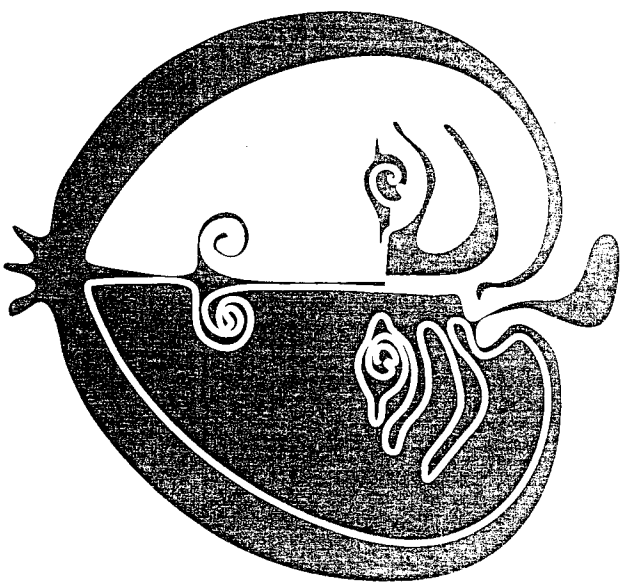


# Anvendt etikk ved NTNU

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## Two (Short) Moral Arguments for Free Migration

I would like to begin this note with a familiar example: the successful extension of democratic suffrage. At the expense of real political power, enfranchised elites have consistently expanded suffrage to include workers, the property-less, women, blacks, youths, and others. Although it is often forgotten, the initial political gains were made in the face of an ingrained antipathy to democratic ideas (before the First World War), and *all* the gains were made at the direct expense of entrenched interests. The motivation for this apparently irrational behavior was mostly moral indignation, a changing economic and social context that brought with it new ideas concerning sovereignty, legitimacy and citizenship—and a strong (if often implicit) threat of violent overthrow.

There is an obvious parallel to contemporary conditions at the global level. First of all, birthplace remains a natural contingency that is morally arbitrary. We are, after all, born into rich/poor free/oppressed countries. Second, a small but wealthy elite controls the world's political and economic purse strings, at the expense of the vast majority. Third, the many facets of globalization are radically changing the way in which we experience and think about sovereignty, legitimacy and citizenship. Fourth, a world of shrinking space and growing inequality is a potent recipe for social upheaval: Burke's fears of the "swinish multitude" or Mill's "uncultivated herd" are not unlike the fears that motivate those who wish to restrict immigration today.<sup>1</sup>

The same sort of moral indignation that prompted an expansion of suffrage should motivate us to demolish the borders that separate the world's rich from its poor. This motivation might be spurred by one of two arguments. The

<sup>1</sup> Edmund Burke, *Reflections on the Revolution in France* (London, 1964), p. 76; J. S. Mill, *Autobiography of John Stuart Mill* (New York, Columbia University Press, 1964), p. 168.

first argument can be developed along universalistic and egalitarian lines (as an end in itself), where free mobility is seen as an intrinsic moral principle and recognized as a universal and basic human right. This is a strong argument, with a long and respected pedigree; it enjoys an elegance that is hard to dismiss. More significantly, this sort of argument has made much political headway in the postwar period.

The second argument is an instrumentalist argument for free mobility, where unhindered migration is seen as a means to achieve greater moral ends (in particular, economic and political justice). The clear advantage of this line of argument is that it avoids many of the problems associated with recognizing and granting universal human rights. Instead, the focus of this argument is on recognizing the moral obligation to admit people when there are grave economic and social injustices. As these inequalities and injustices are rife at the global level, it is reasonable to impute on the rich world a moral obligation to improve the conditions of the world's poorest. In short, a moral argument for free mobility can be directly related to the level of global social, economic and political equality—the larger the differences, the stronger the moral argument for open borders.

### *Mobility as a Universal Right*

The purest moral argument for free mobility holds that migration should be recognized as a universal and basic human right.<sup>2</sup> The success of this argument depends on two related factors: 1) our willingness to accept universal human rights as a principle for ordering and evaluating human activity; and 2) a recognition of the shortcomings of the more common argument (that compatriots enjoy a moral priority). This latter argument usually assumes that states play an important—even necessary—role in providing security and fundamental civil, social and political rights, and that states can only do so behind closed borders. Unfortunately, due to space constraints, I will not be able to address

the shortcomings of the nationalist/communitarian argument, though I have done so elsewhere.<sup>3</sup>

The universalistic argument for free mobility enjoys a long and distinguished pedigree. In ancient Greece, the Delphic priests regarded the right of unrestricted movement as one of the four freedoms distinguishing liberty from slavery.<sup>4</sup> A natural right to liberty also figures prominently in the classical natural rights doctrines. Within this concept of liberty lie a bundle of specific liberties, of which free movement was always one of the most fundamental (at least within the boundaries of a nation). For example, Thomas Hobbes, commented that, "Liberty; that we may define it, is nothing else but an absence of the lets and hindrances of motion... every man hath more or less liberty, as he hath more or less space in which he employs himself... the more ways a man may move himself, the more liberty he hath."<sup>5</sup>

For these reasons, freedom of movement became central to the liberal project, and lies implicitly at the core of most contract theories. After all, the central notion of "government by consent" holds that citizenship is a voluntary act; the right to leave a country implicitly serves to ratify the contract between individuals and society. If a person who has a right to leave chooses to stay, he has signaled his voluntary accept of the social contract. From this follow his obligations to society. But if an individual doesn't have the option of leaving, then society's hold on him is based on coercion. As Bruce Ackerman noted:

The liberal state is not a private club: it is rather a public dialogue by which each person can gain social recognition of his standing as a free and rational being. I cannot justify my power to exclude you without destroying my own claim to membership in an ideal liberal state.<sup>6</sup>

When our citizenship cannot be understood as a moral birthright, but is understood in terms of luck-of-the-draw, then all the advantages that are derived from that fateful event are also difficult to defend in moral terms. Thus, we can question the moral legitimacy of an unequal distribution of national resources,<sup>7</sup> or the ability to inherit the advantages of a national economy and/or polity (e.g., advanced means of production, good systems of communication, administration, education, etc.). These "chance events" are perhaps the most

2 For two particularly straightforward examples of this argument, see Ann Dunnett, "The transnational migration of people seen from within a natural law tradition," in Brian Barry and Robert E. Goodin (eds), *Free Movement* (University Park Pennsylvania: Pennsylvania State University Press, 1992), pp. 169-180; and Joseph Carens "Migration and Morality: A liberal egalitarian perspective," in Barry and Goodin, *Free Movement*, pp. 25-47. There are a variety of definitions of human rights, for an influential introduction, see M. Cranston, *What are Human Rights?* (NY: Taplinger, 1963). For discussions of rights as they relate to migration and nationalism, see Kosllyn Higgins, "The Right in International Law of an Individual to Enter, Stay In and Leave a Country," *International Affairs* 49:3 (July 1973), pp. 341-357; Roger Nett "The Civil Right We are Not Ready For: The Right of Free Movement of People on the Face of the Earth," *Ethics* 81 (1971), pp. 212-227; Frederick G. Whelan, "Citizenship and the Right to Leave," *American Political Science Review* 75 (1981), pp. 636-653; and Myres S. McDougal, Harold D. Lasswell and Lung-ohu Chen, "Nationality and Human Rights: The Protection of the Individual in External Arenas," *The Yale Law Journal* 83 (1974), pp. 900-998.

3 Moses, *Landlocked: A Proposal for Free Migration*, chapter 4 (unpublished manuscript).

4 Dowry, *Closed Borders* (New Haven: Yale University Press), p. 11.

5 Thomas Hobbes, *De Cive*, Chapter 9.

6 B. Ackerman, *Social Justice in the Liberal State* (New Haven: Yale University Press, 1980), p. 93.

7 One way to consider this is in terms of Henry George's concept of initial rights to property. George argued that each person was entitled to an equal portion of the value of all the world's natural resources. When the current distribution of ownership is seen to be unjust, owners are obliged to surrender the difference in the form of some sort of tax.

important variables in the determination of one's life-chances globally, yet individuals have little scope for influencing them.

From a *universalistic* moral perspective, it is necessary to ask why the rights of freedom, justice and equality are distributed by a relatively arbitrary rule (the luck of birth), rather than guaranteed to individuals. From an *egalitarian* moral perspective, we should expect that the distribution of "life chances" should be roughly equal. To the extent that neither of these expectations is currently met, it is possible to question the morality of a system based on landlocked subjects.

### *The instrumentalist (fallback) argument*

Despite their increasing popularity and influence, some readers may object to a moral argument framed in the form of a human, universal right.<sup>8</sup> Others may react to the strong Liberal premises of this argument—that the individual is assumed prior to the community.<sup>9</sup> Still others believe that enough moral goods are generated by the existing order and that there is no good reason to jeopardize these goods by moving to a new, unknown, state of affairs. I am sympathetic to all of these objections, and would like to offer a fallback moral argument for free mobility. This argument is more practical in nature, and does not require that we accept the existence of human rights, or prioritize the individual at the expense of the community.

This instrumentalist moral argument holds that the current landlocked system is immoral so long as it continues to produce significant global inequalities (social, political and economic). Because the current arrangement produces unjust and immoral results that benefit denizens of the developed world, these denizens have a moral obligation to right these wrongs. That obligation could be met by freer immigration, or by other means. Thus, the instrumentalist moral approach does not focus on free mobility as an end in itself, but sees free mobility as a means for achieving a greater moral end. In this way, the instrumentalist argument includes a sort of implicit moral threat: if rich states aren't willing to help poor states reduce global inequalities, then inhabitants of poor states have a moral right to secure justice by moving with their feet.

In other words, if we accept the status quo—where state's rights are prioritized at the expense of the individuals—citizens of developed states have a moral obligation to minimize global economic and social inequalities. Rich

states already have a number of instruments with which they can address these social inequalities, the most common of which is official development assistance. While this has long been recognized, rich states do not seem to take their moral obligations very seriously. The instrumentalist moral approach recognizes this, and seeks alternative means to meet these moral obligations.

While some aspects of the current state system are morally defensible, the end product is surely not. The most appalling aspect may be the apparent lack of incentives for states to help the millions of poor and oppressed people of the world. By allowing individuals a chance to improve their own conditions, we provide an important incentive for correcting this moral imbalance. In doing so, we place pressure on rich states to take their moral obligations more seriously. (After all, one important way of staving off inward migration is to alleviate the economic and political injustices that incite it.) In short, this perspective sees free migration as a means for securing other moral goals; free mobility needn't be seen as a moral end in itself.

### *Conclusion*

In this brief piece I have not had the space to engage the moral argument for border closure. That argument holds that the state system is here and now, that such a system provides (fairly) strong bonds between citizen and ruler, and that the status quo produces a degree of justice and comfort for more people than any other feasible (alternative) system. The conservative nature of this argument makes it a strong one. In moral terms, however, it remains a weak argument. In effect, this argument holds that the current system is good for those of us who are lucky enough to be born into affluent democratic states.

The higher moral ground lies with a universalistic conception of human rights and opportunities. This argument holds that individuals should enjoy a universal right to move in order to escape poverty and oppression. In the words of Angel, a Mexican peasant (and illegal immigrant to the US): "There are no frontiers for hunger. You have the right to look for opportunity wherever you can."<sup>10</sup> This argument is also open to criticism. Communitarians are concerned about the threat to the nation and community posed by free mobility. Realists are concerned about the effect on national sovereignty and state rights. Both groups seem to be concerned about the impracticality of the proposal, preferring instead to stick with the status quo (while recognizing the injustices associated with it).

<sup>8</sup> See, for example, James Woodward "Commentary: Liberalism and migration," in Barry and Goodin, *Free Movement*, pp. 59-84.

<sup>9</sup> E.g., Peter C. Meilander, *Toward a Theory of Immigration* (New York: Palgrave, 2001).

<sup>10</sup> Cited in Joseph Carens, "Immigration and the Welfare State," in Amy Gutmann (ed) *Democracy and the Welfare State* (Princeton: Princeton University Press, 1989), p. 207.

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Finally, many readers may be leery of the larger attempt at trying to secure human rights as a basis for political exchange. For these readers, the concept of human or universal rights is too diffuse and contingent upon varying political and social contexts. These critics argue that it is these contexts themselves, not the “rights” that they produce, which should attract our attention. For these critics, I offer a fallback, instrumentalist argument for free mobility. Free mobility may be the most effective way of righting moral wrongs internationally. By empowering individuals to choose their own contexts, we force states to react to the moral imbalance, and we provide the poor and oppressed with real hope and opportunity.

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