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Global Justice and Open Borders: An Inclusive Statist Account

Borja Niño Arnaiz

Faculty of Law, Bond University, 14 University Dr, Robina, QLD 4226, Australia;
borja.ninoarnaiz@student.bond.edu.au

Abstract

Standard arguments for open borders draw on cosmopolitan premises. By contrast, statism as a theory of global justice seems to be at odds with open borders. If states are only responsible for protecting the autonomy of citizens and do not owe foreigners equal consideration of their claims, it appears to follow that they may legitimately exclude unwanted immigrants as long as their human rights are not at stake. In this article, I argue that one can be a statist and still defend open borders. Even though moral equality gives rise to demands of distributive justice only in the context of shared subjection to the authority of the state, such that foreigners are not entitled to equal treatment, moral equality demands that the state shows equal respect for their autonomy. Immigration restrictions that are not aimed at protecting the autonomy of citizens are incompatible with equal respect for foreigners' autonomy, since they subject the latter to unilateral coercion without it being necessary for the former to lead autonomous lives.

Keywords: statism; open borders; right to exclude; global justice; immigration; cosmopolitanism

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1. Introduction

Debates on global justice have been marked by a divide between statists and cosmopolitans. Although both accept the equal moral worth of all persons, they reach opposite conclusions when it comes to the implications of moral equality at the global level. For cosmopolitans, principles of justice are global in scope. If individuals are the ultimate unit of moral concern and deserve to be treated as moral equals by others, it follows that states should not make distinctions among people based on morally arbitrary facts. To the extent that citizenship is assigned arbitrarily at birth, it should not serve as the basis for unequal treatment in determining access to fundamental rights and freedoms and the distribution of primary goods. Principles of justice derive their global applicability directly from the moral equality of individuals. For statists, by contrast, principles of justice are restricted to the state level. From the fact that all individuals have equal moral worth, it does not follow that they should be treated equally by state authorities. Even though citizenship is assigned arbitrarily at birth, it is still morally significant in that it triggers subjection to a common system of laws that regulate the terms of social cooperation. In this way, moral equality has different implications in different institutional contexts.

The position one adopts in the debate on global justice tends to influence one's position in the "open borders" debate, which pits advocates of open borders against defenders of the state's right to exclude. "Those who think that all persons everywhere are entitled to treatment as political equals [i.e., cosmopolitans] tend to be advocates for open borders; if the community of people to whom rights are distributed includes *everyone*, then restrictions on immigration are inherently unfair" [1] (p. 964, original emphasis). By appealing to our

shared humanity and the moral equality of all persons, cosmopolitans endorse open borders as a way of countering the unequal effects of the country of birth and the international order on people's life chances. "Since internationalists [or statists] reject a global scheme of equal protection for basic rights, global equality of opportunity, and global economic egalitarianism, they are not bound by their background commitments to accept the free migration view" [2] (pp. 819–20). The right to freedom of movement "is a specific implication of moral equality which applies only within the context of shared liability to the state" rather than something people are owed merely by virtue of their personhood [3] (p. 229). Given the gulf that separates statists and cosmopolitans on questions of global justice, it is no surprise that they reach radically opposite conclusions on the open borders debate.

The aim of this article is to challenge this widespread assumption about the implications of statism for the open borders debate. In particular, I will argue that taking states as the primary site of justice does not allow us to conclude that they have a right to exclude. In other words, it is perfectly possible to be a statist and still defend open borders. Statism is not only compatible with open borders, but it may even require states to open their borders if doing so does not threaten their ability to deliver justice at home. Therefore, those who defend statism as a theory of global justice must on pain of consistency embrace open borders. In adopting a statist point of view, I do not intend to argue against cosmopolitanism, but rather to develop an alternative, more conciliatory, defense of open borders. Given that most people reject cosmopolitanism as a theory of global justice, arguing for open borders on cosmopolitan grounds is likely to be a futile attempt. Let me illustrate this point with two prominent cosmopolitan arguments for open borders.

Consider first Carens's cantilever argument. He argues that "[e]very reason why one might want to move within a state may also be a reason for moving between states" [4] (p. 239). Therefore, one cannot consistently assert a human right to freedom of movement at home whilst rejecting a human right to freedom of movement abroad. By extending the rationale for freedom of movement across state borders, the cantilever argument basically denies that states make a normative difference. But this is precisely what statists contend. For the latter, the right to freedom of movement is grounded not in universal values or generic human interests like the moral equality of individuals and their innate right to freedom, but rather "in a concern to protect *citizens* against abuses of government power" [5] (p. 101, emphasis added). The "right to [internal] free movement serves as a significant check on state domination of minorities, helping to safeguard their other human rights" [6,7] (pp. 55–56). If we want to build a broader consensus for open borders, we cannot do so by appealing to the cosmopolitan idea that international freedom of movement is freedom of movement writ large.

Take now Oberman's [8] argument that the human right to immigrate is grounded in the personal and political interest everyone has in accessing the full range of existing life options. A statist would respond, first, that global justice only requires access to an *adequate* range of options [9,10] (pp. 84–85; p. 366); and second, that human rights are properly held against, and thus their scope is coextensive with, the state which is primarily responsible for their protection. As Risse [11] (p. 27) puts it, "[f]or me to have freedom of conscience [. . .] is for me to be able to practice my religion where I live, not for my religion to be accepted elsewhere, nor does it mean for me to be able to travel anywhere my religion may require me to go." Even though cosmopolitan arguments might succeed on their own terms, the controversial nature of their premises urges us to look elsewhere to establish a broader basis for agreement on the open borders debate. It is to this task that I now turn.

But before that, let me introduce a caveat. The statist account I am relying on to make my argument for open borders is what one might call an 'insular' statist account. It assumes that states are relatively autonomous entities with few interconnections across borders and

makes a sharp distinction between citizens and foreigners [12] (chap. 2). I take this stance not because I think it represents the most accurate depiction of the world. The current international order is far from autarkic. States and their citizens are enmeshed in a complex web of social relations, trade networks, and institutional arrangements that span across borders. Moreover, there are different modes of belonging short of full membership with their respective legal status, ranging from international students and temporary workers to unauthorized migrants and refugees. Therefore, the stark divide that statists make between the domestic and the global context, with duties of distributive justice holding in the former whilst being completely absent in the latter, as well as between resident citizens and non-resident foreigners, is untenable from an empirical and normative point of view. It makes more sense to treat duties of distributive justice as a matter of degree: the more entangled our autonomy becomes with that of foreigners as a result of globalization, the more stringent our duties of distributive justice towards them [13,14]. The reason for adopting a strong statist view is strategic. I want my argument to hold even in the face of authors like Nagel [15] and Blake [16], according to whom duties of distributive justice only hold among citizens who stand in a coercive legal relationship with each other. If open borders obtain in a hypothetical statist world, then a fortiori they do in the actual world.

2. A Statist Defense of Open Borders

Statists believe that claims and duties of distributive justice arise from the shared subjection to and joint participation in the institutions of the state. By submitting to a common political authority, citizens come to have claims and duties of distributive justice against each other. It is only within the purview of the state that talk about distributive justice makes sense. In the absence of the state (or its functional equivalent), there are no claims and duties of distributive justice, but only duties of *humanity*.[1] More stringent duties of justice might arise among citizens, but all that global justice requires according to statists is that no one falls below a minimum threshold. Statism as a theory of global justice is therefore not committed to equality of opportunity at the global level or to an equal package of political and civil rights for everyone. What people are entitled to as a matter of justice by virtue of their humanity are the preconditions for a decent human life. Each person bears an equal moral status that accords her basic human rights. However, from the fact that everyone has equal moral worth, it does not follow that everyone is owed the same treatment. Moral equality gives rise to equal entitlements in the context of subjection to a common political authority.

Those coerced by the state have rights that go beyond those everyone bears by virtue of their humanity. These additional rights stem from the need to justify state authority to those who are subjected to it. For coercion to be justified, it needs to be exercised in a way compatible with individual autonomy [16].[2] By autonomy I mean the ability to make decisions about one's life according to one's own preferences and beliefs and to act upon them without external impositions.[3] State coercion impinges on individual autonomy, but at the same time it is a necessary condition for individuals to lead autonomous lives. "Without some sort of state coercion, the very ability to autonomously pursue our projects and plans seems impossible; settled rules of coercive adjudication seem necessary for the settled expectations without which autonomy is denied" [16] (p. 280). However, state coercion by itself is not enough to protect the autonomy of individuals. Only under a framework of justice that secures the background conditions for autonomy can individuals lead autonomous lives, and the only way to establish a framework of justice is through the exercise of state coercion. Without some sort of state coercion, the realization of distributive justice is impossible; institutional mechanisms of coercive enforcement are necessary for the fair allocation of rights and duties. The point of justice (or rather, one of its main points)

is precisely to make state coercion compatible with individual autonomy [14,21]. State coercion impinges on individual autonomy, but at the same time it is instrumental to the provision of justice, which is in turn necessary for individuals to lead autonomous lives.[4]

This explains why foreigners and citizens, despite their equal moral worth, are not necessarily entitled to equal treatment by the state. Whilst both are owed equal respect for their autonomy, only citizens depend on the exercise of state coercion for the protection of their autonomy.[5] Moral equality thus gives rise to demands of distributive justice in the context of shared subjection to the authority of the state, given the need to justify state coercion to citizens. The problem, of course, is that foreigners too are subject to state coercion and have their autonomy impinged by it [29,30]. Think, paradigmatically, of border controls:

> borders are one of the most important ways that political power is coercively exercised over human beings. Decisions about who is granted and who is denied [admission and] membership, and about who controls such decisions, are among the most important instances of the exercise of political power [20] (p. 46).

If everyone has equal moral worth and is therefore owed equal respect for her autonomy, why are states primarily responsible only for protecting the autonomy of citizens? Just as respect for individual autonomy requires that state coercion over citizens be justified in terms of justice, so should immigration restrictions, which are an instance of state coercion, be justified to foreigners qua autonomous agents [31–33] (pp. 102–103; p. 173). Equal respect for everyone's autonomy thus seems to entail duties of distributive justice towards foreigners as well. Yet, this is precisely what statism rejects.

While everyone is owed equal respect for her autonomy, and state coercion is necessary for individuals to lead autonomous lives, this does not entail that everyone's autonomy should be protected by the same state. Equal respect for everyone's autonomy is perfectly compatible with each state taking primary responsibility for the autonomy of its own citizens. What equal respect for everyone's autonomy does require is that no one subject another to unilateral coercion, except when doing so is strictly necessary to protect one's autonomy. This is why people are required to submit to a common political authority in the first place.[6] However, when it comes to foreigners, coercion over whom is not strictly necessary for them to lead autonomous lives, it is enough that the state shows equal respect for their autonomy. This is done by providing them reasons that they could not reasonably reject without having their status qua autonomous agents denied. "If we could not agree with the reasoning offered in defense of the exclusion except by means of agreeing with our own moral inferiority, then we have arrived at a principle that fails the most basic test of fairness" [34] (p. 121). Therefore, if it wants to respect foreigners' autonomy and moral equality, the state needs to appeal to a justification that they could not reasonably reject. What form should that justification take?[7] The only justification that a state can give for the exercise of border coercion over foreigners which is compatible with respecting their autonomy is one that links their exclusion with the state's structural features or inherent functions, in particular those having to do with the provision of justice, which are necessary for citizens to lead autonomous lives.

Recall that when the state uses coercion against someone, it needs to show that this is necessary for individuals to lead autonomous lives. While state coercion is necessary (although, as we have seen, not sufficient) for citizens to lead autonomous lives, border coercion is certainly not necessary for foreigners to lead autonomous lives. Even if it were, the state is not primarily responsible for protecting their autonomy. Therefore, it cannot appeal to this fact when it exercises unilateral coercion over them through its border regime. Does this mean that border coercion against foreigners is never justified? No. Border coercion could be justified to foreigners qua autonomous agents if this were

necessary to protect the autonomy of citizens. To the extent that each state is primarily responsible for protecting the autonomy of its own citizens through the provision of justice, it would be justified in exercising unilateral coercion against foreigners were immigration to undermine the institutional preconditions for justice within borders. Such a reason could not be reasonably rejected by the excluded migrants. After all, equal respect for autonomy should be reciprocal, from citizens to foreigners and vice versa. By contrast, reasons for exclusion that do not speak to the requisite functions of the state qua site of justice could be reasonably rejected by migrants. "If the state's rights are justified by the role they play in securing the personal and political autonomy of its members, then the state's moral prerogative to exclude migrants is limited to those scenarios where migrants *actually do threaten* members' political autonomy" [35] (p. 194, original emphasis). Consequently, a state cannot coercively exclude unwanted immigrants when they do not pose a threat to its ability to deliver justice at home. In short, immigration restrictions that are not aimed at protecting the autonomy of citizens are incompatible with equal respect for foreigners' autonomy, since they subject the latter to unilateral coercion without it being necessary for the former to lead autonomous lives.

To summarize the argument so far, let me reconstruct its core reasoning in a more systematic way:

(P1) Statists believe that all individuals (whether citizen or foreigner) have equal moral worth.

(P2) Everyone is owed equal respect for their autonomy by virtue of their moral equality.

(P3) Unilateral coercion is prima facie incompatible with individual autonomy because it subjects others to one's will.

(P4) For unilateral coercion to be compatible with individual autonomy, it needs to be justified to those subjected to it in terms that they could not reasonably reject without having their status qua autonomous agents denied.

(P5) Although necessary (to the extent that it serves) to protect one's autonomy, individuals could reasonably object to unilateral coercion in the state of nature because their autonomy would be incompatible with equal respect for others' autonomy.

(P6) The protection of one's autonomy can only be made compatible with equal respect for everyone else's autonomy in the context of shared subjection to a common political authority such as the state which establishes a coercive legal framework that regulates the terms of interaction among individuals and defines the scope and content of their rights and duties.

(P7) Even though state coercion is necessary to protect individual autonomy, it is still not sufficient for individuals to lead autonomous lives.

(P8) Only under a framework of justice, whereby the terms of interaction and the distribution of rights and duties are acceptable/fair to all subjected, can individuals lead autonomous lives.

(P9) State coercion is instrumental to the provision of justice.

(P10) State coercion is justified to those subjected when and because it is necessary for individuals to secure the institutional preconditions for justice without which they could not lead autonomous lives.

(P11) Moral equality gives rise to claims and duties of distributive justice only among those individuals who are subject to a common authority, given the need to justify state coercion to them qua autonomous agents.

(P12) Citizens (and residents) are subject to a common authority, whereas foreigners are subject to a different authority.

(P13) Therefore, moral equality gives rise to claims and duties of distributive justice only among citizens (and residents) of a state.

(P14) Even though foreigners are not owed duties of distributive justice given that they are subject to a different authority, states must still respect their autonomy by virtue of their moral equality.

(P15) States fail to respect foreigner's autonomy when they exercise unilateral coercion against them, since by doing so they subject them to their own will without it being necessary for citizens (and residents) to lead autonomous lives.

(P16) Immigration restrictions are an instance of unilateral state coercion.

(P17) Immigration restrictions that are not necessary to secure the institutional preconditions for justice at home could be reasonably rejected by foreigners qua autonomous agents.

(C) Therefore, immigration restrictions that are not necessary to secure the institutional preconditions for justice at home fail to respect foreigner's autonomy, and hence violate their moral equality.

Call this argument the 'inclusive statist' account. Does it amount to an argument for open borders? By making freedom of movement conditional on domestic justice, it appears as though the inclusive statist account lacks the resources to criticize many instances of exclusion that are clearly impermissible from an open borders perspective. For example, it is often argued by opponents of open borders that low-skilled immigrants are a net burden on the welfare state, that they compete for jobs with the least advantaged compatriots, and that they drive down wages as a result [36]. Thus, "[i]f we have special obligations to our poorer fellow citizens"—and assuming that the above claims are correct—, an open borders policy "may be hard or impossible to defend from the standpoint of domestic distributive justice" [37] (p. 292). In response to this worry, let me clarify what I mean and do not mean by open borders.

Although I will say more about it later, an open borders policy basically grants foreigners an *unconditional* right to enter and settle in another country. This entails that the government and border enforcement authorities cannot coercively exclude unwanted immigrants at their discretion. By an unconditional right I mean that freedom of movement across borders should not be subordinated to the collective interest or sacrificed for the sake of marginal gains in distributive justice. We are not allowed to coerce others unilaterally just because it would lead to a more egalitarian distribution of resources. For example, even if you are extremely rich, I cannot steal from you to give that money away to the poor. In order for the exercise of coercion to be justified in the name of (a particular conception of) distributive justice, it needs to be collectively authorized by those subjected. The opposite would be to impose one's will on another, which would offend against their status qua autonomous agent (and particular conception of justice). On the other side of the coin, people need to have their autonomy protected if they are to genuinely consent to the exercise of coercion. This requires at the very least that they have access to an adequate range of options and that they do not fall below a threshold of material resources. Only when people are able to participate in the democratic process qua autonomous agents do we say that the ensuing distribution is legitimate.

We should therefore distinguish coercion exercised in the name of (a particular conception of) distributive justice from coercion exercised to protect individual autonomy and secure the institutional preconditions for justice.

> [W]hile exclusion might be justified if immigration threatens to push citizens below some minimal sufficiency threshold, it cannot be justified in order to better realize more ambitious distributive ideals. If we consider comparable trade-offs between distributive justice and other important freedoms, we find that we are unwilling to make any incursions into these freedoms for the sake of further gains in distributive justice once people's basic needs have been fulfilled [8] (p. 47).

When states exercise unilateral coercion against foreigners through their border regimes to achieve a more egalitarian distribution of resources, they are not aiming to protect the autonomy of their citizens or to preserve the integrity of the democratic process. Rather, they are using coercion to realize (a particular conception of) distributive justice against people who are not entitled to participate in the democratic process. This is impermissible from a statist perspective, which requires states to exercise coercion in a way that those subjected to it could not reasonably reject without having their status qua autonomous agents denied. Since the discretionary exclusion of unwanted immigrants is not necessary to protect citizens' autonomy or the institutional preconditions for justice, borders should generally be open. What about those instances of exclusion which are aimed at protecting the domestic poor from foreign competition in the labor market or to preserve the welfare state?

If there is no other way to avert those consequences, then exclusion might be all-things-considered justified. But note that there are usually alternatives to immigration restrictions. For example, the government could impose a waiting period (of, say, two years) on newcomers during which they would be ineligible for social welfare programs or it could increase taxes to those who benefit most from employing migrants and redistribute part of the gains to disadvantaged compatriots. At any rate, those exclusions would not be discretionary, but exceptions to a policy of open borders. In this sense, it is useful to compare open borders with domestic freedom of movement. Just as citizens are generally free to move to other parts of the country, so should foreigners generally be free to move to a country with open borders. And just as the government cannot coercively prevent its citizens from moving to other parts of the country for expediency reasons, neither should it coercively prevent foreigners from moving to the country for expediency reasons. However, this does not mean that the state cannot restrict domestic freedom of movement or temporarily close its borders if the threat to the autonomy of citizens and to the institutional preconditions for justice is credible and sufficiently grave.

The same goes for immigration restrictions in the name of national security and public health. Few would deny that states are entitled to control their borders in the event of a terrorist attack or a global pandemic. The worry is, of course, that governments might overstep their discretionary powers and use the above as pretexts for imposing stricter border controls. In fact, many contemporary governments that are cracking down on immigration tend to justify their draconian policies by portraying immigrants as a threat to the security and health of their citizens. I agree that the ideas of national security and public health are too vague and capacious: unless properly defined, they lend themselves easily to abuse. This is a familiar problem in other areas of domestic policy. But I do not think that it is impossible to address. Much like in the domain of emergency powers, there should be thorough regulations regarding the use of immigration restrictions, thus reducing the discretion of border agents and unscrupulous politicians to decide who poses and what constitutes a threat to national security and public health. In short, an open borders policy is compatible with the existence of some immigration restrictions in exceptional circumstances, provided that the latter are proportional and necessary to avert a serious threat.

3. Objections

I can think of three potential objections to the inclusive statist account. First, if, as statists claim, global justice only requires access to an adequate range of options, what is wrong with being denied access to countries beyond those that provide an adequate range of options? In response, note that justice is not merely about the number of options available; it has more to do with the *reasons* why options otherwise open to people are

coercively constrained [16] (p. 272). Just because someone has access to an adequate range of options, it does not follow that coercion against her is warranted. State coercion must be exercised in terms compatible with respecting the autonomy of individuals. In the case of immigration restrictions, states must show that coercion serves the purposes of justice or their legitimate functions. As long as the inflow of new members does not have a deleterious impact on the provision of justice, the exercise of unilateral border coercion against foreigners is not warranted. In most cases, immigration will not pose a challenge to a statist conception of justice. At the end of the day, immigrants are willing to take part in the scheme of social cooperation of their host country and will be pervasively subject to its coercive web of laws. Therefore, their admission will not normally undermine the core functions or inherent features of the state *qua* site of justice.

The second objection takes issue with the stipulation that immigration restrictions must be justified to foreigners in order to be legitimate. By making this claim, am I not introducing a cosmopolitan premise surreptitiously? When it comes to foreigners, all that global justice requires according to statism is respect for their human rights. To say that states must show equal consideration for foreigners' autonomy, the objection goes, is to assume that they stand in the same relation as citizens with respect to the state. But this is precisely what statists deny. It is true that foreigners do not stand in the same relation with the state, and that they are therefore not entitled to equal treatment and consideration of their claims. However, this does not mean that unilateral coercion against them is permissible as long as their human rights are respected in the process. The fact that foreigners have no human right to X does not necessarily entitle states to use coercion against them in order to prevent them from doing X, even when the use of state coercion does not violate any of their human rights, since by doing so they would be infringing on their autonomy. Just as states shall not tax non-resident foreigners even though there is no human right to the full amount of one's earnings, neither should states coercively exclude prospective migrants even though there is no human right to immigrate. States need to show that the use of coercion against foreigners is compatible with equal respect for their autonomy.

One need not be a libertarian to affirm that foreigners should not be coerced without justification. It suffices that she believes in the moral equality of all persons. If states are to treat people as moral equals, they need to show equal respect for their autonomy. This does not require that states protect the autonomy of foreigners, but it does entail that state coercion must be exercised in terms that foreigners could not reasonably reject without having their status qua autonomous agents denied. Given that border coercion impinges on the autonomy of foreigners, but it is not necessary for them to lead autonomous lives, they could reasonably object to it qua autonomous agents. Thus, in order to determine whether the unilateral exercise of border coercion against foreigners could be justified to them in terms that they could not reasonably reject, we need to know whether it is actually necessary for citizens to lead autonomous lives. To that end, I suggested that we look at the core functions or inherent features of the state, in particular those having to do with the provision of justice, and see whether immigration undermines any of these. If it does not, then states cannot coercively exclude unwanted immigrants. It is therefore perfectly possible to think that states do not owe foreigners equal consideration of their claims, but only respect for their human rights, and at the same time argue that immigration restrictions need to be justified to foreigners in terms that they could not reasonably reject. This is because although states are not primarily responsible for protecting the autonomy of foreigners, they still owe them equal respect for their autonomy by virtue of their moral equality.

The last objection holds that open borders are not feasible under a statist conception of global justice. Only under a cosmopolitan institutional order would the free movement of people be compatible with the ends of global distributive justice. In the absence of authoritative supranational mechanisms that secure global background justice, states by themselves cannot make up for the distorting effects of immigration on global distributive justice in the same way that they are able to do with respect to the effects of freedom of movement on domestic distributive justice [38] (p. 24). I agree with this empirical premise. But I do not think that freedom of movement should be conceived in terms of distributive justice. It is one thing to say that open borders may have a negative impact on global distributive justice; it is quite another to say that open borders should be contingent on the realization of global distributive justice. In fact, open borders as an instrument of global distributive justice are at odds with the values underlying freedom of movement across borders [39]. Global justice entails the ordering of needs, the assignment of priorities, and the preference and subordination of some claims over others. This might sometimes lead to the establishment of conditions and restrictions on mobility, as when the free movement of people leads to a suboptimal allocation of resources from the standpoint of distributive justice, or at least when the resulting inequalities do not redound to the benefit of the globally worst-off.

By contrast, "[o]pen borders does not mean more open borders; rather, it entails that people can move freely across state lines and settle abroad regardless of their citizenship" [40] (p. 14), "subject only to the sorts of constraints that bind current citizens in their new country" [41] (p. 251). On this understanding, movement across borders could be restricted for public health considerations or in the event of a serious threat to national security and democratic institutions, but not due to an aspiration to promote global distributive justice or maximize aggregate welfare [42] (p. 304). At any rate, for statists, the role of international institutions is not to promote global distributive justice, but to secure the institutional preconditions for justice *within* states by, among other things, ensuring that no state falls below a threshold of material resources, that every state can be self-determining, and that the human rights of everyone are reasonably fulfilled [43]. These three things are, I submit, what a statist conception of global justice concerned with the protection of individual autonomy requires—to answer the question raised at the beginning of the article about the implications of moral equality at the global level.

In short, open borders flow from a statist conception of global justice that sees the protection of individual autonomy as the main function of the state. Each state is primarily responsible for protecting the autonomy of its own citizens. Principles of justice regulate the working of institutions that provide the background conditions against which citizens can pursue their projects and plans autonomously. Even though states are not primarily responsible for protecting the autonomy of foreigners, they must still show equal respect for their autonomy. This means that they shall not subject foreigners to unilateral coercion, except when doing so is strictly necessary to perform their requisite functions, foremost among which is the provision of justice. Therefore, to the extent that immigration does not threaten the ability of states to deliver justice, they have no *justice*-based reason to close their borders. In this way, inclusive statism provides a pro tanto reason for open borders.

4. Limits and Strengths

Statists have traditionally appealed to the value of domestic justice to justify restrictions on immigration. Against this, I have argued that one can be a statist and still defend open borders. However, the present argument does not exhaust the moral landscape. All it claims is that as far as justice is concerned, states should not close their borders if immigration does not threaten their ability to protect citizens' autonomy. There might be

countervailing arguments against open borders that outweigh considerations of justice, and there might also be values other than justice at stake which could justify immigration restrictions in particular circumstances. The former are principled reasons in support of the state's right to exclude independent of justice, whereas the latter refer to lesser-evil justifications for exclusion. Let me take each in turn.

Regarding the former, whatever reasons there could be for excluding migrants as a matter of right, they would still need to be compatible with respecting their autonomy. It is true that respecting the autonomy of foreigners is not as demanding as protecting the autonomy of citizens. However, the requirement that states show equal respect for the autonomy of foreigners is more demanding than it might initially appear. For one, it enjoins states to give reasons for exclusion that would-be immigrants could not reasonably reject without having their status qua autonomous agents denied. This restricts considerably the sort of reasons that states can give. For example, exclusion on grounds of religion and ethnic background could reasonably be rejected by migrants because it offends against their status qua autonomous agents and moral equals. The same goes, I think, for economic, professional, and linguistic selection criteria.[8] The state is not an intimate association or a private company which may legitimately select among prospective members based on its conception of the good or for the sake of maximizing benefits. The purpose of the state is to provide a framework of justice against which citizens can autonomously pursue their own conceptions of the good. To impose a particular conception of the good on matters of immigration, as in any other public policy area, is incompatible with the idea of the state as a site of justice.

Nevertheless, exclusion might be justified in special circumstances. For example, in cases of imminent threats to national security and public health such as a terrorist attack or a global pandemic, values other than justice will recommend that we restrict immigration. But this is different from saying that states have a discretionary right to exclude. If states had a discretionary right to exclude, they would be able to exercise this right irrespective of the reasons for exclusion. The fact that states have a discretionary right to exclude would itself be a sufficient reason for exclusion; it would be a sort of trump card. On my account, by contrast, the reasons for exclusion need to be weighed against the duty to respect the autonomy of migrants. Whether exclusion is all-things-considered justified in a particular instance will ultimately depend on the weight assigned to each consideration. However, there is no magic formula for that. There is room for (democratic) debate as to what weight each consideration should carry. But to the extent that autonomy is a very important value, we should expect it to carry considerable weight. Just as we do not sacrifice individual autonomy for the sake of marginal gains in distributive justice or security at home, we should not restrict immigration when it does not pose a reasonable threat to the state's ability to perform its requisite functions, including the provision of justice.

One might worry that my inclusive statist account does not directly confront nationalists, and that cosmopolitanism offers a more straightforward defense of the right to immigrate. What is gained by drawing on statists premises if cosmopolitan ones could do a better job at both? In response, let me clarify two things. As for the first claim, it is important to bear in mind that my main contenders in this debate are not nationalists, but cosmopolitans. Unlike nationalists, neither statists nor cosmopolitans appeal to any cultural elements or identity markers. As a consequence, arguments to the effect that mass immigration will change the composition and public culture of a country do not speak against inclusive statism any more than they speak against inclusive cosmopolitanism. Inclusive statism needs to be assessed against inclusive cosmopolitanism in terms of how each fares with respect to the state's right to exclude. On this score, I believe that inclusive statism fares better than inclusive cosmopolitanism. Whereas inclusive statists rely on

the features of or functions inherent to the state in order to challenge its right to exclude, inclusive cosmopolitans draw on the innate right to freedom of all human beings and the value of equality at the global level to do so. By taking seriously the premises on which the state's right to exclude rests, the inclusive statist account offers an internal critique of this right.

Second, and most importantly, the aim of this article was not to defend the right to immigrate, but open borders, and in so doing reject the state's discretionary right to exclude. "Open borders can be achieved for one state by its opening of its own borders, even if others do not open theirs" [49] (p. 984 fn. 6). By contrast, the only way for a human right to immigrate to take hold is for all (or most) states to open their borders. It makes no sense to posit a human right to immigrate if the vast majority of the countries in the world continue guarding their borders jealously. On the other hand, from the fact that states have no right to exclude, it does not follow that there is a human right to immigrate [50]. My claim is only that states should not coercively exclude immigrants unless there are good reasons for doing so. However, what is a good reason for one state may not be a good reason for another.

For example, we should not expect a country with an underdeveloped infrastructure and a struggling economy to open its borders, let alone demand that it does so. When a country is unable to protect the autonomy of its own citizens despite good-faith efforts, it might have a justice-based reason for exclusion.[9] In this sense, the inclusive statist account I have developed is sensitive to the particular situation of each state and more accommodative of its institutional realities than standard (cosmopolitan) defenses of open borders, which tend to advocate a human right to immigrate across the board. My account does not require that states give up their legal authority over immigration entirely. Nor does it stipulate when exclusion is *all-things-considered* warranted. All it requires is that states show equal respect for the autonomy of foreigners. As long as this is the case, would-be migrants could not reasonably object to their exclusion.

5. Conclusion

In this article I have challenged the widespread assumption that statism as a theory of global justice is at odds with open borders. One can reject cosmopolitanism and still defend open borders. In fact, I believe that statism provides the most realistic defense of open borders in a world of states whose authority remains largely undisputed. On the inclusive statist account, the main function of the state is the protection of individual autonomy, and the point of justice is to provide the background conditions against which citizens can pursue their plans and projects autonomously. However, there is nothing in this picture that justifies the state's right to exclude. To the extent that immigration does not threaten the ability of citizens to lead autonomous lives and states can continue to perform their requisite functions such as the provision of justice, they have no justice-based reason to close their borders.

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Notes

[1] That they are humanitarian duties does not mean that they are a matter of beneficence or charity. Even though they are not duties of distributive justice, they are still duties of justice. In fact, they might sometimes take priority over duties of distributive justice among citizens.

[2] I focus on the value of individual autonomy because it is usually thought to be prima facie incompatible with (state) coercion, which is in turn considered by statist as one of the main grounds of distributive justice. Other authors appeal to the values of reciprocity [17] and social cooperation [18] in order to ground duties of distributive justice among citizens. Elsewhere I have defended a pluralist account of the grounds of distributive justice [19].

[3] I rely here on Raz's conception of autonomy as requiring one to (1) have appropriate mental capacities to form personal projects and pursue them, (2) enjoy an adequate range of valuable options, and (3) be independent or free from subjection to the will of another through coercion or manipulation [20] (pp. 39–40).

[4] There is a rich debate about the relationship between state coercion and (global) distributive justice. I lack the space to engage in detail with this debate. For some important work on the topic, see Julius [22], Pevnick [23], Valentini [14], Wollner [24], MacKay [25], Sangiovanni [26], Hassoun [21], Hupfer [27], and Ronzoni [28].

[5] Respect for individual autonomy requires that no one interfere with the pursuit of others' life plans and projects. It is a negative duty that applies to everyone, whether citizen or foreigner. By contrast, protection of individual autonomy requires, among other things, that one have access to an adequate range of options, that their basic needs are met, and that they can exercise their rights and freedoms. It is a positive duty that applies primarily to citizens.

[6] In a state of nature, since there is no authority to protect one's autonomy, everyone is free to do whatever it takes to that end, including subjecting others to unilateral coercion. This is incompatible with equal respect for everyone's autonomy. Only under a common legal framework that regulates the terms of interaction and defines the scope and content of rights is the protection of one's autonomy compatible with equal respect for everyone else's autonomy without anyone having to subject another to unilateral coercion.

[7] Some have argued that border coercion needs to be *actually* justified to foreigners by granting them rights of democratic participation in the decisions of other states that pertain to their immigration policies [20]. However, this proposal rests on an implausible understanding of democracy. The point of democracy is not to justify state coercion. We do not normally say that A is authorized to exercise coercion over B just because A has granted B rights of democratic participation. What needs to be determined first is whether A has indeed a right to exercise coercion over B; and this democracy will not tell us. Rather, the point of democracy is to allow people to exercise coercion in a way compatible with respecting everyone else's autonomy *once* its exercise is justified. When I coerce others unilaterally, it is me who is defining the scope and content of their rights, and I am subjecting them to my own will. This is incompatible with equal respect for their autonomy. By contrast, if we submit to a common political authority that reflects our collective will—in other words, if the authority is democratic—, the scope and content of our rights are determined by all, and so no one is subjecting the other to her own will.

[8] There is a lively debate among political philosophers about whether or not skill-selective immigration policies and cash-for-passport schemes are morally permissible (see, among others, MacKay [44], Shachar [45], Lim [46], Erez [47], and Ball-Blakely [48]). This debate, however, presupposes that states have a discretionary right to exclude, which is precisely what the inclusive statist account rejects.

[9] The opposite is also true: when a state is unable or unwilling to protect the autonomy of its own citizens, the latter have a *claim* to admission to another country where their autonomy would be adequately protected. This means that in cases where not everyone could be admitted, those whose autonomy can only be protected through immigration would have priority over those whose rights are already adequately protected where they live.

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