weighed against the interests of people who wish to enter. And obviously, such a weighing can be done in a number of different ways. Miller’s (2007: 223) liberal nationalism implies that nation-states have stronger obligations towards their own members than towards members of other nations, and so should give more weight to the interests of the former. My own inclination, on the other hand, is that at the most fundamental level, states are morally required to be impartial between the interests of citizens and non-citizens, but I shall postpone this discussion until the next section.

Third, while Miller argues that states may legitimately deny entry to potential immigrants insofar as other states are willing to take them in and provide an adequate range of options (to which they do not have access to in their country of origin), there is an issue of what states are required to do when other states close their borders. Here, Miller (2007: 227) states:

There can be no guarantee, however, that every bona fide refugee will find a state willing to take her in. The final judgement must rest with the members of the receiving state, who may decide that they have already done their fair share of refugee resettlement.

The question I want to raise here is whether a state’s obligation to allow entry to needy migrants increases to the extent other states close their borders. Miller’s answer seems to be “no”, insofar as they have already done their part. However, note that in many cases, this is not how we think of our responsibilities. The following case illustrates the point. Suppose that as you are relaxing in the sun on the beach, you realize that a child is drowning. You look to see if anyone else is plunging into the water to save the child, but everyone, including the lifeguard, is in fact deliberately ignoring her. Surely this increases your responsibility for saving her. And this will be so even if,

earlier in the day, you already saved three other children. It would not be a legitimate excuse to say that since it is someone else's turn to do their share, you cannot be held responsible. But then why would we want to make this excuse on behalf of states?

I do not mean to suggest that there cannot come a point where states (or beach dwellers) can legitimately refuse to provide further help, but rather that this point is (1) sensitive to the extent to which others do (not do) their part and (2) not simply up to the discretion of agents to settle themselves (e.g. the beach dweller cannot simply decide that saving two is enough – he will have a moral obligation to save a third, fourth, and fifth drowning child as well, whether he acknowledges this responsibility or not).

Finally, by granting states a high level of discretion in settling their immigration policies according to national social, economic, and cultural concerns and values, Miller is imposing very unequal opportunities on would-be immigrants depending on their skills. The poor and uneducated will find it much more difficult than the skilled and well-off to gain access to societies that are rich in opportunities. And this, it may be argued, is unfair. I shall have more to say on this question of what justice requires with respect to the global distribution of opportunities in the next section.

4 Equality and the welfare state

Equality is a further core value in liberalism. That is, most liberals are committed to some egalitarian ideal, and minimally to equality of opportunity. However, the ideal of equality has been used by proponents of both closed *and* open borders to support their claims. And significantly, this reflects a disagreement on the *scope* of our egalitarian commitments. Thus, egalitarian proponents of restrictive immigration policies have tended to assume that equality has domestic scope only (Blake 2003; Miller 2007), that is, that states have an obligation to bring about equality domestically, but not to try to secure equality on a global scale. Egalitarian proponents of open borders, on the other hand, have generally assumed that equality has global scope (Carens 1992, 1995; Trebilcock 1995; Tushnet 1995).

Equality is sometimes invoked in an argument for restrictive immigration policy in the following way. It is argued that open borders tend to undermine the welfare state and so the basis for egalitarian redistribution. In fact, there are at least two distinct versions of this argument (Holtug 2010a: 265–269). According to the first, *economic* version, welfare states (such as the European welfare states) tend to attract poor, unskilled labour whereas states with larger income gaps (such as the US) tend to attract skilled labour (Kærgård, 2010). This means that, to a significant extent, immigrants in welfare states will be unemployable (given high minimum wages, etc.) and so be costly to the state. According to the second, *sociological* version, immigration causes ethnic diversity and ethnic diversity tends to undermine social cohesion, where social cohesion is a precondition

for the sort of solidarity necessary to uphold the welfare state (Miller 2004). Thus, people will not be willing to contribute to the welfare state unless they identify with the people to whom they are thus contributing, and they will not identify with these people unless they are, in relevant ways, similar to themselves (I critically assess this argument for restrictive immigration policies at much greater length in Holtug 2010b.)

Indeed, both versions of the argument are popular in contemporary European politics.³ However, more often than not, they are not elaborated in any degree of detail, neither in terms of the empirical or the normative premises on which they rely. For example, regarding the economic version of the argument, it is sometimes assumed that migration patterns can be explained in terms of simple economic push–pull factors, where in fact such explanations are much too simple to predict migration patterns. Migration movements are sensitive to a wider range of factors, including international relations, political economy, collective action, and institutional factors (Castles & Miller 1998: 23). Furthermore, judging from past experiences with open borders, at least some worries about (mass) immigration seem exaggerated. For example, while several countries had open borders for former colonies in the past, including for immigrants from the Caribbean between 1950 and 1980, only 0.6 per cent of the Caribbean population moved to the US and England in this period (Brock 2009: 194).

Regarding the sociological version, there is *some* evidence to suggest that ethnic diversity drives down various aspects of social cohesion, including trust (Putnam 2007: 147), and that diversity drives down redistribution (Alesina & Glaeser 2004: 146). However, if one surveys the literature more fully, it becomes clear that the evidence for these claims is simply inconclusive at this stage (Holtug 2010b). For example, there is also evidence to suggest that it is not ethnic diversity *per se* but rather residential segregation that drives down trust (Uslaner 2010). And Putnam's results in the US could not be confirmed in a recent study in Europe (Gesthuizen et al. 2009; see also Hooghe et al. 2009; Torpe & Lolle 2011). Furthermore, as Myles and St-Arnaud (2006: 340–341) point out with respect to the claim that ethnic diversity systematically weakens the welfare state, the evidence is “simply too thin and contradictory to draw strong conclusions”.

Here, however, I want to focus on the normative premise in the argument that immigration undermines the welfare state and so egalitarian redistribution.⁴ As I pointed out above, egalitarians differ on whether equality has domestic or global scope and the argument under consideration assumes that it has domestic scope only. After all, the point the argument makes is that the *receiving country* will experience a decline in social spending and so an increase in inequality; and here, the effects on other states are simply not considered. Furthermore, like the assumption that states have an extensive right to national self-determination regarding immigration, the assumption that equality has domestic scope only is hardly ever questioned in political discussions of this argument.

If, on the other hand, we assume that equality has global scope, it seems that higher levels of migration from developing nations to rich, Western states will actually *increase* equality. Not only will migrants obtain a higher standard of living, they will also send back very large remittances to their countries of origin. Thus, recorded remittances to developing nations in 2007 were four and a half times the size of total global development aid (Pritchett 2006; UNDP 2009: 78; World Bank 2006).

The point is that domestic and global egalitarianism have different implications for the soundness of the argument under consideration and that we cannot simply assume domestic scope. In other words, why would our egalitarian obligations stop at the border? If we cannot provide an explanation, this claim is as arbitrary (and objectionable) as the claim that men should be equally well off, whereas it does not matter if women are as well off as men are.

Domestic egalitarians have generally come up with two kinds of defence of their view; *statists* have argued that the coercive structures states impose on their own citizens give these states and citizens obligations of justice only within the framework of the state (Nagel 2005), whereas *nationalists* have argued that co-nationals have obligations of justice only towards their co-nationals, simply because of the sort of relation co-nationality is (Miller, 2007)⁵ I believe that such restrictions on the scope of equality are implausible. Roughly, this is due to the “luck-egalitarian” point that being born into a poor Ethiopian family is no less a matter of brute bad luck than, in the domestic case, being born into a dysfunctional, unskilled low-income family. And so if justice requires that the negative effects of the latter on people’s lives entitle them to egalitarian compensation, it similarly requires us to compensate for the negative effects of the former. Here, however, my aim is merely to point out that the egalitarian argument for restrictive immigration policies relies on a specific, controversial assumption about the scope of equality. (But for more detailed criticisms of statist and nationalist restrictions on the scope of equality, see Caney 2005: Ch. 4; Holtug 2010a, 2011.)

This discussion of the scope of our principles of justice also has a bearing on the discussion of freedom of movement in the previous section. There, I argued that people can have strong interests in being able to cross national borders, and that doing so may be necessary for having access to an adequate range of valuable options. However, it also seems clear that there are cases in which it is in the interest of the citizens of a country to limit the influx of immigrants (I shall give some examples of this in the next section). And when weighing these interests, it will make a difference whether we believe that our principles of justice have global or only domestic scope, because in the former case the interests of all affected parties (including potential immigrants) should have *equal* weight.

In what follows, I shall simply assume that justice has global scope and thus that, at the most fundamental level, justice requires immigration policies to reflect an equal concern for the interests of citizens and potential immigrants alike. This, of course, does not

imply that a state should in fact implement policies that are equally accommodating towards the interests of citizens and non-citizens, because it may be more efficient if there is a division of labour such that individual states primarily take care of their own citizens (Goodin 1988). However, for this to work, states need to be at least roughly equally equipped to do so which, obviously, is not the case today. So in order for such an efficient division of labour between states to be compatible with justice, it presupposes a global redistribution of resources, amongst other things.

5 Why not open borders?

I have now argued that (1) restrictive immigration policies cannot be justified on the basis of national self-determination (because of the conflict with democratic legitimacy); (2) freedom of movement expresses a fundamental concern that is not easily overridden, where this provides a strong *pro tanto* case for fewer restrictions on immigration; (3) the egalitarian argument for restrictive immigration policies I have considered presupposes a concern with domestic equality only. I have also suggested, but not argued (here), that global egalitarianism is a more plausible ideal of justice. These claims, made on the basis of liberal core values, all seem to point in the same direction, namely to more open borders (or, in the case of democratic legitimacy, to democratic influence of would-be immigrants, which would most likely also point in the same direction).

Does this mean that states should have (completely) open borders? I want to suggest two reasons why it does not. First, as Joe Carens (who is otherwise sympathetic to open borders) points out, there may be cases in which open borders will in fact wipe out vulnerable local cultures, undermine liberal democratic institutions, or seriously threaten the level of social benefits, including healthcare. As an example of the latter, Carens (1992: 41) considers what would happen if Canada opened its borders to Americans at a time when approximately 30 per cent of all Americans have no health insurance, and many more are underinsured (prior to Obama’s healthcare reform). Canada’s population is only 10 per cent of that of the US and if, say, many uninsured or underinsured Americans with HIV infections and AIDS chose to move to Canada to receive healthcare, this would put an enormous strain on the Canadian healthcare system, especially since these are very costly conditions to treat. And given that there are many medical conditions, other than HIV and AIDS, that would provide strong incentives to move, and many other countries, in which people may have similar incentives to move to Canada, the strain might seriously threaten the Canadian healthcare system as well as the willingness of Canadians to contribute to it. The point is that in such cases, even if we assume an ideal of global egalitarianism, a policy of open borders might not be optimal because it may simply undermine the basis for a welfare state with high levels of coverage in healthcare and with an ability to promote global equality *in the long run*.

The second reason why open borders may not be optimal, again assuming an ideal of global egalitarianism, is that in many cases it will be better to help the globally poor in their country of origin. There are various reasons for this, including the following (Pogge 1997): (1) the cost of benefiting the globally worse off will in general be lower in developing nations because a given sum of money will have greater purchasing power there, (2) this will also tend to stimulate local markets, and (3) if we want to help the very worst off, opening our borders will not help much, because these are not the people who immigrate. A fourth reason may be that open borders cause brain drain in developing nations, although perhaps it is possible to curtail the effects of this by a combination of selective restrictions on immigration policy, compensation to developing nations when skilled workers are recruited, and making various kinds of training in developing nations conditional on a commitment to stay and work for a given period of time (Brock 2009: 198–204).

Of course, there will be cases in which it is impossible, at least in the short run, to help people in their country of origin because of, for example, war and state oppression, and so here it is important that it is possible for refugees to immigrate. More generally, it is a highly complex issue what the optimal combination of border openness, development aid, and global political and economic reform is, where this complexity is due to both the empirical assumptions we make and the ideals according to which we may consider a particular combination just. However, it is less difficult to reach the conclusion that present policies in Western states, partly in response to the recession, of both restricting the immigration of poor, low-skilled workers and cutting development aid are highly unjust in light of the liberal values discussed in this article.

Before I end, I want to briefly comment on what may seem to be a conflict between the implications of liberty and equality regarding immigration. Freedom of movement seems to favour open borders, while (even global) egalitarianism will sometimes favour restrictions. However, the extent to which there is such a conflict will in part depend on how we conceive liberty. Freedoms may be considered either negative rights, according to which others may not prevent us from doing what we want (unless we are violating the rights of others), or positive rights, according to which we have a right to a certain level of resources, enabling us to – say – realise (at least some of) our life plans. If we consider a liberty a negative right, then a state is violating that right insofar as it coercively prevents potential immigrants from entering. However, if we consider a liberty a positive right, then this is less clear. An egalitarian state that aims in its policies to promote global equality, where this sometimes requires restrictions

on immigration, may be maximally promoting people's ability to live in accordance with their life plans on a global scale. It would seem strange to claim that such a state is unjustifiably violating people's positive liberty.

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Notes

- 1 However, for a conceptual argument against the view that a right to self-determination entails a right to exclude immigrants, see Lægaard (2010).
- 2 Of course, the right to an adequate range of options cannot justify a general right to emigration either, as some individuals clearly do have such options in their countries of origin. However, Miller (2007) believes that states have stronger obligations towards their *own* citizens than merely to secure an adequate range of options. I return to this issue in Section 4.
- 3 For example, in Denmark, these arguments have been enthusiastically supported by Karen Jespersen, former Minister of the Interior (Jespersen & Pittelkow 2005: 21, 98).
- 4 Of course, the argument could be made on the basis of other values than equality, because there are other ideals of justice that can also be used to justify the welfare state. I assume equality here because, as stated above, almost all liberals are committed to at least some form of equality of opportunity. Nevertheless, I believe that the points I make in the following will apply to these alternative justifications as well. For my own favoured account of justice, see Holtug (2006, 2010c: Part 2).
- 5 Incidentally, on the issue of whether statism and liberal nationalism differ in their implications for *immigration policy*, see Lægaard (2009).

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