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Freedom of Movement and Emigration Pressures: A Defence of Immigration Fees

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Abstract: The article addresses the prospective responsibility of states to protect citizens from emigration pressures. After establishing the moral weight of the interest in staying, the article proceeds to explain why the interest to stay is comparatively more resistant to restrictions than the interest in exercising freedom of movement across borders. On this basis, the argument is then advanced that immigration fees can be charged on (well-off) immigrants as a means to protect economically vulnerable residents in recipient countries from emigration pressures. The argument that I will advance is in at least one sense non-consequentialist: it accounts for the need for immigration fees without relying on (problematic) assumptions about the consequences of immigration. Furthermore, the argument is also realistic in so far as it accepts that states have the right to restrict immigration.

Keywords: right to stay, freedom of movement, immigration taxes, emigration pressures, responsibility

1 Introduction

Contemporary debates on migration have centered on the value and effects of freedom of movement across territorial boundaries.¹ Relatively little attention, by contrast, has been given to the interest in not being forced to leave one's home-country and to the means that are necessary to protect this interest.² While this is partly understandable, given the sometimes devastating impact of immigration policies on human lives, it is also unfortunate. Focusing exclusively on migration threatens to divert attention from the fact that most

¹ In this article my use of the terms 'stay' and 'freedom of movement' is confined to the international level. Whereas staying means 'not emigrating', 'freedom of movement' describes the right to movement *across* international boundaries.

² For two recent contributions on this issue, see Stilz (2013) and Oberman (2011).

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people show no interest in migrating to foreign countries. True, border controls are by no means blameless in this respect, for they increase the costs and risks of migration and deter many potential migrants from moving to other countries (cf. Carling 2002). But even if borders were open, it is highly unlikely that more than a tiny minority would move to countries where their standards of living are likely to be higher.³ This is what migration experts call the ‘immobility paradox’ (Malmberg 1997, pp. 21f.). In the so-called ‘age of migration’ (Castles and Miller 1993), migrants make up around 3 % of the world’s population – and this in spite of huge socio-economic inequalities worldwide (Malmberg 1997, p. 22; Lewellen 2002, p. 126).

Why do people prefer to stay where they live instead of moving to wealthier countries? In this article, I do not attempt to go into all the reasons that motivate people to stay in their places of residence. My focus is on morally compelling interests. Specifically, in Section 2, I wish to isolate two sets of interests that seem worthy of protection against different forms of economic and social pressures. These two sets of interests can be addressed as separate for analytical purposes. Practically, however, they are tied together and only combined they (1) provide a sound moral basis for an individual right to stay and (2) explain why the interest in staying is *pro tanto* more weighty than the interest in enjoying freedom of movement. For the sake of simplicity, I call these interests *place interests* and *autonomy interests*. After establishing the relative importance of the interest in staying vis-à-vis freedom of movement, the article proceeds to explain why, and to what degree, emigration pressure constitutes a violation of the right to stay (Section 3) and how the effects of emigration pressure can be reduced by means of redistribution (Section 5). My argument for immigration fees (Section 6) rests on the idea that states carry a prospective responsibility to protect economically vulnerable residents in recipient countries from emigration pressures (Section 4). Prospective responsibility is understood as a forward-looking commitment to the protection of vulnerable citizens, not reducible to the fulfillment of a specific threshold of protection from emigration pressure. Finally, I defend the permissibility of taxing immigrants against three objections (Section 7). In particular, I will address the criticism that immigration fees are unfair (to well-off immigrants) and counterproductive.

³ Some evidence in this respect can be drawn from interstate migration and from the removal of borders within Europe. By way of example, one could mention the case of EU-Enlargement. While per capita incomes in Eastern European countries are significantly lower than in Western European countries, no exodus has occurred.

2 Why the interest in staying is weightier than the interest in moving

Most people have strong interests in the enjoyment of facilities, goods and relationships that are tied to a particular place. These interests are what I call ‘place interests’. These can be interests in the place itself, in its distinctive physical attributes and characteristics. In many cases, however, place-related interests refer to interests in things that happen in a particular place. What does this mean? Consider the example of someone living and working in Jerusalem. This person may feel attached to the city for a variety of reasons. Some of these reasons are relational in that they emerge out of relationships and interactions with people that live in the same place, be these family members, friends or colleagues. Other reasons are related to activities pursued in a particular place (e. g. professional work, education, social or political activities). The assumption here is that forced migration can make the pursuit of professional or educational goals more difficult, if not impossible.⁴ For most professional and educational activities require some degree of physical presence. But, these reasons aside, people living in Jerusalem may also value something inherent to the place itself; for instance, the city’s historical and religious uniqueness.⁵

The importance of these inherent aspects of places should not be underestimated. Individual biographies and experiences are often tightly bound to the specificities of places. Places can be imbued with meanings that are integral to individual life plans and identities. It is therefore no surprise that most people have a particularly strong interest in being in *their* places. Forcibly displacing them from their homes may not only cause the loss of homes and jobs, and contribute to the breakup of families and communities. Displacement can have a seriously disruptive impact on personal identity (cf. Colson 1971). In this respect, the case of Jerusalem is emblematic. Over the past decades, the conflict between Palestinian Arabs and Israeli Jews over Jerusalem has shown how the right to stay in (or ‘occupy’) a place can become the focus of a highly contentious political issue.⁶

4 According to Stilz (2013, p. 336), the interest to stay derives from the fact that places sometimes create a space in which individuals can pursue what she calls ‘located life-plans’. Given the importance of these plans for the sake of individual autonomy, Stilz argues that people should hold ‘occupancy rights’.

5 See on this Daniel A. Bell and Avner de-Shalit (2011).

6 This is not to say that the Israeli-Palestinian conflict over Jerusalem revolves around the right to stay. The right to stay is just one of the contentious aspects of the conflict.

Place-related interests alone are powerful, but not necessarily conclusive (that is, they are still a long way off from grounding a *pro tanto* right to stay). Why? Put simply, not everyone is interested in staying. Most notably, place interests are of no significance to people who have a traumatized relationship to ‘their’ place (e. g. as a result of persecution or extreme poverty). These people lack a deep and morally valuable interest in staying. In fact, for some people staying is just a plight. When this is so, these people surely give more value to the right to leave.

The fact that some people have no particular interest in staying may lead to the conclusion that a general right to stay cannot be based on place interests. But this would be a mistake. As mentioned, place interests should not be taken in isolation, but in conjunction with autonomy interests. Put roughly, autonomy interests do not dictate particular choices (such as the choice to stay), but that it is up to us to make (important) choices. Autonomy, in other words, stands for the ideal that people should, to some degree, be the authors of their own lives (Raz 1986, p. 369). To this end, it is essential that individuals are provided with meaningful choices to influence the direction of their lives, including the choice of occupation, religion, social activities, and so forth. What the example of people who have a traumatized relationship to their country does not establish is that the choice to stay is unimportant or morally trivial. These people may not want to stay, but they have an interest in being recognized a certain moral standing as independent moral agents capable of deciding whether to leave. In this sense the combination of place and autonomy interests can be synthesized as follows: while place interests explain why places are non-trivial aspects of personal life, autonomy provides support for the claim that it is up to me to decide on non-trivial aspects of personal life. Or, to put the same point differently: while place interests tell us that staying is a morally salient option, autonomy interests make clear that *this is why* the option to stay is one that should be within every individual’s power to exercise.

At this point, an objector could point out that my argument does not prove what it claims to prove, namely that the interest in staying is morally weightier than the interest in exercising freedom of movement. On the contrary, it seems that the argument that I made in support of the right to stay can be advanced for the claim that people should be free to move too.⁷ After all, the interest in being the author of one’s own actions encompasses both the decision to stay as well as the decision to move to another place or country. My contention, however, is that the comparison between the two interests works to the advantage of the

7 Joseph Carens’ justification of freedom of movement is partly based on this understanding of freedom (see Carens 2013, pp. 225–254). See also Angeli (2015, pp. 106–109).

right to stay. Even advocates of freedom of movement are willing to grant that if people attach importance to the ability to move to other places, then they are likely to attach even more importance to the ability to stay where they live (cf. Oberman 2011, pp. 253–268). But, why is that so? Recall what was said about place interests. The clue to their importance is the fact that people are attached to their places in the sense of a confident expectation in their enduring availability.⁸ In a sense, staying is the default position from which people decide to move (or not). For this reason taking away the option to be in a place can be highly disruptive of people's ability to lead an autonomous life. But what about migrants who are committed to the idea of moving to other places? Suppose someone grows up attached to the idea of living in another place. This person is likely to put much value on freedom of movement. But she will equally – if not more – value the capacity of staying, if only because her freedom to move to other places would be in danger of becoming pointless.⁹

But another version of the objection lurks: perhaps it is misleading to argue that the interest in staying is morally weightier than the interest in exercising freedom of movement since staying and moving are just two sides of the same interest in leading an autonomous life. Put bluntly, I cannot seriously claim that my decision to stay is autonomous if I lack the option to leave. Without the possibility to leave staying ultimately comes down to the impossibility to move.

This objection is correct to the extent that individual autonomy as an abstract ideal involves the ability of making choices from a range of worthwhile options. In practice, however, autonomy necessarily comes in degrees, with some people being more autonomous than others. Accordingly, having the option to stay and to migrate is clearly closer to the ideal of autonomy than having only one of these two options available. Under non-ideal conditions, however, one has to assess which restraint on human options is generally more

⁸ As Margaret Moore puts it, 'individuals make choices and develop aims and activities on the assumption that they live in that place, and, often, that place is integral to their choices and projects' (Moore 2015, p. 38).

⁹ Exceptions are possible to the extent that sometimes people – like nomads – have no particular interest in staying. It is however misleading to think that the importance of the right to stay depends entirely on whether one is particularly attached to the place of residence. Put bluntly, rights are not granted because we assume that every single holder has an interest in exercising them. The assumption instead is these rights are related to a higher-order, general interests, among which, most notably, the interest in exercising individual autonomy. Deciding whether to stay is too intimately connected to our self-understanding as autonomous agents to be handed over to others. In this sense, while nomads may not be particularly interested in staying where they are, they have an interest in being the authors of their own life plans by their choices and actions, which involves the recognition that it is them, not others, who should get to determine whether they should move or stay.

disruptive of the ability to develop autonomous life plans. It is in this sense that I maintained that people have an interest in staying as well as in freedom of movement, but that, if only one interest can be secured, the first takes in general priority over the second.

Let's take stock of the argument so far. The goal has been to incorporate two seemingly separate justifications of the right to stay within a unified account. Simply put, place interests determine the scope within which autonomy interests operate. When taken together, place interests and autonomy interests provide a moral basis for the intuitive claim that 'one normally (though not always) has a much more vital interest in being able to stay where one is than in being able to get in somewhere new' (Carens 1992, p. 29).

3 Emigration pressure as a violation of the right to stay

If we accept that the right to stay exists (though not necessarily as an absolute right not overridden by countervailing considerations), then there is an obvious and a less obvious way in which it can be violated. The obvious way is coercion. Refugees, for example, are coerced into emigration by threats of imprisonment or severe injury. Focusing on refugees would be pointless, however. To acknowledge that refugees are wronged, one need not even address the right to stay. It suffices to see that refugees are deprived of some of their most important rights (cf. Shacknove 1985). What is far less clear is whether there are lesser forms of force that do not qualify as coercion strictly speaking, but nevertheless infringe specifically on the right to stay. In this Section I will make a case for why emigration pressures generated by unfavorable economic circumstances violate the right to stay.

Emigration pressure (EP), as I define it, refers to those kinds of events or situations that compel individuals to choose between two undesirable options. EP departs in two respects from *coerced* migration. First, when thinking of migration as a result of coercive threats what almost naturally springs to mind are phenomena of migration that can be directly traced back to the misconduct or failure of states in protecting their citizens from harms that eventually lead them to emigrate (cf. Shacknove 1985). One only needs to think of weak or failed states that leave their citizens vulnerable to oppression and discrimination. Most examples of forced migration, however, are not like that. They cannot be thought of in terms of a fairly direct causal relation between the state of origin

and potential emigrants. The relation is mediated by external factors (such as economic downturns and market fluctuations) over which states have only limited control (Penz 2006, p. 70). Put in these terms, EP is surely not coercive in the sense of putting a gun to someone's head in order to force her to leave the country. It rather falls under the rubric of structural injustice that 'occurs as a consequence of many individuals and institutions acting to pursue their particular goals and interests' (Young 2006, p. 114).¹⁰ But does the fact that EP cannot be traced back to a clearly identifiable cause make it any less objectionable? Certainly not. After all, if our concern is primarily with the limits imposed on the freedom to stay, then why should it matter so much whether these limits are imposed by states or structures? The reasons that we have to care about coercive displacement lead us to care in the same measure about EP generated by adverse economic circumstances.

Second, by using the term emigration pressure I expressly move away from the idea that forcing someone to emigrate amounts to closing the option of staying completely. EP involves rendering the option of staying considerably less attractive than it would otherwise be, though without removing it altogether. In other words, EP does not necessarily get people to leave their countries.¹¹ Admittedly, it is not self-evident that people can be restricted in their right to stay even when they, in fact, end up staying. The intuitive belief is that as long as people can afford to refuse to leave their homes, despite the pressures they face, their autonomy is not in danger. Perhaps the implicit assumption is that these people still have a choice – and having a choice is characteristically a feature of an autonomous life, not of its opposite. This line of reasoning, however, has its limits. One way to defend the claim that the right to stay can be violated even when people do not in fact leave is to argue that people are often not truly free to leave their countries. For many, leaving is simply not a practicable option. Thus, it would be improper to attempt to deduce from the fact that someone has not left his or her country that this person has not been put under considerable economic pressure. Hume famously argued along these lines when criticizing Locke's reliance on counterfactual considerations, especially with regard to his justification of tacit consent. In his view, it is absurd to

10 Economic processes can be 'the result of the interacting consequences of the actions of several agents, which greatly complicates and often makes quite impossible any assignment of causal responsibility to particular agents' (Young 2006, p. 114). See also Bradley (2013).

11 This is not a minor detail, since only those who leave their countries can claim to have been coerced into doing something that is against their will. For coercion occurs only when the option to stay is made so unattractive that in effect people have no choice but leave. For a definition of coercion see Nozick (1969).

suggest that residents, especially the less privileged ones, are free to choose whether to stay or leave their countries:

Can we seriously say, that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners, and lives, from day to day, by the small wages which he acquires? (Hume 1994, p. 193)

I suspect critics may concede Hume's claim, but still argue that my use of the right to stay does not vindicate the language of rights. On their view, it does not make sense to argue that the right to stay is violated even when people in fact stay. After all, no one would seriously argue that someone's right to life has been violated even though the victim is still alive. But this example hardly accounts for the use of the term 'rights' in general. Consider property rights: If someone breaks into my home without damaging or taking anything, I would still claim that my property rights have been violated. The reason is that integral to property rights is the right to decide who should enter my home. Not having this right would decrease the value of property. Similarly, I argue that the value of staying is considerably decreased to the extent of violating the right to stay if people face strong emigration pressures. In this sense the right to stay is not the simple right to be in a place, but a right to be in a place without strong economic pressure to emigrate.

4 The prospective responsibility to protect citizens from emigration pressure

Given my definition of emigration pressure as a violation of the right to stay, does it make sense to speak of the responsibilities of states to protect their citizens' right to stay? Admittedly, not much is gained by looking at the issue from the perspective of causal or outcome responsibility. States could easily blame external factors (like markets) and declare themselves free of any direct responsibility for harms suffered by their citizens. But outcome responsibility is surely not the only responsibility that states carry towards their citizens. What recent normative debates on migration tend to overlook is that states carry also forward-looking or prospective responsibilities for economic processes that generate considerable EP on their citizens.¹² Let me explain.

¹² I am not arguing that prospective responsibility substitutes for causal responsibility. Identifying causes of indirect displacement is of great importance, since victims may well want to know who forced them to leave their place of residence.

The idea that states bear a prospective responsibility to protect their citizens has a long and established pedigree in political philosophy, especially in the contractualist tradition.¹³ One need not be a contractualist, however, to argue that states have prospective responsibilities towards their citizens¹⁴ and not – or at least not generally – towards outsiders. These responsibilities reflect the conviction that it lies in the specific responsibility of states to pursue policies that provide their citizens with protection from serious threats that they would otherwise face.¹⁵ Of course, what grounds the states' responsibilities to prevent harms remains a matter for debate. For the purposes of this article, however, it suffices to note that these responsibilities exist, regardless of how they are justified. This reflects the methodological commitment of this article to constructing an argument upon widely shared premises.

I do not think that I need to develop an argument for showing that EP figures among the harms that states have the responsibility to prevent. After all, as I have argued in the previous section, its consequences are sufficiently serious to require states to take appropriate measures. What is more difficult to assess is what it means for states to protect citizens from being pressured to leave. Concentrating on rolling back policies that are at risk of triggering EP can be deceptive – for at least two reasons. The first has already been mentioned: narrowing the focus on state-induced emigration threatens to leave out the largest amount of forced emigrants, including natural disasters- or market-induced emigration. But secondly, it is not always clear to what extent state's measures can be blamed for causing forced emigration. Consider the case of fiscal austerity measures. As the recent example of Greece shows, austerity measures tend to hit younger people and people in the lower-income brackets

13 In the writings of modern social contract philosophers like Hobbes and Locke, for instance, the description of the role of the sovereign is typically couched in terms of prospective responsibility. The key focus of these philosophers is on the responsibilities of sovereigns to provide for the security and the safety of their citizens. Less attention is devoted to the retrospective dimension of responsibility of sovereigns, who fail to protect their citizens' lives and property. A salient example of this attitude can be found in Hobbes' *Leviathan*, where the author argues that the 'office of the sovereign (...) consisteth in the end for which he was trusted with the sovereign power, namely the procuration of the safety of the people' (Hobbes 1985, p. 379). As Glanville points out 'Hobbes does not suggest that the sovereign is accountable to the people; he is said to be accountable to none but God. Yet the sovereign is certainly responsible for the people's protection' (Glanville 2013, p. 42). See also Heyd (2012, p. 677).

14 For simplicity, in what follows, I will use the term 'citizen' broadly to include both citizens and (permanent) residents.

15 In arguing for the state's responsibility to protect *its* citizens, I leave open the possibility that similar duties exist towards outsiders (i. e. aliens residing in foreign countries) on the grounds of non-legal sources like humanity, nationality or social class.

particularly hard. Many of them lose their jobs or face a dramatic fall in their salaries, and those who can, leave the country in search of work. While emigration of these people cannot be traced back to austerity policies alone, there is little doubt that austerity does increase the so-called ‘push-factor’ (Lee 1966). Blaming the current Greek government for its causal responsibility seems inappropriate, however. After all, austerity measures can be seen as virtually unavoidable, due to budgetary constraints imposed by the (global) structure of the financial system in which states operate. Moreover, the government certainly does not intend to force its citizens to leave. The intent, instead, seems to be a *bona fide* one, such as meeting the deficit targets of the European Union and promoting economic growth.

In view of these considerations, it should be clear that protection against EP cannot simply mean eliminating its causes. Prospective responsibility involves proactive measures to protect citizens from adverse circumstances. The point I am making, in other words, is that prospective responsibility requires efforts to reduce the vulnerability of citizens against foreseeable pressures and harms by adopting appropriate social, economic and fiscal policies.¹⁶

5 Taxes as remedies for (and causes of) emigration pressure

Given that states are unlikely to eliminate the causes of EP, the question that arises is how to strengthen the capacity of citizens to resist EP? What almost immediately comes to mind in this context is redistributive taxation to improve the situation of the worst-off and most vulnerable members of society, i. e. those who are the most likely victims of EP. Improving welfare schemes, including, for example, unemployment benefits, is likely to strengthen people’s capacity to resist economic pressures and thus ensure that their right to stay is protected. But if this is what protecting the right to stay practically consists of, an objector might argue, then it appears to be of little significance. States do not need to have any particular duty to protect the right to stay in order to assist poorer residents. For advocates of welfare rights this duty exists independently of the right to stay. Focusing on protecting the right to stay seems therefore pointless.

¹⁶ Foreseeability is a prerequisite of a prospective responsibility. In order to be able to safeguard something one has to be in the position to assess against which potential dangers one should take precautions.

There is clearly some truth in this. Social welfare programs are devices to protect citizens from different problems connected with poverty and dependency (cf. Goodin 1986) – and, indeed, vulnerability to EP is but one aspect of these problems. But does it mean that it does not require separate consideration? There are at least two reasons to doubt it. The first one is that the duty to assist the poor and the duty to protect residents from being economically compelled to move are not only not practically equivalent, but also potentially conflicting. Consider, by way of example, the case of the inhabitants of an economically depressed region. Assume further that many of them are unemployed and that the only way for them to get back into work would be to move to a region with a labor shortage. Given that the best way to protect them from poverty is to bring them back into employment, why should it be wrong to promote their relocation to that region? In the light of the above, the answer is that the special respect owed to them as autonomous beings prohibits invasive policies that pressure people to move. Deciding whether to stay or leave is too intimately connected to our self-understanding as autonomous agents to be handed over to governmental authorities acting *bona fide*.¹⁷

The second reason why policies aimed at protecting the right to stay deserve separate attention has to do with the fact that they may extend beyond the scope of social security programs and social assistance. Consider government policies to subsidize agriculture in rural areas threatened by depopulation. These policies can be defended on the ground that they help farmers to maintain their livelihoods on the land in the face of unfavorable market conditions. But few would regard these subsidies as social security programs or social assistance. Their *raison d'être* is to keep farmers in business and prevent (or at least slow down) the depopulation of the countryside. In this sense, protection against EP can extend beyond social welfare programs.

Perhaps the example of internal migration and agricultural subsidies are a little extreme to fit within the scope of this article. At the center of this article is EP, not the pressure to move from countryside to cities. It should be noted, however, that the purpose of the above examples is merely to illustrate the difference between welfare rights and the right to stay. I do not claim that pressures to relocate within one country raise the same moral issues as EP. This said, there is another major problem beyond geographical scope: subsidies

¹⁷ Of course, assisting people can be thought of as involving respect for people's interest to stay, which means that the state fails to assist its citizens when such assistance requires them to leave their place of residence. But if this is the case, then my claim still holds that it is not superfluous to investigate how people can be protected against EP and how far this protection should extend.

impose huge fiscal costs on taxpayers. It seems therefore odd that society as a whole, and in particular taxpayers, have to bear the costs of subsidizing people like farmers, who are not even extremely poor. Taxpayers have an interest in not sacrificing *too much* of their wealth to protect victims of EP. What is less clear, though, is how to make sense of this interest in light of the argument thus far. For the interest in not giving away too much of one's wealth is surely not grounded in the same moral concern for others that grounds and motivates responsibilities towards victims of EP. It rather displays a selfish attitude. In the remainder of this section, however, my argument will be that one need not invoke selfish interests to maintain that responsibilities towards victims of EP should not be too onerous. It suffices to show that the right to stay becomes self-defeating if it imposes too heavy a burden on others.

To start with, consider again the above example of agricultural subsidies. Suppose that in a predominantly rural society adverse market conditions pressure farmers to sell their land and move to cities. In order to remedy this problem, the government could subsidize farmers to help them resist urbanization pressures. But this would almost inevitably involve a massive redistribution from urban wage earners to rural households – with easily predictable results. Labor costs would rise leaving urban wage earners either without employment or with a drastically reduced (after-tax) income. Under these circumstances, it is likely that a significant portion of the urban population would start looking for better living conditions elsewhere. In short, they would themselves be subject to EP.

What this example shows is that by reducing EP through subsidies and other extensive tax-based social security programs, states are likely to raise the level of taxation and, in so doing, exercise direct EP on taxpayers. Of course, a possible rejoinder to this is that in reality the burden of taxation rarely, if ever, increases up to the point of generating EP – the more so as the effect of most wealth and income taxes on people's choice to emigrate seems indeed negligible. Considering the effects of current rates of taxation, however, can be deceptive for the reasons indicated above.¹⁸ The fact that current tax rates do not force people to move cannot be taken as evidence that taxes do not exercise EP on citizens to leave their country. Whether taxes exercise EP is ultimately a matter of degree. Onerous taxation may well interfere with people's freedom to stay where they live and feel at home, while a far less onerous tax may not or less so.¹⁹

¹⁸ As argued above, the choice of staying in a place is often not entirely voluntary, but motivated by fear of the alternative. For many emigrating is simply not a practicable option.

¹⁹ One needs only to think of a person whose income is taxed to a rate of 100 %. As a result, it is more than likely that this person will look for another job in a place where income taxes are lower.

6 Taxing the entrants to protect the stayers

From the above, two conclusions may be drawn. First, among the measures that states should take to safeguard their citizens against foreseeable forms of EP there are transfers of resources from higher to lower income residents. Second, in determining all-things-considered judgments about the level of taxation, one has to bear in mind that an excessively high tax rate can generate EP (on taxpayers). In essence, what I have done is considering what happens when we balance the interests of two distinct groups of ‘stayers’ (i. e. residents): the more and the less advantaged members of a society. Beyond residents, however, there are large numbers of aliens, who will, if given the chance, settle and become permanent residents and citizens. Should immigrants carry their share of responsibility towards vulnerable residents in societies of destination before taking up residence, i. e. when entering the country of destination? This would imply imposing an immigration or entry fee on anyone who seeks admission on a permanent basis.²⁰ To many, I suspect, charging low-skilled migrants for entry seems unfair, if not outrageous. After all, some of these migrants are themselves victims of EP and, in any case, too poor to afford to carry the burden of protecting others from risks that they themselves may face once settled. But, while this is a sufficient reason for exempting poor immigrants from paying the immigration fee, it is not a reason for exempting immigrants tout court. Indeed, at the heart of my argument is the assumption that affluent (or at least relatively well-off) migrants are more eligible for taxation than comparably well-off residents. To understand why this is so, recall one of the major conclusions of Section 2, namely, that the interest to stay carries in general more moral weight than the interest in exercising freedom of movement.²¹ What this means concretely is that it is *pro tanto* easier to justify restrictions upon freedom of movement than upon the freedom of stay. In other words, the interest to stay is comparatively more resistant to restrictions (such as those imposed by taxation) than the interest in exercising freedom of movement.

What does all this mean concretely for immigration policy? Consider first the case of low-skilled immigration. Economists, like George Borjas, tend to assume

20 A similar proposal has been developed by Gary Becker (2011). It should be noted that Becker does not exempt poor immigrants from paying the entry fee.

21 As discussed above in Section 2, people tend to attach greater importance to the ability of accessing the place in which they live (and which has often become integral part of their lives), than to the ability of moving to foreign destinations. In general terms, the assumption is that it is normally worse to force people to leave their place of residence than to prevent them from settling down in a place, to which they have no particular ties.

that low-wage workers in the host society are likely to be harmed by accepting significant numbers of low-skilled migrants (cf. Borjas 2003). But these migrants often have urgent competing interests that override the concerns of residents – for example, they may be themselves escaping from conditions of extreme poverty and insecurity. But does it mean that low-wage workers have to accept some setbacks with respect to the goal of securing their right to stay? Not necessarily. The main challenge for liberal democratic states resides in redistributing the benefits and burdens of low-skilled immigration in a way that minimizes detrimental effects on the least privileged residents of the host society. This involves some form of financial redistribution from wealthier to poor residents. But it also involves some form of financial redistribution from those who are free to immigrate (i. e. wealthier immigrants) to those who are vulnerable to EP (i. e. poor residents). There is no reason why the freedom of movement of the former cannot be limited for the sake of securing the freedom to stay of the latter.²²

7 Three objections

My defense of immigration fees is susceptible to three different kinds of criticism. First, immigration fees may appear to be unfair in that they fail to recognize the important contribution of well-off immigrants to the economy of the host countries. Why should an immigrant millionaire be overly penalized for investing her money in the host society thus creating new jobs for native workers? Put in these consequentialist terms, immigration fees seem not only unfair but also counterproductive. They could deter well-off immigrants from investing their money in the country of destination.

The charge of counterproductivity is perhaps the least troubling one. Of course, immigration fees can be counterproductive and it is hard to argue that immigration fees should be charged even when they are likely to cause more harm than good. At the same time, however, this kind of consequentialist concern does not raise a principled objection against immigration fees. It merely states that immigration fees should not be raised to the point of becoming

²² Someone might raise the following objection: countries to which affluent immigrants move are not those from which citizens are forced to emigrate for economic reasons. However, the tendency of well-off migrants to move to wealthier countries is just that: a tendency and certainly not an absolute rule. South European countries hit by the crisis, for example, continue to attract investors and affluent pensioners while at the same time facing increasing emigration of unemployed nationals.

effectively counterproductive – a concern that is reasonable and relates to all forms of taxation.

More troubling is the charge of unfairness. Immigration fees can be seen as unfair because they target a group of immigrants who (1) are likely to make a positive contribution to the economy of the host country and (2) pay higher taxes than less affluent residents after taking up residence. Note, however, that matters of responsibility cannot be cashed out in exclusively consequentialist or causal terms. If it were so, it would follow that whoever significantly contributes to the welfare of a society, for example by creating new jobs, ought to be released from paying taxes – a conclusion that few would be willing to accept. In this article I defend a non-consequentialist understanding of prospective responsibility that is not susceptible to this kind of problem. Prospective responsibility is a proactive, forward-looking attitude that attaches to people because of their role as (prospective) citizens and thus independently of whether they have positively or negatively affected their society.²³

A possible rejoinder to this line of argument consists in pointing out that immigration fees discriminate against immigrants in that they subject them to a higher tax burden than resident individuals. The rejoinder is correct to the extent that I do distinguish between movers and stayers. Note, however, that immigration fees are one-off taxes on inter-state mobility based on the moral difference between the right to stay and the right to migrate. Thus they do not discriminate against immigrants once they have settled in the country of destination.

Second, defenders of freedom of movement may argue that my argument presupposes that states have the right to restrict immigration. But perhaps states do not have this right. Thus wealthier immigrants should not be restricted in their freedom of movement by charging them an entry fee. Note, however, that charging an entry fee on wealthier migrants' admission does not amount to a complete loss of their freedom of movement. Immigrating will be costly, but still possible. This is a particularly important point since most rights, including many human rights, allow for restrictions – provided these restrictions are reasonable, for example, in order to protect other rights from even severer violations. This is precisely what my argument purports to show. As I argued, restrictions on freedom of movement are

²³ As an open-ended commitment to protecting co-citizens prospective responsibility is not reducible to the fulfillment of a specific threshold of protection from emigration pressure. In this sense it comes close to what Miller calls 'remedial responsibility' (Miller 2007, pp. 81–109), especially with respect of two of its six criteria for allocating responsibility ('capacity' and 'community').

reasonable and defensible in order to protect people from an even more serious restriction of their freedom, namely that caused by EP.²⁴

The third objection points to a possible inconsistency in my way of dealing with migration. It contests the fact that my proposal focuses on immigration, while ignoring the other dimension of migration, namely emigration. This omission is all the more remarkable, given that emigration and especially brain drain can have a detrimental impact on the situation of low-income residents in the country of origin.²⁵ From this it follows that, if protecting the right to stay provides a valid reason for taxing immigration, then it seems equally justified to tax emigration (for example, by means of a Bhagwati tax) to protect those who have not left.²⁶ Recall, however, that the major reason given above for charging immigrants for the right to enter is not that immigration may cause harm to (poor) residents in the country of destination. My justification of an entry fee does not revolve around notions of causality and outcome responsibility. Instead, it is based on the idea that states ought to safeguard their citizens against foreseeable forms of displacement. But states are not conceived as abstract entities. They act as central agents for their citizens regulating and enforcing cooperative action among them. Building on this idea, it is reasonable to suggest that (relatively well-off) immigrants are better suited to be taxed to the benefit of poor residents than emigrants. After all, it seems unfair to require emigrants to support citizens with whom they no longer stand in a special relation of the kind that carries redistributive requirements.

I suspect that some readers, especially migrations experts, may feel uncomfortable with describing migration as a process where migrants exit one state to become member of another state (cf. Castles 2007). Migration – they may argue – is often not that clear-cut. Many migrants move temporarily and others retain close cultural and social ties with their country of origin. Imposing an entry fee on these immigrants may push them into permanent settlement and keep them from investing in and returning to their countries of origin. Note, however, that this criticism merges two distinct elements, one innocuous and the other rather questionable. The innocuous element consists in pointing out

24 The right to freedom of movement and the right to stay can be seen as sharing a common moral ground. ‘The fact that commitment to freedom of movement entails the right to stay can also be seen from the fact that the same interest is at stake in each case. This is the interest that people have in freely being able to make personal decisions without restriction on their range of options’ (Oberman 2011, p. 258).

25 This is especially true for the mass departure of highly-skilled professionals such as physicians and engineers from developing countries. Whether brain drain has negative impact on developing economies is still an open question (see Oberman 2013).

26 This argument is adapted from Ypi (2008, p. 402).

that taxing temporary or seasonal migrants can be counterproductive, not to say unfair. These migrants do not stand in the same sort of relation to poorer residents in the recipient society as do permanent immigrants and should therefore be released from the responsibility of improving the situation poorer residents. But even granting this (as I am willing to do), my argument still holds that relatively well-off migrants – moving on a permanent basis – are more eligible for taxation than comparably well-off residents.²⁷ The second element of criticism is far more questionable to the extent that it blurs the distinction between membership in states as legally organized communities, and membership in nations conceived as cultural communities. As I argued, prospective responsibility is something we owe to those with whom we stand in a relation of shared membership in a state.²⁸ It is quite possible that membership in nations may trigger some form of responsibility towards members of the same nationality. But this responsibility is likely to be of another, less coercive kind than that which is imposed by states on, and on behalf of, their citizens.

8 Conclusion

When worsening economic conditions pressure economically vulnerable citizens to leave their countries in search of a better life elsewhere, they may often not be prevented from moving. But it seems odd to argue that they enjoy freedom of movement when their decision to move is a reaction to the impossibility or high costs of staying where they live. In this sense, the right to stay precedes and enables freedom of movement. This may seem an obvious point, but it is one which is easily overlooked. Instead of focusing on emigration pressures as a major cause of migration, much of the contemporary debate centers on migration and its effects. As a consequence, the value and limits of the right to stay are still largely unnoticed and undertheorized.

This article has endeavored to close this gap. The crux of my argument has been that states carry prospective responsibility towards their citizens for protecting them from emigration pressures. The argument is based on three major claims: (1) it is, in general terms, worse to force people to leave their place of residence than to prevent them from settling down in a new place. (2)

²⁷ So the challenge is a practical one, namely to find appropriate ways to distinguish between temporary and permanent immigration.

²⁸ On this point I disagree with Miller for whom communities can create responsibilities. See Miller (2007).

Unfavorable economic circumstances can generate EP and thus infringe upon the right to stay. (3) The relation between states and their citizens is morally significant enough to generate prospective responsibility on the side of states to protect citizens from EP by strengthening their capacity to resist these pressures.

Given the necessity of redistributing measures to neutralize EP, I further argued that well-off immigrants should carry their share of responsibility towards vulnerable residents in societies of destination. On account of the value of the interest to stay as compared with freedom of movement, opposition to immigration fees is morally unjustified. Affluent immigrants are, in general, more eligible for taxation than comparably well-off residents.

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