

R A I N E R B A U B Ö C K

*Global Justice, Freedom of Movement and
Democratic Citizenship**

Abstract

The article discusses three liberal arguments about freedom of movement: immigration as a remedy for global injustice in the distribution of opportunities, freedom of movement as an integral aspect of individual autonomy, and immigration control as implied in democratic self-determination and citizenship. The article shows how these apparently irreconcilable stances can be reconstructed as partially overlapping once we realize that liberal citizenship provides not only reasons for closure but entails a bundle of mobility rights and is open for access by migrant stakeholders.

Keywords: Citizenship; Freedom of movement; Global justice; Democratic boundary problem; Membership criteria; Stakeholder principle.

EVERY YEAR SEVERAL hundred African boat people die in failed attempts to reach the shores of Europe. Yet at the same time European Union member states have opened their borders widely for each other's citizens. Can the privilege of free movement between wealthy and stable democracies be defended when contrasted with tight immigration control for poverty-driven migrants whose only hope is to sneak in without being detected? This is not an easy question because the moral stakes are so high in the latter case and seem so low in the former. I suggest nevertheless that we should not engage in this exercise of moral ranking because the problem consists of two separate questions: What are the claims of needy outsiders to be admitted to other countries? And under which conditions should liberal states open their borders for free movement? The first question is about priorities for selecting immigrants under conditions of legitimate immigration control, whereas the second one raises the

* Thanks to Oliviero Angeli and the journal editors for useful comments on a first draft.

more fundamental problem of how to justify restricting free movement across international borders in the first place. Justice-based reasons for admitting immigrants and freedom-based reasons for abolishing immigration controls seem to pull in different directions. The former support the claims of the neediest migrants whereas the latter promote open borders between democracies at roughly similar levels of economic development. These two sets of reasons cannot be fully reconciled or easily ranked. I want to argue, however, that the gap between them can be bridged by introducing a third question about citizenship. In a world where democratic states have reasons to control immigration, they should open their borders primarily to those who have a claim to membership in a broad sense. I propose a principle of stakeholderhood for determining who has a right to membership in a self-governing polity and demonstrate how this principle supports an expansion of the scope of international free movement and provides also some guidance for the allocation of admission duties to states.

1. *Three irreconcilable liberal views on migration?*

Liberal theorists have made two kinds of arguments for freedom of movement across international borders. One considers immigration as a remedial right that can be claimed by those who lack sufficient protection, resources or opportunities in their countries of birth or residence. The second argument sees geographic mobility instead as a primary right the restriction of which must be justified. These two arguments pull in different directions. The first view seems to call for open borders as long as there is global injustice in the way that being a citizen of a particular country determines one's opportunities (Carens 1987). Once a country offers its citizens sufficient opportunities, however, these can no longer claim a right to immigration into another state's territory. By contrast, the second approach seems to apply better to an ideal world where states have no more reasons to restrict admissions because the political and economic disparities between them that currently trigger refugee flows and poverty migration have been flattened out. Both views have been criticized by a third group of authors who defend a basic right of democratic communities to control immigration. They argue that such a right is implied in political

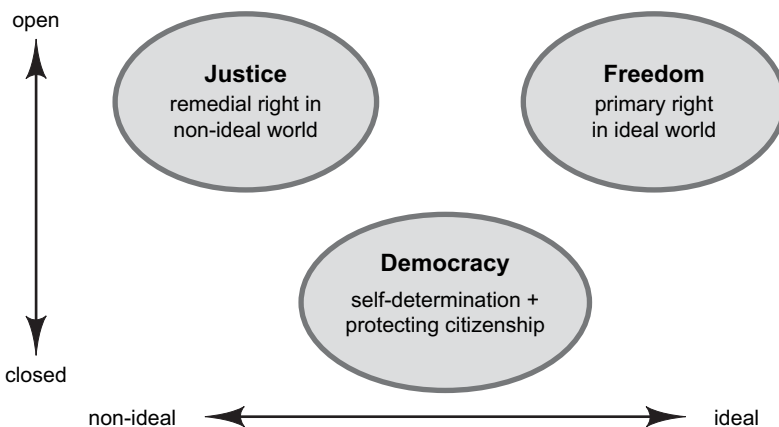
self-determination or is necessary in order to maintain domestic institutions of equal citizenship. While the first two views support an obligation of liberal states to open their borders, they disagree on whether this obligation arises under non-ideal or ideal circumstances. The third view, which emphasizes self-determination and the need to protect democratic citizenship, defends the general legitimacy of immigration control under both ideal and non-ideal circumstances.

The diagram below graphically represents the three liberal stances on migration as distinct clusters of arguments that appear to be irreconcilable. My ambition in this paper is to show that this conclusion is too pessimistic. I will try to demonstrate why the liberty-based argument is more powerful than often assumed by authors defending a global justice perspective on migration and how it applies also under present conditions. My second goal is to show that the democratic citizenship argument provides not only reasons for closure but also for remedial admissions and for widening opportunities for free movement.

2. *Are open borders a remedy for global injustice?*

Many, but not all liberals share the intuition that open borders are an ideal that states should strive to realize for the future, but accept

DIAGRAM I
Irreconcilable Views on Migration



that in a non-ideal world immigration will have to be controlled (see e.g. Sidgwick 1897, p. 308). The remedial view, however, seems to lead to the opposite conclusion. Closing borders cannot be legitimate in the present unjust world but would be unproblematic in a better one. On this view, EU states should keep their borders open for immigrants from Africa but may close them for the citizens of other EU countries.

There are three problems with this view. A first question is whether open borders would be an effective remedy against global injustice. A second difficulty is that from the domestic perspective of liberal democracies immigration control has to be maintained precisely under conditions of global injustice if open borders would undermine conditions for social justice inside the polity (Bauböck 1997). A third problem is with permitting states to constrain free movement under conditions where there is no longer any justification for doing so. I will not say much here about the first and second problems. These are important objections against an open border argument but they depend on controversial empirical hypotheses that cannot be easily tested. Would open borders lead to an international redistribution of wealth that benefits the globally worst off, or would such a policy instead merely enhance inequalities within each society and leave immobile populations in developing countries even worse off? If open borders are proposed as a remedy for global inequality then it must be shown that they would effectively improve the situation and that they would do so more efficiently than alternative policies of international redistribution of resources rather than people (Pogge 1997; Seglow 2005, p. 329). Would liberal welfare states be undermined by an open door policy or could they be sustained through effective internal controls of employment standards? If they cannot be maintained, then open borders would kill the goose that lays the golden eggs of social justice. This would be bad news also for poor countries attempting to build political institutions capable of reducing domestic inequality (van Parijs 1992).

If one adopts a very sanguine view on the likely effects of open borders under present conditions (e.g. Moses 2006), then the conflict between the remedial and the liberty arguments for free movement would certainly be diminished. One could then claim that open borders *now* would help to bring about a globally more just world in which there would *then* be no more reason to constrain free movement across borders. Libertarian advocates for a minimal state deprived of any power to close borders could then join ranks with cosmopolitan egalitarians who promote social justice across states. This unlikely alliance will, however, quickly dissolve if some of the optimistic

predictions about the effects of open borders on global social justice turn out to be wrong. The cosmopolitan egalitarian who defends a remedial view of free movement will in this case promote a migration policy that gives priority to the globally worst-off and therefore presupposes a regime of state control and selection.¹

At this point the third problem kicks in. Under realistic empirical assumptions the remedial view of migration rights is misconstrued as an argument for open borders. It is instead an argument for special admission claims. But then it no longer seems compatible with the liberty argument because it cannot provide a reason for permitting freedom of movement when and where it is possible. A “remedial-only” argument for freedom of movement is therefore incoherent. It fails to respect the “ought implies can” caveat by proposing for non-ideal conditions what can only be achieved under ideal ones, and it fails at the same time to provide a reason why borders ought to be open when they can be open.

A coherent argument must build on reasons other than remedial ones to explain why immigration control in liberal states needs to be justified. And these reasons must not only apply to free movement within state territories but also across international borders. If the argument from liberty that I sketch in the next two sections succeeds, then we can still invoke remedial grounds of global justice for determining which immigrants ought to be admitted as long as borders cannot be open for all.

3. *Individual autonomy and collective benefits*

From a liberal perspective the basic argument for free movement is its strong link with individual autonomy. Individuals should be as free as possible with regard to their choices of occupation, partners or life style, but opportunities to make such choices are not evenly distributed across geographic space. Being able to move and settle in other

¹ I assume here that most cosmopolitans accept the general legitimacy of political borders. This is consistent with supporting free movement, since even fully open borders still demarcate autonomous jurisdictions (see section 4 below). As Christian Schemmel has pointed out to me, a radical cosmopolitan view could support both the free movement and the global redistribution agendas by

questioning the general legitimacy of political borders. A borderless world may be a consistent utopia, but it is rather unattractive from a democratic perspective. Promoting this utopia also does not guide us in addressing the question at hand, which is whether, in a world of bounded polities, priority should be given to expanding free movement or to redistributive admissions.

places is therefore instrumentally important for enabling individuals, as far as possible, to determine themselves the circumstances of their lives (Carens 1992, p. 26).

A purely instrumental view of free movement may, however, still endorse the remedial-only conception criticized above. If we regard individual autonomy as something that should not necessarily be maximized at the expense of collective endeavours, then persons who wish to move elsewhere, even though they could find sufficient opportunities to satisfy most of their needs where they live, seem to be driven by idiosyncratic desires that no longer amount to a reasonable claim for rights.² Brian Barry suggests therefore that

an ideal world would be one in which the vast majority of people were content with conditions in their own countries. (Barry 1992, p. 279)

And for David Miller

liberal societies in general offer their members sufficient freedom of movement to protect the interests that the human right to free movement is intended to protect. (Miller 2005, p. 195; 2007, p. 206)

A first problem with this argument is that it is far from obvious that the geographic spaces within which individuals can find sufficient opportunities for free movement coincide with the territories of liberal states. Citizens of the US may find plenty of opportunities inside the national borders while the citizens of Liechtenstein or Andorra do not. In addition, the “sufficiency view” of free movement does not provide any good reason why large and wealthy liberal states should uphold the rights of emigration and of free internal movement throughout the state’s territory. Combining it with the remedial argument for immigration one could even make the case that internal freedom of movement in liberal societies should be restricted for the sake of providing better opportunities for outsiders who are much worse off. Suppose there is a demand for workers in Arizona and citizens in California find sufficient alternative job opportunities in their state while Mexicans south of the border do not. Should Arizona then open its borders with Mexico while closing those with California?

Apart from this problem of how to apply the “sufficient opportunity” argument to existing political borders, I think that the underlying

² Strong versions of cosmopolitanism would instead defend a goal of globally *equal* opportunities rather than sufficient ones. I do not need to enter this debate here, since global inequality in our present world is so

huge that even the weak cosmopolitan demand for sufficient opportunities in each country appears to radically challenge the legitimacy of immigration control in wealthy states.

view of free movement is not a liberal one. My objection is neither that free movement should be seen as an unconditional right, nor that a liberal state has a duty to maximize individual opportunities for free movement (e.g. through subsidizing private means of transport). Instead I want to insist that, from a liberal perspective, freedom of movement should be seen as having both an instrumental value *for* autonomy and an intrinsic value *of* autonomy. Human beings are not by nature sedentary animals. Being confined in one's movements is not only bad because of the opportunities one thereby misses elsewhere, but also because it is experienced as a constraint on freedom itself. The right to free movement is therefore not merely an instrument for other freedoms but is, alongside the other basic freedoms of thought, speech and association, also a core aspect of what it means to be free. Accepting that free movement has intrinsic value creates a strong *prima facie* reason why liberal states have to justify restrictions not only when they deprive people from access to sufficient resources and opportunities for leading an autonomous life, but also when people want to move because they simply wish to get away or feel attracted by foreign places.

Freedom of movement is, however, certainly not an unconditional right and may be constrained in order to protect other important interests. Political theorists have generally constructed a contrast between individual and collective interests with regard to free movement. Individuals may have strong interests to cross borders but these can be overridden by collective interests of citizens and residents in sending and receiving societies. Sending countries may, for example, suffer from a brain drain and receiving societies may see their domestic welfare regimes undermined. While these are valid arguments if they can be supported by empirical evidence, we also need to take into account those reasons that make relatively open borders attractive because of their beneficial impact for the societies in question. The basic argument from individual autonomy may thus be reinforced by three further arguments about collective benefits of free movement across international borders.

Liberal theorists discussing freedom of movement have too narrowly focused on the trade-off between individual liberty and collective self-determination and have often ignored the positive effects of relatively open borders on political systems.³ First, sending societies can benefit

³ As Aristide Zolberg has argued, "the cosmopolitan position would be significantly bolstered if it could be demonstrated that freedom of movement contributes to the

achievement of freedom among the various political communities that constitute the international system" (ZOLBERG 2006, p. 453).

from emigrants' transnational ties to their countries of origin. Under the right conditions, such transnational ties can be conducive to economic development, democratic transition and consolidation, and improve access to ideas, networks and markets abroad. The theoretical argument for these beneficial effects could be derived from a revision of Albert Hirschman's theory that exit and voice are alternative mechanisms for improving the performance of organizations and governments. In an important essay on the fall of the Berlin wall, Hirschman revised his earlier theory by pointing out how mass emigration may lead to regime change and thus support dissident voice inside the country instead of weakening it (Hirschman 1970, 1995). This extension of Hirschman's original "hydraulic model", in which exit and voice are alternative rather than mutually supporting mechanisms could be further revised by taking into account voice that is exercised from outside *after* exit. Today's emigrants remain increasingly involved in the economic and political affairs of their countries of origin and we need to explore the potential consequences.

Second, the dominant response to the question why liberal receiving countries need to control immigration is: in order to protect their welfare regimes and their national cultures. However, welfare regimes may also be undermined by restricting immigration and certain kinds of universalistic welfare regimes can keep borders more easily open without attracting too many immigrants. Consider the case of Sweden, which was one of three EU member states to have opened their labour markets to citizens from the new EU member states since 2004 and the only one to do so for Romanians and Bulgarians when these joined in 2007. In spite of its much more comprehensive welfare state, Sweden has received much smaller absolute and relative numbers of immigrants from the accession countries than the neo-liberal regimes of the UK and Ireland (Wadensjö 2007).

Cultural reasons for restricting immigration are generally suspect from a liberal perspective. Several authors point out that a policy of excluding immigrants on cultural grounds is discriminatory for internal cultural minorities who are thus signalled counting as equal citizens in the criteria for selecting newcomers (Carens 1989; Miller 2008, p. 228). Yet even a culturally homogenous state may become more liberal internally through culturally diverse immigration, since national cultures that are maintained through closed borders are likely to be less liberal than those that have been transformed through accommodating diversity resulting from immigration. Opening borders for immigration can thus, under certain conditions, promote a cultural

liberalization of democracies without undermining their capacity to maintain effective welfare regimes.

Third, freedom of movement is both enabled by peaceful and friendly relations between states and contributes in turn to consolidating such relations. Political theorists generally consider only what justification liberal states owe to individuals whom they exclude at their borders. But justification is also owed to those states whose citizens the would-be immigrants are. States may have reciprocal duties to open their borders for migration from other states when there is no reason to assume that free admission policies would undermine social justice, political order, economic development or other legitimate public policy goals in either country. As I will discuss further below, the goal of promoting freedom of movement across international borders may therefore be best achieved through building regional unions and international associations of states that grant each other's citizens reciprocal admission rights.

These are three consequentialist reasons for strengthening freedom of movement and each of them may be defeated by pointing to detrimental effects of open borders in a particular context. But taken together they add enough weight to the basic deontological argument from individual autonomy to defend a liberal default position in favour of open borders. The force of these arguments for free movement cannot be grasped by theorists who consider it only as a matter of redistributive justice (e.g. Seglow 2006, 2005). A liberal perspective on free movement must then reject both the "remedial-only" view of migration rights and the claim that collective self-government always requires migration control.⁴

4. *Liberties, claims, and correlative duties*

Freedom of movement combines a right of exit, a right of entry, and a right to stay (Bauböck 1997). I take it for granted in this paper that freedom to leave is a more fundamental right than freedom to enter. The basic reason for this moral asymmetry is that in a world with multiple destinations for migration, a prohibition of exit from the polity where a person currently resides implies a denial of freedom of

⁴ In section 5 below I consider the analytically different claim that self-determination *implies* a right to immigration control.

movement, whereas being denied entry at any of several possible destinations does not curtail freedom in the same way as long as there remain alternative destinations that are not closed.⁵ In a world where there is no longer any justification for restricting immigration, freedom of exit and entry become, however, symmetrical and combined.

What kind of right is freedom of movement in such a world and how does it differ from the claims of immigrants to be admitted? At first glance one might think that the difference is that freedom of movement is only fully achieved where there are no more borders, while admission claims imply the existence of a border. Yet this misunderstands the nature of borders. The primary function of a political border is to demarcate the jurisdiction of a political authority. Its secondary function is as a site of control over flows of goods or people. A border that is completely open in the sense of being uncontrolled still clearly identifies the territory within which the laws of a particular government apply. Internal borders in liberal democracies are all open in this way. In federal states the powers of jurisdictions demarcated by provincial borders may be very strong but they generally do not include the right to control migration.⁶ The same applies now to internal borders in the Schengen area of the European Union.

A world in which free movement is generally respected, therefore, need not be a world without borders. It need not even be a world with a strong federal government. Guarantees for free movement across borders can be brought about either through joint government and administration of the whole area or through mutual agreement between independent governments. Neither the Nordic passport union nor the free movement agreement between Ireland and the UK required strong institutions of joint government of the kind that we find in the EU. All that would be needed to create much larger zones of free movement in the present world is an extension of agreements about visa free travel to include a right to stay.

Although freedom of movement does not presuppose the absence of borders, it is basically a negative liberty that puts political authorities under an obligation of non-interference with individuals exercising their right to free movement. Putting it this way still conjures up

⁵ For supporting arguments see (WALZER 1983, pp. 39-40; BARRY 1992, pp. 283-284; BAUBÖCK 2006; MILLER 2007, chap. 8). For the alternative view that the rights to exit and entry are symmetrical because both can be trumped by collective interests, see (COLE 2000, pp. 43-59; COLE 2006; YPI 2008).

⁶ In Canada, however, the province of Quebec has special powers in the federal immigration regime, which include representation in consulates and a higher score than in the federal point system for knowledge of French.

the image of a border guard waiving through certain passengers who carry the right kind of passport. This is what happens where regimes of free movement and immigration control clash with each other at a particular border, as they do currently at European airports. Internal borders between the provinces or municipalities of a state are quite different. They are marked by signposts that announce the name and identity of the polity one is about to enter but there are no more physical barriers and human personnel that could be used for purposes of control. The internal Schengen borders of the EU fall somewhere between these two types, with some control infrastructure still in place so that it can be activated when border controls are temporarily reintroduced for public order reasons. Where free movement has become a universal right for anybody residing within the jurisdictions involved, it becomes a liberty in the sense that Wesley Hohfeld refers to as a privilege (Hohfeld 1919). Its correlate is not a state duty but a “no-right”, i.e. the absence of a right to control exit or entry. By contrast, where freedom of movement is exercised at a border that is simultaneously used for immigration control, enjoying the liberty does not imply the full absence of control but a right to be exempted.

A claim to admission as an immigrant is essentially different from a liberty since it entails not merely the existence of a border but also of immigration control. If the claim amounts to a right, then the authorities controlling immigration are under an obligation to admit the individual to the territory.⁷ If it is merely a claim that may be defeated by some stronger interest on the other side, then the authorities may still decide to admit the individual without being bound to do so. In both cases granting admission under conditions of immigration control may not logically entail any further duties of the state towards the migrant but, in a liberal polity, the very fact of accepting someone as an immigrant quite naturally generates further responsibilities for that person’s future well-being as a resident and these are not essentially different from responsibilities towards native citizens. Similar duties towards newcomers will eventually also arise towards persons who have made use of free movement rights, but in their case they are linked to settlement rather than immigration itself. A liberal state that selects and accepts immigrants has a much stronger duty to enable their integration into the society and political community from the very start.

⁷ Miller distinguishes between claims the rejection of which must be justified and the stronger notion of rights that put someone

else under corresponding obligations to enable, or not to obstruct, their exercise (MILLER 2007, p. 213).

And the burdens associated with this duty may become reasons for limiting the numbers of immigrants admitted. We need to bear this Walzerian point in mind when considering whether and to which extent liberal states are obliged to take in immigrants for reasons of global justice.

We live in a world where we find both regional conditions for freedom of movement as well as strong admission claims raised by persons from outside these regions. Although migrations that occur under these two sets of conditions are regulated by separate legal regimes, these regimes overlap and impact on each other to some extent. I have already mentioned how those who enjoy free movement rights across an international border still have to face some controls at the point of entry. Conversely, those who are subject to general immigration control also enjoy free movement rights vis-à-vis the country they are leaving. Under conditions where it is known that they cannot freely enter most other states, the duties of states of origin are not entirely negative ones. In a world of open borders, the freedom of exit consists merely in the absence of a government right to prevent people from leaving. In a world where states generally control immigration, however, governments of sending countries have a positive duty to enable their citizens to leave, by issuing them passports but also by negotiating conditions for admission in destination countries. Taking seriously the positive obligations of source countries to protect their citizens' rights of emigration entails that liberal states must seek bilateral or multilateral agreements on free movement.

5. *Self-determination over territorial admission*

My defence of freedom of movement has so far not addressed the strongest objection. Does not keeping borders open for newcomers fatally undermine the right to self-determination? Is not control over who can access the territory and who will be admitted to full membership "the deepest meaning of self-determination" (Walzer 1983, p. 62)? As Michael Walzer has argued, democracies can keep open either their territory or their citizenship but not both. And since excluding settled immigrants from access to citizenship amounts to establishing the tyranny of citizens over foreigners, democracies should exercise self-determination at their territorial borders in selecting immigrants whom they can accept as future citizens. This is a powerful argument. If there is a trade-off between open borders and inclusive citizenship, we need to reconsider which liberal norms apply to both gates of entry

and how such norms can be reconciled with the collective autonomy and democratic self-government of the receiving polity.

Consider first whether democratic self-government implies a right to control territorial entry. The analogy most frequently used to discuss this question is with private property in real estate. As owner of my house I can deny my neighbour admission, and if my neighbour has a right to enter my house unannounced and at any time, then I am not in full control over my property. Libertarian theorists have been quick to point out, however, that a liberal state is not the “owner” of a country’s territory, since that territory consists mostly of private property. Their conclusion is that state control over immigration amounts to infringing the right of private owners to invite guests to stay on their property (Steiner 1992).⁸ Yet, as Miller points out, admitting immigrants is not a purely private decision if these newcomers use the public infrastructure and interact with many other members of the society who had not invited them (Miller 2007, p. 212).

This rejoinder does not imply, however, that states’ property rights over their territory are analogous to private ownership of real estate.⁹ The alternative and more plausible interpretation is that states have a duty to provide public goods and, most importantly among these, an institutional structure of rights and liberties, for all who live within a particular territorial jurisdiction. Immigration may then be controlled not because citizens and state authorities representing them have a democratic right to decide who can enter their territory, but because, and only insofar as, immigration affects the stability and continuity of democratic self-government and the benefits that it generates for citizens and residents.¹⁰ The “only-insofar-as” proviso

⁸ This argument can be easily extended to employers whose right to hire migrant workers is infringed by state control of immigration (KUKATHAS 2005).

⁹ When trying to explain why immigration control is a matter of national self-determination, Miller still uses the problematic analogy with private property in real estate (see e.g. MILLER 2009).

¹⁰ Oliviero ANGELI (2008) has suggested an alternative defense of self-determination as entailing a right to exclude immigrants. On his account, self-determining polities have rights to set up a territorial structure of rights and opportunities and to grant membership on a territorial basis and this in turn entails the right to control access to this structure through immigration. While I

agree that the liberal state’s duty (rather than right) to preserve a structure of citizenship provides the core justification for immigration control I do not think that this entails a general right to self-determination over membership and territorial admission, especially in contexts where open borders are compatible with, or even called for, by the values that liberal citizenship protects. From a perspective that emphasizes the value of free movement, a right to exclude immigrants is therefore contextual rather than general. Although every state may have such a right under current circumstances, it is not a right against all other states, as the case of the EU demonstrates, and the right would lose its justification under conditions that all liberal polities should strive for.

explains why autonomous provinces within federal states and EU member states cannot claim a right to control immigration at the borders of their respective polities. In a federal state or union of states, the stability of democratic institutions in the nested polities is sufficiently guaranteed by the encompassing federal level of government. And where an autonomous polity can demonstrate that its capacity for self-government would be undermined by open borders, it may indeed claim a remedial right of self-determination and immigration control, as several indigenous peoples in North America do.¹¹

It is not obvious why this threshold of justification for immigration control should not also apply to movements between independent states that are not united under joint institutions of government. Consider two neighbouring countries with roughly similar institutions of domestic citizenship, an existing agreement on free movement and easy access to naturalisation for each other's citizens. To make matters less abstract let us call them Norway and Sweden. Imagine that for some reason half of Sweden's 9.2 million people decided within a short period of time to settle in Norway where they would double the current population of 4.7 million. Apart from all the other problems such a massive movement would cause, Norwegians could also claim that they would no longer be self-governing if half of the electorate were formed by newcomers.¹² If immigration from Sweden were less massive and stretched over several generations, Norwegian society could still be changed profoundly, but Swedish immigrants would blend into that changing society continuously and their children would become the next generation of native Norwegians. Unless they conceive of themselves as an ethnic nation, Norwegians could at no point in this process complain that immigration undermines their right to democratic self-government.

Instead of diminishing the moral and political significance of territorial borders and citizenship, my argument so far has tried to show that these are compatible with a simultaneous commitment to

¹¹ Building on Alan Buchanan's theory of secession (BUCHANAN 1991, 1997, 2004), I have argued elsewhere that the right to self-determination over borders and membership should generally be understood to be remedial only and derivative from a primary right to self-government, in the sense that the former can be invoked only where the latter is in jeopardy (BAUBÖCK 2005). This argu-

ment applies to secession, to immigration control and to citizenship admissions.

¹² My argument here is similar to Michael Dummett's justification for immigration control in case of "cultural submergence" (DUMMETT 2001, chap. 3) and might thus be called a justification from political submergence.

the liberal value of free movement. Let me consider a final objection raised by Michael Blake who shares these premises. Blake suggests that

some rights seem best understood as a result of the need to justify state authority specifically to those who live within that government's sphere of authority. (Blake 2005, p. 228)

In his view, freedom of movement is among these rights and is in this sense analogous to the citizenship rights of political participation and representation. Internal freedom of movement must then be guaranteed to all citizens and residents because these are already subject to the coercive political authority of the state, whereas migrants who ask to be admitted merely *seek* to become subject. Liberal states must therefore justify restrictions of a right to mobility only towards their citizens and residents.¹³

This argument misunderstands, however, the different nature of the various rights and freedoms that liberal states are committed to protect. The right to political participation presupposes a status of membership in the polity and can therefore, by definition, not be offered to outsiders. Since it depends, however, on membership rather than residence¹⁴ it can be, and is in an increasing number of states, also exercised by citizens from outside the territory (Bauböck 2007). This possibility of extra-territorial political participation by citizens does not imply unlimited access to political citizenship. As long as conditions for access to citizenship are fair, asserting a general right of self-government of a particular political community is sufficient justification for excluding non-citizen non-residents from voting rights. Most social and civil rights are, by contrast, territorial in the sense that they can only be protected within the state territory without depending on membership in a similar way. Temporary residents therefore generally have the same rights to protection under the law as citizens, and long-term resident non-citizens the same claims to public

¹³ Elsewhere Blake and his co-author Matthias Risse accept that outsiders may have a remedial right to admission derived from their moral equality as human beings and the idea of original common ownership of the earth. Liberal states need to justify their territorial claims when faced with global poverty and may have to open their borders for poverty-driven migration for that reason (BLAKE and RISSE 2006, 2007). As I have pointed out in section 1 above, such remedial arguments do not amount to a claim for free movement across open borders and therefore

cannot support a state duty to justify restrictions in cases where migrants would find sufficient opportunities at home.

¹⁴ Twelve EU member states as well as Iceland and Norway grant foreign residents general voting rights in all local elections on the basis of residence rather than national citizenship (SHAW 2007, pp. 76-82). These rights can still be regarded as linked to a distinct conception of membership in municipal polities where *ius domicilii* serves as the criterion for access to local citizenship (BAUBÖCK 2003).

education, health care, social insurance, or welfare assistance. As liberal states can protect civil and social citizenship rights only inside their territory, neither expatriate citizens nor non-citizen populations beyond the borders are owed any specific justification as to why their rights are not protected by a state where they do not reside.

The right to mobility falls into yet another category since it is neither inherently bound to membership status nor to territorial residence. Any political control of movement across internal or external borders amounts to a coercive restriction of an important freedom and liberal states have to offer justifications for such coercion to anybody whose movement they restrain. What counts as a sufficient justification will be different for internal movement, for emigration and for immigration, but non-citizen immigrants, too, are owed reasons when they are turned away. Pointing out that they are not citizens to whom political authorities are accountable is enough for denying them voting rights, but not enough for denying them territorial admission. As I have argued in this section, immigration control should therefore not be seen as an inherent power of democratic self-determination.

6. *Criteria for political membership*

A principle of self-determination also fails to provide a defensible guideline for admissions to full membership status and political participation. As theorists of democracy have pointed out, the question of who must be included as a citizen in order to achieve democratic legitimacy cannot itself be answered by democratic decision. Doing so would lead to infinite regress, since any group of citizens taking such a decision would again have to prove that it includes all who can legitimately participate in this decision (Whelan 1983; Goodin 2007; Abizadeh 2008). Robert Dahl has therefore suggested that democratic legitimacy requires a criterion of inclusion that is not itself exposed to democratic decision (Dahl 1989, chap. 9). I will discuss in this section four possible answers to this problem that the demos cannot determine its own composition and boundaries by democratic procedures. I introduce this debate here in order to show in the following section how a liberal principle for access to citizenship can at the same time guide liberal states in expanding immigrant admission and spaces of free movement.

A first answer to the self-determination puzzle is to conceive of the identity of the demos as pre-democratically given through processes of

nation-building that have standardized public languages and have promoted a sense of belonging rooted in an imagined common homeland, history and ancestry. While it is empirically true that the modern nation has successfully filled the gap at the core of democratic theory by defining the identity and boundaries of the demos, it does not follow that a nationalist response is also normatively defensible from a liberal perspective. The obvious problem, which has generated a whole literature on “liberal nationalism”, is how a claim to national self-determination can be defended towards those who remain excluded, who have been incorporated against their will, or who promote rival projects of national self-determination the territorial and membership claims of which intersect with an established polity.

Theorists who are critical of liberal nationalism have proposed two alternative principles for determining who has a right to membership in a democratic polity: a principle of including all affected interests or all subject to coercive political authority. I argue in this section that both principles are either too indeterminate to serve as a guideline for democratic inclusion or lead to implications that defeat the very purpose of finding a criterion for legitimate membership boundaries.

The principle of “all affected interests” builds on the plausible idea that democratic decisions have to be justified towards all those who are affected by them, but implausibly derives from such a duty of justification a criterion for participation and representation in the decision-making itself. The implication is, as Ian Shapiro has pointed out, that the scope of inclusion in the demos would have to be determined differently for each decision (Shapiro 2000, p. 237; 2002, p. 244). Yet it is difficult to know who will be affected by a particular decision before the decision has been taken and implemented. Moreover, deciding whether or not to extend participation rights in a particular decision must again be done by current citizens or their representatives, i.e. a demos that does not include all those whose interests will be affected by the decision on whom to offer the franchise. For Fredrick Whelan, the principle of all affected interests replicates therefore the circularity built into the idea of a self-determining demos instead of providing a solution (Whelan 1983). Robert Goodin, however, draws the alternative conclusion that taking the principle of all affected interests seriously requires constructing a global demos that is maximally inclusive (Goodin 2007).

Apart from the logical conundrums inherent in the idea of democratic self-determination, there are two problems with applying the principle to real world democracies. A first difficulty is that the principle is at odds with systems of territorial representation in which

citizens delegate decision-making powers to representatives who have a broad legislative mandate to take decisions that will apply within a territorial jurisdiction. In this model of democracy the scope of affected interests is generally not co-extensive with the set of persons to whom the laws apply. Not all legislative decisions will affect everybody in the jurisdiction equally and some of these decisions will also affect other states and non-citizens living there. Changing the composition of the demos for each decision is, however, incompatible with the very idea of democratic representation that presupposes stable territorial and membership boundaries. Instead of the demos being constituted by the decisions its representatives take, these decisions apply to an already constituted demos whom the legislators represent.

A second problem concerns Goodin's plausible conclusion that the principle requires an all-inclusive global demos. This idea may be productive for raising awareness that national decisions with global impact require regulatory institutions of global governance, but it does nothing to resolve the initial problem of determining who has a membership claim in a particular territorially bounded polity. My conclusion is that the "all affected interests" principle substantiates ethical duties for democratic legislators to take externally affected interests into account, to seek agreements with the representatives of externally affected polities and to transfer some decisions on global problems to international institutions, but that it cannot provide a criterion for determining claims to citizenship and political participation.

Prima facie the alternative principle of "all subjected to political coercion" seems to avoid these pitfalls. It starts from already given institutions of political authority that exercise coercive power over a specific territory or population and it demands that all these individuals be included as members of a democratic polity. Every system of political rule involves coercion and subjects at least some individuals to collectively binding decisions to which they have not consented. Yet by authorizing through democratic procedures the coercion to which they are subjected a people can still be seen as governing itself.

The "all subjected to coercion" criterion for membership is, however, just as indeterminate as the "all affected interests" principle. Postulating that all subjected need to be included does not respond to the prior question of who can be legitimately subjected. We would thus need a further and more basic principle (such as inclusion of all affected interests). Alternatively, one might take the current system of sovereign states as a given background condition. Most theorists defending a principle of including all subjected persons have therefore

linked it (often only implicitly) to the fact of territorial jurisdiction. In this qualified form the principle states that legitimate political coercion can be exercised over all persons who are present or reside within a political territory and only over such persons. This move appears to resolve the difficulty that we have met when discussing externally affected interests. Although a political decision may have external effects, these do not amount to subjecting outsiders to political coercion as long as states do not project their monopoly of legitimate violence across borders in order to enforce their legislation in foreign countries.

The principle of inclusion of all territorial subjects as members of the polity clearly supports the right to citizenship for all long-term residents that Walzer defends and maybe also a franchise for non-citizen residents. What it cannot support, however, is the near universal state practice of *ius sanguinis* transmission of citizenship status to second generations born abroad to emigrant parents or the right of long-term emigrants to cast absentee ballots in elections of their country of origin (López-Guerra 2005). One might object that some states do impose coercive citizenship duties on their expatriates by taxing their income or by drafting them for military service. The non-territorial version of the principle would then call for enfranchising these citizens because they are subject to coercion, but this conclusion conflicts with the idea that legitimate political power must be confined to coercion within the territory.¹⁵

Limiting the scope of legitimate political power through territorial borders is indeed important in order to create the conditions for peaceful coexistence among a multitude of independent polities. However, looking at the real world, theorists should quickly become aware that regulating access to citizenship status and rights is not among the

¹⁵ The conflict between a territorial and non-territorial interpretation of “all subjected to coercion” becomes obvious in Arash Abizadeh’s recent interpretation (ABIZADEH 2008; see also CHANG 2009). According to Abizadeh, immigration control implies subjecting all non-citizens outside the territory to coercion, which can only be justified by including them as participants in determining the rules under which they are coercively excluded from the territory. Although it is not intended in this way, this argument strikes me as a *reductio ad absurdum* of the underlying principle. It is a negative version of Groucho Marx’s quip that he would never join a club that would have someone like him as a member. Abizadeh seems to suggest that

a club that wants to deny admission to somebody like Groucho Marx would first have to admit him as a member. In his critique of Abizadeh’s essay, David Miller focuses on the question of whether purely hypothetical coercion of somebody who has never even considered immigration in state X can still count as coercion (MILLER 2009). While this is an important question to ask, I think that turning away those migrants who have declared their desire to enter or have already travelled to the border is indeed an act of coercion that requires justification. The critical question is whether such coercion gives rise to claims of membership and political participation.

policies that states have agreed to limit in this way. Doing so in a context of migration would also be normatively undesirable. Migrants leave and enter territorial jurisdictions and thus become subject to the laws of different states, but they do not thereby automatically lose their previous citizenship or acquire a new one. Membership in a democratic polity must have a sticky quality in order to ensure the emigrants' right to return and the immigrants' right to choose whether and when to become full citizens in their new country of residence. Long-term residence is therefore not the only criterion for citizenship inclusion as long as such inclusion remains optional rather than automatic and as long as membership status can be carried abroad.

This sticky quality of membership is not only important to secure migrants' autonomy and interests vis-à-vis sending and receiving states, but also for the cohesion of democratic political communities. If membership were an automatic result of individual decisions about residence and migration, then such communities would be experienced by their members as incidental aggregates of individuals who cannot be expected to be willing to share the benefits and burdens of self-government. Alternatively, polities would close their borders in order to retain some autonomy in deciding who becomes a citizen. This problem is alleviated for internal migration within a state territory where citizens moving across the borders of cities or provinces can still be trusted to be sufficiently committed to the collective purposes of local self-government because they share membership in an encompassing political community. A rule of automatic *ius domicili*, i.e. loss and acquisition of citizenship status determined only by residence, makes therefore perfect sense for local and provincial membership, but not for migration between independent states.

In its most plausible interpretation, the principle of including all who are subject to political rule because of their long-term residence in a territorial jurisdiction is thus too narrow as a criterion for membership inclusion. It fails to accommodate the interests of migrants in being able to choose their membership and does not take seriously the autonomy and cohesion of democratic communities.

The flaw in both liberal alternatives to nationalist criteria of inclusion lies in the attempt to derive a criterion for membership from the output of the political process (affected interests or coercive subjection) rather than from its input. Focusing on criteria for input legitimacy is what makes the nationalist position so strong even in a democratic setting. In order to avoid a tautological response – “we should include all those who have a claim to inclusion” – and in order

to avoid the indeterminacy and over-inclusion resulting from a purely subjective criterion – “we should include all those who want to be included” – we need some objective criteria for determining the legitimacy of membership claims. And if we want to provide a liberal alternative to nationalism we must avoid falling back on a prepolitical notion of community. The criteria that we are looking for should therefore not only be compatible with, but should also be derived from, a liberal conception of democracy.

I have suggested a principle of stakeholder citizenship that could meet these requirements (Bauböck 2007). The basic idea is that all those and only those individuals have a claim to membership in a particular polity who can be seen as stakeholders because their individual flourishing is linked to the future of that polity. Individuals hold a stake if the polity is collectively responsible for securing the political conditions for their well-being and enjoyment of basic rights and liberties. This is what we could call the “dependency” criterion. And such stakeholders can be seen as sharing an interest in maintaining the continuity and stability of democratic self-government in this polity.¹⁶

Instead of deriving claims to membership from a broad variety of interests that may be affected by political decisions, a stakeholder principle focuses on individuals’ interest in membership status itself and the core rights attached to this status. Everyone who is affected by a decision has a claim that her interests should be taken into account but not everyone has a claim to be a member of the political community on whose behalf the decision is taken.

And instead of deriving a criterion of inclusion from the scope of an already established political authority, as the principle of including all subjects suggests, the notion of stakeholding in a self-governing polity requires that this political authority must first be authorized by those who are stakeholders in the polity. Subjection to territorial jurisdiction can still be interpreted as a sufficient empirical indicator for stakeholding, but not as a necessary condition. The reason for this is that individuals outside the territorial jurisdiction can be stakeholders if the particular circumstances of their lives make their individual autonomy and well-being dependent on recognition of their membership and protection of their rights by a particular external polity.

¹⁶ A principle of stakeholder citizenship refers to claims of individuals towards already established polities and can therefore not respond directly to conflicts between rival claims for territorial jurisdiction. I do not address this question here because it does not arise for

migration between self-governing democratic polities. From a liberal perspective, immigrants cannot raise claims to change the territorial borders of the country where they settle or to establish their own self-governing polity within that country.

A principle of stakeholderism is not the only possible alternative to the membership criteria that I have discussed in this section. Rogers Smith has recently suggested a principle of “constituted identities”. He argues that constitutional democracies

are obligated to include as equal citizens all persons with legally recognized statuses and identities that have in significant measure been constituted by the democracies’ coercively enforced policies, should those persons wish to be citizens. (Smith 2008)

This idea has strong affinities with stakeholderism but is closer to the output side of the political process – the way political authority impacts on, and thereby constitutes, individuals’ identities. It is therefore also more past-oriented and less future-oriented than stakeholderism, and is probably also different in its potential scope of inclusion. While the citizens of former colonies may have claims to citizenship and admission under Smith’s principle, a second generation born to emigrants abroad can hardly claim that its identity has been constituted by coercive policies of their parents’ country of origin.

Interpreted narrowly as a criterion for allocating citizenship status, a principle of stakeholderism is independent from the autonomy-based argument for freedom of movement. A democracy can open its borders but still retain sufficient control over membership by admitting as citizens only those whose circumstances of life link their future with that of the polity. Many individuals who merely seek specific opportunities in another country may then move back and forth across borders while retaining a firm stake in their country of origin and without ever acquiring a similar stake in the destination country. It is at the threshold of long-term settlement that immigrant stakeholderism becomes a plausible assumption.

Interpreted more widely, however, a principle of stakeholderism serves not only as a criterion for claims to citizenship status, but also to territorial admission and free movement. If this final part of my argument succeeds, then the conflict between the three values listed in the title of this article: global justice in admissions, free movement, and democratic citizenship may not be irresolvable in normative theory, although it will remain acute in democratic politics.

7. The immigration claims of stakeholders

How can stakeholderism help to determine admission claims of immigrants? Under current international law, citizenship is not just an

empty legal status but entails a bundle of mobility rights. And citizenship is the only legal status that puts all states under a nearly unconditional obligation to grant a right of immigration. The liberties of internal movement within a state, or of exit from a state, are human rights not specifically attached to citizenship, but the right to return is reserved for citizens. “Return” may actually amount to first-time immigration for individuals who have acquired an external citizenship abroad through descent, marriage or naturalization. A stakeholder criterion that applies outside the territory will therefore indirectly also identify a category of individuals who enjoy the strongest possible rights to be admitted in a particular country.

If the right to return were merely a contingent implication of citizenship under current international law, then we could challenge this association from a normative perspective and disconnect membership status from migration rights. I propose, however, that the right to return should instead be seen as the very core of external citizenship. While democracies cannot be obliged to grant their expatriates absentee voting rights, they should have no discretion in re-admitting their citizens. Once this close connection is accepted, then the stakeholder principle cuts both ways: all who have a claim to external membership should be granted immigration rights in their country of membership, but nobody who does not have a valid claim to admission as an immigrant in that country should be granted membership status in the first place. A stakeholder principle is thus incompatible with over-inclusive policies that offer citizenship status to foreign nationals living abroad who merely share a distant ancestry with the native population or that sell citizenship to foreign investors who are just interested in another passport but have no intention to settle in the country. This conclusion may seem at odds with my general plea for expanding free movement rights, since including non-stakeholders would enhance the overall number of individuals enjoying greater mobility across international borders. Under conditions of general immigration control the allocation of unconditional entry rights should, however, be seen as a question of fairness between competing claims. Stakeholdership in an external political community appears to me a defensible ground for allocating these strongest immigration rights.

The right to return for external stakeholders still seems to draw the circle of beneficiaries quite narrowly. But we should remember that first generation migrants are generally stakeholders in both their countries of origin and of settlement. A stakeholder criterion therefore

supports claims to dual citizenship and these entail a dual right to return. Multiple citizenship thus creates individual spaces of free movement with symmetric exit and entry rights in several independent states. Instead of asking who has a right to first admission in a country with which he or she has had no previous affiliation, a stakeholder principle starts from the links that people have already established with particular polities and supports their admission rights there. Most normative theories have simply ignored the effect of past migration on present and future claims of free movement. If, however, past migration between two countries can establish an individual stakeholder claim to citizenship in both, then a corresponding allocation of free movement rights looks much less narrow and arbitrary than it might from a global justice perspective that regards citizenship itself as a morally arbitrary privilege (Carens 1987, 1992; Shachar and Hirschl 2007).

The circle can be widened further by considering the European Union not only as a historically unique case, but as a replicable model of regional union with a joint citizenship. The core of EU citizenship is a right of free movement. I have argued above for an obligation of liberal states to open their borders if the expected inflows would not undermine their capacity for self-government and their territorial system of rights. This is not an argument from stakeholderhood but from respect for individual autonomy. It applies therefore broadly between independent countries and would support forming international associations for free movement between liberal democracies with roughly similar welfare regimes. In the case of the EU this general obligation is reinforced by the commitment of member states to joint self-government in a supranational polity. Stakeholders in member states are simultaneously stakeholders in the union and have an interest in democratic accountability of the supranational institutions as well as in the protection of their rights as union citizens in all the member states. Internal free movement in the EU imposes significant constraints on each member state's autonomy, but this is what distinguishes a supranational federal polity from an international organization or loose confederation of states.¹⁷

¹⁷ Just as national citizenship, EU citizenship implies not only internal free movement but also entry rights for citizens from outside the territory. Over-inclusive citizenship policies of particular countries therefore create an additional burden for other member states

that have to admit those whom the former countries have turned into EU citizens. Although this conclusion has so far been rejected in the EU, member states therefore have a common interest in harmonizing the standards for admission to citizenship.

So far I have only considered admission rights that are associated with citizenship status. In a wider interpretation we can, however, also use a stakeholder criterion for supporting immigration claims of particular groups of non-citizens. Consider first family reunion for migrants who have left close relatives behind. This is not a right universally recognized by liberal democracies; where it is recognized, governments sometimes claim that it can just as well be satisfied through return migration to the country of origin. However, all traditional immigration countries give some admission preference to family members of previously settled immigrants and European courts have interpreted the right to private and family life in Art. 8 of the European Convention on Human Rights as entailing an obligation of states to permit family reunification in their territory at least for long-term settled immigrants. While citizens often enjoy stronger entitlements to family reunion than non-citizen residents, the rights of the latter have been broadly expanded over the last decades. They are still frequently challenged because family reunion diminishes a state's capacity to select immigrants according to its own preferences (e.g. for skilled migrants or for migrants with a particular cultural background). But the very fact that liberal democracies have accepted such far-reaching constraints on their autonomy in admission policies shows that they see themselves as bound by normative commitments.

The principle of stakeholderhood supports these rights for both non-citizen residents and for their family members abroad. The former should be seen as stakeholders with a present or future claim to full citizenship. If the polity of which they are presumptive members would not provide them with a right to live together with their close family, then this lack of protection for their fundamental needs would undermine their interest in that polity's flourishing. While the stakeholder claims of those who are already in the country are sufficient to trigger a right to family reunion, the claims of the outsiders who want to join the former also have independent moral standing. The stakeholderhood of external family members is more indirect and future-oriented since they have not yet been included in the jurisdiction. But their human right to family life is still addressed to the state where their relatives have acquired a right to stay and in this sense, they too can be seen as future stakeholders in this polity with a strong claim to territorial admission.

Neither the right to return for citizens nor rights to family reunification are grounded in a remedial view of migration claims. Family reunification should be clearly seen as a matter of social justice, but not

as a response to global social inequality. At the same time, these two kinds of admission claims do not fit neatly into the freedom-based cluster of arguments, because they promote special rights based on particular ties of individuals with a destination country. We can therefore see how the stakeholder principle generates a distinct set of reasons for immigration rights that fill the gap between the other two clusters.

The stakeholder principle, however, also reinforces remedial arguments for admission. Consider the claims of refugees and asylum seekers. From a perspective of moral urgency they are generally stronger than those reasons that support a right to return for citizens or a right to family reunification for settled immigrants. The problem is that the admission duties corresponding to their rights do not so clearly fall upon specific states.

A stakeholder perspective can support their case in two ways. First, it provides a strong reason why they have claims to asylum. Refugees are those who have lost the protection that citizenship is supposed to provide and cannot return to that country. In a broad sense they have *de facto* been made stateless and claim asylum as a substitute for citizenship. In contrast to national belonging, citizenship has a universalistic foundation as “the right to have rights” (Arendt 1967, p. 296) and liberal polities have a general duty to assist those whose governments fail to protect them and who are outside the territorial jurisdiction of those government. The problem is how this general duty to take in refugees should be distributed to particular countries. Although a stakeholder perspective cannot fully resolve this question, it helps to establish responsibilities of particular states to take in particular refugees, either because these states have been partially responsible for the refugee outflow (e.g. by supporting an authoritarian regime or involvement in a violent conflict) or because they can be seen as remedially responsible in the sense that they are in the best position to assist.¹⁸ Which state is in the best position to assist will not only depend on economic resources and geographic proximity, but also on the refugees’ previous ties to specific destination countries through family relations, earlier migration experiences and other biographical circumstances that create weak forms of presumptive stakeholderhood.

The argument from stakeholderhood does not cover all legitimate decisions about admission under conditions of general immigration

¹⁸ I am using here Miller’s helpful distinction between outcome and remedial responsibility (MILLER 2007, chap. 4).

control. For example, a country of immigration may have reasons to admit migrants who have economically needed skills lacking among the domestic population. Within our model, regulated skill-based migration is broadly covered by freedom-based arguments. The normative justification for such immigration is contractual with a presumed absence of coercion and mutual benefits for both sides. The difference with free movement is that political authorities retain control over selection criteria and quantitative limits. The legitimacy of controlled economic immigration policies will depend on several considerations. The most important among these are, first, whether interests of source countries have been sufficiently taken into account and, second, whether temporary economic migrants have access to permanent residence and full citizenship when their stay extends beyond an initial period (Walzer 1983, pp. 56-61; Carens 2008). With the transition from temporary to permanent residence, economic migrants again become stakeholders with rights of family reunification, of return after a stay abroad, and of access to citizenship status. From a remedial justice perspective one might object to economic immigration programs by arguing that they reduce opportunities for refugees or poverty-driven migrants. Migration policy is, however, not a zero sum game and admitting immigrants that are seen to contribute to the country's development will often expand rather than reduce political and economic opportunities for admitting others whose claims are not based on their contributions but on their rights and needs.

Stakeholdership also does not cover all reasons for admitting migrants whose claims may be supported by reasons of global justice. While open borders are not a plausible response to the moral scandal of global poverty, admitting some migrants from the poorest countries into wealthy ones may be part of the answer, provided these migrants find sufficient opportunities for successful integration there while at the same time contributing to the improvement of conditions in their countries of origin. Migration policy as an element of, rather than as a substitute for, development assistance would be a good idea (Sangiovanni 2007). In contrast to political refugees, who can only be protected through admission to asylum, there is much that wealthy states can do to alleviate the worst poverty in other countries short of military intervention and regime change. For this reason, poverty-driven migrants should still be seen as stakeholders in their countries of origin. Their primary claim towards better-off countries is to assist them in efforts of developing their country of origin both economically and politically to the point

where they can see themselves as self-governing citizens, or at least to refrain from creating obstacles for such development.¹⁹

8. *Conclusions*

I have tried to show in this paper that migration is a normatively complex phenomenon. Opening international borders for the movement of persons can be supported, first, by universal claims to individual autonomy that create a duty for political authorities to justify restrictions, second, by specific claims of stakeholders in a particular polity to be admitted to that polity, and, third, by less specific claims of the globally worst off to better opportunities, which may include a remedial policy of humanitarian admissions into wealthy countries as part of a comprehensive development strategy. Once we have understood this moral complexity of migration claims, we should be less tempted to rank them according to their moral urgency or to postpone the goal of freedom of movement to a distant ideal world. All three sets of reasons apply widely in our certainly not ideal world. Although the idea of a stakeholder criterion for membership in a democratic polity cannot fully resolve the tension between autonomy-based and remedial claims to admission, it provides a mediating principle that shrinks the area of moral uncertainty about the allocation of admission duties to states and reinforces the two other reasons for making liberal states much more open for immigration than they currently are.

My attempt to locate various types of migration in relation to the three main clusters of normative arguments has shown that the initial picture of irreconcilable reasons is indeed misleading. What we have found instead is that the argument from democratic citizenship can extensively support both admission claims of family members and refugees as well as expanding zones of free movement based on common union citizenship or multilateral agreements between states. We have also found regimes for controlled immigration of skilled or poverty-driven migrants that are not well covered by a stakeholder principle and can be better justified by relying directly on reasons of individual

¹⁹ See Thomas Pogge's argument that current international institutions are to a large extent responsible for maintaining global poverty and that citizens of wealthy countries

therefore have a negative duty not to maintain such institutions that impede development in other parts of the world (POGGE 2002).

autonomy or remedial global justice. While there clearly remains some tension between the three sets of arguments, the picture that emerges now is one of broadly intersecting rather than separate circles.

BIBLIOGRAPHY

- ABIZADEH Arash, 2008. "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders", *Political Theory*, 36 (1), pp. 37-65.
- ANGELI Oliviero, 2008. "Taking rights territorially. On territorial rights and the right to exclude", *SPS Working Papers* (Florence, EUI).
- ARENDRT Hannah, 1967. *The Origins of Totalitarianism*, Revised Edition (London, George Allen & Unwin).
- BARRY Brian, 1992. "The Quest for Consistency: A Sceptical View", in BARRY Brian and Robert E. GOODIN, eds., *Free Movement. Ethical Issues in the Transnational Migration of People and of Money* (Pennsylvania, Pennsylvania State University Press).
- BAUBÖCK Rainer, 1997. "Notwendige Öffnung und legitime Schließung liberaler Demokratien", *Archives Européennes de Sociologie*, 38 (1), pp. 71-103.
- , 2003. "Reinventing Urban Citizenship", *Citizenship Studies*, 7 (2), pp. 137-158.
- , 2005. "Paradoxes of Self-Determination and the Right to Self-Government", in EISGRUBER Christopher L. and Andras SAJO, eds., *Global Justice and the Bulwarks of Localism: Human Rights in Context* (Leiden, Netherlands, Martinus Nijhoff Publishers).
- , 2006. "Free Movement and the Asymmetry between Exit and Entry", *Ethics and Economics*, 4 (1).
- , 2007. "Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting", *Fordham Law Review*, 75 (5), pp. 393-447.
- BLAKE Michael, 2005. "Immigration", in FREY R. G. and Christopher Heath WELLMAN, eds., *A Companion to Applied Ethics* (Oxford, Blackwell).
- BLAKE Michael and Mathias RISSE, 2006. "Is There a Human Right to Free Movement? Immigration and Original Ownership of the Earth", *John F. Kennedy School of Government, Faculty Research Working Paper Series* (Cambridge, MA, Harvard University).
- , 2007. "Migration, Territoriality, and Culture", *John F. Kennedy School of Government, Faculty Research Working Paper Series* (Cambridge, MA, Harvard University).
- BUCHANAN Allen, 1991. *Secession. The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder, Co, Westview Press).
- , 1997. "Theories of Secession", *Philosophy and Public Affairs*, 26 (1), pp. 31-61.
- , 2004. *Justice, Legitimacy, and Self-Determination. Moral Foundations for International Law* (Oxford, Oxford University Press).
- CARENS Joseph H., 1987. "Aliens and Citizens: The Case for Open Borders", *The Review of Politics*, 49 (2), pp. 251-273.
- , 1989. "Membership and Morality", in BRUBAKER Rogers W., ed., *Immigration and the Politics of Citizenship in Europe and North America* (Lanham and London, University Press of America).
- , 1992. "Migration and Morality. A Liberal Egalitarian Perspective", in BARRY Brian and Robert E. GOODIN, eds., *Free Movement. Ethical Issues in the Transnational Migration of People and of Money* (Pennsylvania, Pennsylvania State University Press).
- , 2008. "Live-In Domestic, Seasonal Workers, Foreign Students, and Others Hard to Locate on the Map of Democracy", *Journal of Political Philosophy*, 16 (4), pp. 419-445.
- CHANG Howard, 2009 (forthcoming). "The Immigration Paradox: Alien Workers and Distributive Justice", in SMITH Rogers, ed., *Citizenship, Borders, and Human Needs* (Pennsylvania, The University of Pennsylvania Press).
- COLE Phillip, 2000. *Philosophies of Exclusion. Liberal Political Theory and Immigration* (Edinburgh, Edinburgh University Press).

- , 2006. "Towards a Symmetrical World. Migration and International Law", *Ethics and Economics*, 4 (1).
- DAHL Robert, 1989. *Democracy and Its Critics* (New Haven, Yale University Press).
- DUMMETT Michael, 2001. *On Immigration and Refugees* (New York, Routledge).
- GOODIN Robert, 2007. "Enfranchising All Affected Interests, and Its Alternatives", *Philosophy and Public Affairs*, 35 (1), pp. 40-68.
- HIRSCHMAN Albert O., 1970. *Exit, Voice, and Loyalty* (Cambridge, MA, Harvard University Press).
- , 1995. "Exit, Voice, and the Fate of the German Democratic Republic", in HIRSCHMAN Albert O., *A Propensity to Self-Subversion* (Cambridge, MA, Harvard University Press).
- HOFHELD Wesley, 1919. *Fundamental Legal Conceptions as applied in Juridical Reasoning* (New Haven, Yale University Press).
- KUKATHAS Chandran, 2005. "The Case for Open Immigration", in COHEN Andrew I. and Christopher Heath WELLMAN, eds., *Contemporary Debates in Applied Ethics* (Oxford, Blackwell).
- LÓPEZ-GUERRA Claudio, 2005. "Should Expatriates Vote?", *The Journal of Political Philosophy*, 13 (2), pp. 216-234.
- MILLER David, 2005. "Immigration", in COHEN Andrew I. and Christopher Heath WELLMAN, eds., *Contemporary Debates in Applied Ethics* (Oxford, Blackwell).
- , 2007. *National Responsibility and Global Justice* (Oxford, Oxford University Press).
- , 2008. "Immigrants, Nations, and Citizenship", *The Journal of Political Philosophy*, 16 (1), pp. 371-390.
- , 2009 (forthcoming). "Why Immigration Controls are not Coercive: a reply to Arash Abizadeh", *Political Theory*.
- MOSES Jonathon, 2006. *International Migration. Globalization's Last Frontier* (London, Zed Books).
- POGGE Thomas, 1997. "Migration and Poverty", in BADER Veit Michael, ed., *Citizenship and Exclusion*, Houndmills (Basingstoke, Macmillan).
- , 2002. *World Poverty and Human Rights* (London, Polity).
- SANGIOVANNI Andrea, 2007. "Global Justice, Reciprocity, and the State", *Philosophy and Public Affairs*, 35 (1), pp. 3-39.
- SEGLOW Jonathan. 2005. "The Ethics of Immigration", *Political Studies Review*, 3, pp. 317-334.
- , 2006. "Immigration, Justice and Borders: Towards a Global Agreement", *Contemporary Politics*, 12 (3-4), pp. 233-246.
- SHACHAR Ayelet and Ran HIRSCHL, 2007. "Citizenship as Inherited Property", *Political Theory*, 35 (3), pp. 253-287.
- SHAPIRO Ian, 2000. *Democratic Justice* (New Haven, CT, Yale University Press).
- , 2002. "The State of Democratic Theory", in KATZNELSON Ira and Helen V. MILNER, eds., *Political Science. State of the Discipline* (New York, W. W. Norton).
- SHAW Jo, 2007. *The Transformation of Citizenship in the European Union. Electoral Rights and the Restructuring of Political Space* (Cambridge, Cambridge University Press).
- SIDGWICK Henry, 1897. *The Elements of Politics*, 2nd ed. (London, Macmillan).
- SMITH Rogers, 2008. "The principle of constituted identities and the obligation to include", *Ethics and Global Politics*, 1 (3), pp. 139-153.
- STEINER Hillel, 1992. "Libertarianism and the transnational migration of people", in BARRY Brian and Robert E. GOODIN, eds., *Free Movement. Ethical Issues in the transnational migration of people and of money* (Philadelphia, The Pennsylvania State University Press).
- VAN PARIJS Philippe, 1992. "Commentary: Citizenship Exploitation, Unequal Exchange and the Breakdown of Popular Sovereignty", in BARRY Brian and Robert E. GOODIN, eds., *Free Movement. Ethical Issues in the Transnational Migration of People and Money* (Philadelphia, Pennsylvania State University Press).
- WADENSJÖ Eskil, 2007. "Migration to Sweden from the New EU Member States", IZA Discussion Papers n° 3190 (Bonn, IZA).
- WALZER Michael, 1983. *Spheres of Justice. A Defense of Pluralism and Equality* (New York, Basic Books).
- WHELAN Frederick G., 1983. "Prologue: Democratic Theory and the Boundary Problem", in PENNOCK J. Roland and John W. CHAPMAN, eds., *Liberal Democracy* (New York, NOMOS New York University).
- YPI Lea, 2008. "Justice in Migration. A Closed Borders Utopia?", *Journal of Political Philosophy*, 16 (4).
- ZOLBERG Aristide, 2006. *A Nation by Design. Immigration Policy in the Fashioning of America* (New York and Cambridge, MA, Russel Sage Foundation and Harvard University Press).

Résumé

L'article soumet à critique trois arguments libéraux concernant la liberté de circulation : considérer l'immigration comme un remède à l'injustice générale dans la distribution des chances ; y voir un aspect constitutif de l'autonomie individuelle et tenir le contrôle de l'immigration pour impliqué par l'autodétermination démocratique et la citoyenneté. Il est montré que ces positions apparemment irréconciliables sont en recouvrement partiel si l'on admet que la citoyenneté libérale n'est pas entièrement tournée vers la fermeture mais comporte un faisceau de droits de mobilité et est ouverte à l'accueil de migrants ayant un intérêt objectif d'appartenance.

Mots clés : Citoyenneté ; Liberté de mouvement ; Frontière et démocratie ; Critères d'appartenance ; Principe de stakeholder.

Zusammenfassung

Dieser Aufsatz befasst sich mit drei liberalen, der Bewegungsfreiheit zugrunde liegenden Argumenten: Einwanderung als Ausgleich für eine weltweit mangelnde Chancengleichheit, Bewegungsfreiheit als ein bedeutender Aspekt der persönlichen Autonomie, und Einwanderungskontrollen als Bestandteil der demokratischen Selbstbestimmung und Bürgerschaft. Diese ursprünglich gegensätzlichen Begriffe überlappen sich bei genauerer Betrachtung und verdeutlichen, dass die liberale Bürgerschaft nicht nur Argumente für Ausgrenzung, sondern auch ein Bündel an Bewegungsrechten beinhaltet und Einwanderungskandidaten mit objektiven Interessen an Zugehörigkeit offen steht.

Schlagwörter: Bürgerschaft; Bewegungsfreiheit; Grenze und Demokratie; Zugehörigkeitskriterien; Stakeholder-Prinzip.