

Controlling Immigration in the Name of Self-Determination

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Introduction

In both international law and current political practice, it is assumed as a matter of course that sovereign states have the right to police their borders, lay down criteria for deciding who is allowed to enter, and attempt to deport those who enter illegally. Immigration control, then, is seen as a central element in the bundle of rights that together constitute sovereignty. This right is only narrowly restricted: there is a right of exit from any state, and a right of return to the state of which one is a national, both listed in the Universal Declaration of Human Rights. There is also the right of those fleeing persecution to apply for asylum, and meanwhile not to be returned to any place where they would continue to face such a threat, laid down in the Geneva Convention on the status of refugees. These limitations are important, but they do not challenge the broad right of all sovereign states to control inward migration.

Yet one might well wonder why this right should be regarded as an essential component of sovereignty. It is by no means self-evident that states cannot function unless they are allowed to control immigration. Just as having a general right of property in some object need not entail having the right to bequeath it, say, so a state's having jurisdiction over a territory does not entail that it has the right to control admission to that territory, even though this is how the position is conventionally understood in international law. Given the often strong interest that immigrants have in being admitted to a particular society, a further, more substantive, argument is needed to show that immigration control *ought* to be included in the bundle of rights that legitimate states can claim over their territory.

The argument I shall develop in this chapter is that the value of collective self-determination can provide such a reason.¹ It operates at two levels. First, states will have substantive grounds for the immigration policies they choose to adopt. For example, they will justify skill-selective immigration policies by pointing to employment vacancies that need to be filled, or they will defend the need to restrict overall numbers by highlighting waiting lists for housing or hospital admission. Such issues have important ramifications for public policy generally. One key aspect of self-determination is deciding which of these substantive criteria to use and how to balance them against each other. How important is it to admit high-skilled immigrants as opposed to retraining existing citizens or residents to upgrade their skills? And in any case how important is the economic growth that immigration might produce if this means putting further pressure on the natural environment? Then, second, on the assumption that

immigrants who are admitted on a permanent basis will in due course progress to full citizen status, immigration will alter the composition of the body that decides such questions in future.² This is something that should concern present members of the citizen body if they want their exercise of self-determination to be ongoing. As Wellman articulates the point, “because the members of a group can change, an important part of group self-determination is having control over what the ‘self’ is.” (Wellman 2008: 115).

These claims, however, are by no means self-evident, and have recently been subject to a variety of challenges (see Fine 2013; Laegaard 2013; Hidalgo 2014; Van der Vossen 2015; Lepoutre 2016). Even if we concede that self-determination is valuable, how should we identify the relevant ‘self’ for purposes of decisions about immigration? Why is it so important that today’s self should control the composition of tomorrow’s? If self-determination can justify keeping out people we don’t wish to include, why can’t it also justify expelling people we no longer wish to associate with? In order to get to grips with questions such as these, I first need (Section II) to say something about the meaning and justification of self-determination in general. Meaning and justification are intertwined here, because we are interested in *valuable* self-determination, a collective achievement that might be important enough to outweigh the significant interests of the migrants whom an immigration policy is going to exclude. I then (Section III) go on to explain why uncontrolled immigration potentially threatens to undermine a people’s capacity to be self-determining. Finally, I respond to two objections to this argument. The first of these (Section IV) claims that excluding immigrants cannot be justified unless they are given a voice in the body that decides immigration policy. Taking universities as a counter-example, I argue that the principle being applied here – no physical exclusion without democratic inclusion – is flawed. The second objection (Section V) holds that if self-determination can justify excluding immigrants, it can also justify deporting citizens already present – an unacceptable implication. By appeal to citizens’ rights, I show why the two cases are asymmetric. A brief conclusion follows (Section VI).

Why Self-Determination is Valuable

It is tempting to assume that self-determination and democracy are one and the same – that a self-determining group is simply a group that makes its decisions using democratic procedures – but this would be a mistake. It is possible for a self-determining group to make its decisions through institutions that are not formally democratic, but for present purposes the more important contrast lies in the other direction: democratic procedures, however robust, are

not sufficient for self-determination. This point is most easily appreciated by thinking about a would-be secessionist group: the Catalans, for example. Their complaint about the status quo is not centrally about the democratic failings of Spanish institutions; no doubt Spanish democracy is less responsive to the wishes of the Spanish people than they or we might like it to be, but that is not the main issue for the secessionists. Their central claim is that Catalans collectively are a distinct people: it is Catalonia, not Spain, that forms the relevant 'self' for purposes of self-determination. The key lesson to draw from this example is that to achieve self-determination, the composition of the group matters as much as the procedures by which it takes its decisions. If the group is wrongly constituted, it cannot be self-determining, no matter how often it deliberates or votes.

But why does self-determination matter so much? We can best approach this by thinking first about the value of self-determination for individuals. Why is it important for individuals to be able to make decisions for themselves, and not have others take them on their behalf, however well-informed and well-intentioned these others are? Part of the answer is that self-determination is valuable for instrumental reasons: a person is likely to know how best to satisfy her aims and interests. But beyond that there is the intrinsic value of being the author of one's own life. This involves reflecting on what one would like to achieve over the course of time, developing a plan to make that happen, and then pursuing that plan, no doubt with adjustments along the way, until eventually one can look back and tell a reasonably coherent story about what one has done.³ I have emphasized the temporal dimension here to underline that it only makes sense to value self-determination intrinsically if one assumes a continuing self that is able at T+1 to recognize its current state as the outcome of decisions originally taken at T.

It is also important that there should be continuity in the composition of the self. Imagine that someone proposes that he will painlessly reprogramme you overnight, such that you will wake in the morning with a new set of beliefs and values, together with the capacity to reflect on these beliefs and values and a sufficiently wide range of options open to choose between. From an impersonal perspective, your opportunities for self-determination tomorrow may be as great as those you have today – or even greater. Yet most of us, I think, would reject the reprogramming proposal. We don't value self-determination in the abstract: we value the self-determination of the person we now are, and we have a narrative view of the self that demands substantive continuity between past and future selves. This is consistent with a radical change in life plan, so long as this can be represented as motivated by reasons that one has come to

recognize for oneself, as opposed to being engineered from the outside – self-determination is not undermined by someone’s coming to realise, at a certain point in her life, that the goals she has been so far been pursuing are not the ones most worth aiming at, and therefore switching course. What does undermine it is a discontinuity of the kind that occurs in the reprogramming case, where one simply wakes up in the morning endowed with a new set of beliefs, preferences and life goals.

This shows us why self-determination matters in the case of people living their individual lives. The next question is whether and under what conditions the same applies to groups, including groups as large as the citizen body of a contemporary state. The self has now become plural, and its composition will change over time as members leave by death or emigration and enter by birth or immigration. For such a group to be self-determining, four main conditions need to be fulfilled.⁴

First, there has to be a very large measure of agreement, ideally universal agreement, on membership criteria: who belongs within the self and is accordingly entitled to take part in making its decisions, and who isn’t. We can see why this matters by thinking about cases where there is no such agreement. If a substantial proportion of Catalans are secessionists, then decisions taken by the Spanish state and applied to Catalonia won’t count as self-determination, since from the secessionists’ point of view there is no legitimate self qualified to make those inclusive decisions: they will be seen as externally imposed. This should not be construed, however, as requiring universal consent to membership, in the sense of every member of the group having a veto as to who belongs to it. It is unlikely that any large group could meet that demanding condition. Agreement on membership criteria is a weaker condition since the criteria are likely to be plural and it will often be a matter of judgement whether somebody meets enough of them to qualify.

The second condition is that the group should make its collective decisions in a way that allows its members to identify with those decisions even if they do not correspond to their initial preferences or judgements. The decision procedure is likely to have both formal and informal components: there will be a system whereby votes are taken on certain issues and/or representatives are elected to take those decisions on behalf of the group. Alongside this, however, there will be widespread deliberation on the issues both inside and outside the formal institutions. From the point of view of self-determination, what matters is that each person should have the sense that she is able to make a contribution, albeit typically a small one, to

the decisions that will determine the future trajectory of the group. This is inconsistent with simple majoritarianism whereby one section of the political community simply enacts its own preferred policies without making any concessions to minority views. So even where majority votes have to be taken, this needs to be tempered by the search for compromise positions that incorporate the beliefs and interests of minorities.

This leads directly to the third condition for self-determination: sufficient underlying agreement among members about the group's general trajectory. We can think of this in terms of an overlapping consensus on the basic values that the group should pursue, on the nature of the decision environment that it currently faces – including both practical possibilities and constraints – and on which of the policies it might adopt are permissible ones to follow. In the absence of such agreement, the deliberation and search for compromise referred to above would simply not be possible. Instead what we would see are coalitions forming to exercise power, claiming to speak on the name of the group without actually representing all of its members. This would not be self-determination for the group as a whole.

The final condition for self-determination that I want to highlight, as in the case of self-determination for individuals, is continuity over time. On the one hand, the decisions that the group takes at different moments must be sufficiently coherent with one another; a group is not self-determining if it repeatedly repeals today the decision it took yesterday. On the other hand, it is important that the deciding group should also be the group that experiences the impact of the decisions it takes. If a decision is taken to build a high-speed railway, which may take a decade or more, the group that takes the decision and bears the subsequent costs should also be the group that benefits from the railway when it is complete. Now in a strict sense that cannot be the case; at best there will be substantial overlap in membership between the group that voted to build the railway and the group that enjoys travelling on it. It matter, therefore, that the group should understand membership in terms of a collective identity that can survive the replacement of individual members. So when the group takes a decision at T whose full effects will not be felt until T+1, this decision can be experienced as self-imposed even though the group's membership will have changed somewhat in the interim.

I have identified four conditions that a self-determining group must fulfil – agreement on membership criteria, an effective decision-making procedure, consensus on underlying aims, and continuity over time – each of which can be met to a greater or lesser degree, from which it follows that self-determination is not an all-or-nothing matter. Some groups will achieve it

more completely than others. But this is true in the individual case as well: some people are better than others at reflecting on their goals and then pursuing them consistently. So it is no strike against self-determination as a political value that one group is better placed to achieve it than another. Something more, however, needs to be said to explain its value, again using the analogy with the individual case. Self-determination matters for individuals insofar as they want to see themselves as authors of their own lives, as having the capacity to stand back from conventional social norms and decide for themselves what plan of life to follow. Can something similar occur at group level, under the favourable conditions I have outlined, such that a person may consider it a significant aspect of their own autonomy that they form part of, and contribute to, a self-determining group? This is not something that matters to everyone: some people are obviously content to live an entirely private life, having no interest in their political surroundings except when this impacts their private pursuits positively or negatively. Yet it clearly does matter significantly to many others, as we can see from the passion and enthusiasm that fuel movements for decolonisation and secession. It is very implausible to see these movements as driven only by instrumental reasons, such as economic advantage. Many people, if not all, seem really to care that they are governed in such a way that they can identify with the decisions that are made for their society as *their* decisions, by virtue of their membership in the collective self that makes them.

Bearing in mind J. S. Mill's adage that 'the sole evidence it is possible to produce that anything is desirable is that people do actually desire it', the case in favour of self-determination might seem to rest there (Mill 1972: 32). But it must also be shown that decision-making at national level can be made sufficiently subject to popular control to make genuine self-determination feasible; and that people who value being involved in self-determination are not merely being deluded, in the sense of vastly overestimating the impact on the result that their voice or their vote can make. Here it is important to insist that there is value in taking part in collective projects of various kinds even when one's own contribution to the outcome is miniscule (think of taking part in a successful demonstration against fossil fuel burning along with 100,000 others). 'What we did together' can be morally significant to the participant even when the individual impact of her contribution is so small as to be undetectable (see Parfit 1984, ch. 3, Tuck 2008, ch. 2).

Why Immigration may Disrupt Self-Determination

Assuming, therefore, that large-scale self-determination – self-determination on the scale of most contemporary nations – is both feasible and valuable, we can ask what bearing this may have on the control of immigration. Why should it matter, from the point of view of self-determination, if the self expands numerically by immigration, or indeed contracts by emigration? It would be largely immaterial if the immigrants were simply carbon copies of the existing population along all politically relevant dimensions, such as class, gender, ethnicity, religion and so forth. In that case there would be no challenge to the continuity of the self, other than the practical challenge of having to respond to the needs and interests of an expanding population. But the immigrants currently seeking to move to liberal democracies are rarely carbon copies of the indigenous majority; instead they come laden with values, norms and cultural traits acquired within their societies of origin. As a result, when they are accepted for entry, two changes occur. First, as the composition of the society alters, there are new challenges, but also new opportunities, for public policy. The new arrivals may have different education and health needs, different work skills, and different cultural aspirations from the indigenous majority, so justice will demand that accommodations be made and priorities shifted. Second, in due course, the immigrants will qualify for citizen status, and so the composition of the demos – the citizen body that in a democratic society is the ultimate decision-maker – will also change. Enlarging the demos in this way is not just a matter of adding extra bodies. The balance of political forces is also likely to change – for example, there may be a partial shift away from class-based politics to a form of identity politics. Of course, the net effects of these changes are unpredictable and will vary according to the particular case: the impact of Mexicans moving in large numbers to the US may be very different from that of Syrians moving to Germany. Recognizing such impacts implies no judgement about whether they are desirable or undesirable. The point is simply that they are *significant*: large scale immigration is a socially and politically transformative process.

In this way, immigration disrupts the continuity of the self, and this gives those who are already members reason to want to control it, which they can do either by simply limiting the numbers coming in or by selecting among potential applicants using their preferred criteria for admission. Citizens will have differing views about the best immigration policy just as they will on many other questions, so this will be a matter for democratic debate, and almost inevitably compromise between the different interests at stake – say between manufacturers wanting to increase the supply of skilled labour and local authorities having to deal with pre-existing housing shortages. But looking ahead to the longer term, present-day citizens must

consider how immigration will change the make-up of the demos once the immigrants have gained citizen status. This concern is sometimes set aside on the grounds that unless immigration occurs on a truly massive scale, enfranchised immigrants will never outnumber natives, so they will never come to form the democratic majority (see Van der Vossen 2015). However it is a mistake to suppose that immigrants can only influence the direction that the demos takes by becoming a majority. They will do so first by creating new social justice requirements for the society, on the assumption that social justice will feature prominently within the overlapping consensus on basic values that, I have argued, self-determination presupposes. When immigrants arrive, they can reasonably expect the host state to put in place a wide range of policies and institutions that serve to accommodate them and protect them against discrimination. It must, for example, adopt some version of multiculturalism, whether or not it labels the policy in that way.⁵ So a society whose members, for whatever reason, do not want to go down that path has self-determination reasons for not admitting large numbers of immigrants whose cultural background makes it inevitable that such accommodations will have to be made.⁶

A second and more direct way in which immigrants may impact self-determination even if they only form a small minority is by forming the swing bloc on closely contested issues. A pertinent example is provided by the Quebec independence referendum of 1975 which was lost by a tiny majority of 54,288 votes, just over 1% of the total. In the immediate aftermath of the referendum, the leader of the Parti Québécois, Jacques Parizeau, blamed the defeat on ‘ethnic votes’, presumably having immigrants with Anglophone preferences (as well as indigenous groups) in mind. Suppose for the sake of argument that he was right, and that there was in fact a majority among French-speaking Quebecois for independence. That majority would then have had self-determination reasons for limiting inward migration. Admittedly this was never going to be a shining example of self-determination given the pre-existing division of opinion within Quebec. Yet we might imagine a carefully crafted compromise between rival views which the arrival of a new bloc of voters then tips in one direction. The general lesson is that a self-determining group that wishes to maintain its continuity over time has good reason not to incorporate new participants whose exercise of their democratic rights will have the effect of overturning decisions that have previously been taken.

To this it may be objected that membership of the demos will in any case change over time by natural replacement, and the upcoming generation may well have different values from those they replace, so unless current members are willing to control reproduction, or disenfranchise

the young – and neither of these policies seems compatible with liberal-democratic values – there is no way to prevent previous decisions from being reversed later.⁷ So why shut the door to immigrants if the children of existing members are going to be allowed in? To this there are two answers. In the first place, the fact that generational replacement may pose a potential threat to the intertemporal dimension of self-determination doesn't entail that one shouldn't take steps to control the further potential threat posed by immigration. Then, second, simple sociology tells us that people who are raised from birth in a society will absorb from parents and peers many of the prevailing cultural beliefs and preferences; this natural process will be reinforced when political and cultural values are deliberately transmitted through the education system. Although of course incoming immigrants are likely to adapt over time to the cultural milieu in which they now find themselves, this will depend on the rate of immigration and the extent to which integration policies are successful. So, on the assumption that self-determination requires continuity in the cultural composition of the demos, the challenge posed by immigration is of a different order from the challenge posed by generational replacement.

Why Immigrants need not be Included in the Demos that Decides Immigration Policy

I have explained why its interest in self-determination gives a political community reasons for controlling immigration. But now I want to consider two objections that critics have raised. The first concerns the way in which the self in self-determination has been constituted. As we have seen, for self-determination claims to be valid, they must be made on behalf of a legitimate 'self': this was what Catalan secessionists challenge when they argue that Spaniards collectively are not entitled to exercise self-determination in Catalonia. But critics will say that in the case of decisions about immigration, we cannot assume that the relevant self is confined to those who are already citizens of the state that the immigrants are trying to enter. For the idea of self-determination to carry normative weight, the constituted self must be appropriate to the decisions that it is going to take; broadly speaking they must be about the future interests and aspirations of the collective that is making them, not somebody else's. The general issue here will be familiar from discussions of the democratic boundary problem, but in the case of immigration it may seem especially pointed. For many, perhaps most, potential immigrants, the decision by a developed liberal democracy on whether to accept their application to migrate will have a major impact on their life prospects. Is it then legitimate for that decision to be made by a body in which they have no say?

The critics' argument is sometimes developed by describing their exclusion as an act of coercion, and appealing to the principle that coercive acts always need to be justified democratically to the people coerced, by including them in the forum that authorises the acts.⁸ My own view is that both of these claims are false, and I have argued so elsewhere (Miller 2010, Miller 2016a). To exclude a person from some domain is not in normal cases a coercive act, though the means that are used to enforce that decision may require the use of coercion. And coercion that is deployed for legitimate ends, such as defending rights that are under threat, needs of course to be justified, but the justification does not have to be offered directly to the person or the group against whom coercion is wielded by including them in the demos that authorises it. In many cases such a requirement would lead to absurd consequences.⁹

However we can set aside the dispute over whether immigration controls are coercive, and simply acknowledge that immigration decisions will have a serious impact on the interests of the immigrants themselves. Such decisions might therefore seem to fall outside of the citizen body's legitimate scope of self-determination. Self-determination, a critic might argue, is defensible only when it involves reaching decisions whose effects are confined, or at least largely confined, to the members of the body that makes them. Since this does not hold for decisions over immigration, if they are to continue to be made democratically, the demos must be expanded to include those seeking to immigrate.

Before accepting that conclusion, however, it is worth contemplating other practices that involve exclusion. Selective universities routinely exclude many applicants who would like to attend them, and although the setback to a person's life-prospects when they are turned down by Harvard or Oxford may not be quite as severe as the setback to a Nigerian immigrant refused entry to Germany, say, it is serious nonetheless. Yet we do not believe that excluded candidates should have democratic rights in the universities that decline to admit them. We *do* believe that candidates should be selected by criteria that align with the university's general purposes, and that proper procedures should be used to ensure this. But provided these strictures are obeyed, universities have the right to choose who to admit, and this is essential to their self-determination. It is hard to see what the alternative to such a policy could be. If inclusive democracy is the watchword, should just anyone who might aspire to attend a particular university have a say? Similar problems obviously afflict the proposal that immigration policy should be determined by a democratic institution that includes prospective immigrants: how many of them, and which ones in particular?

A critic might argue that the analogy drawn here between university and society is misleading. Appealing to the distinction made long ago by Michael Oakeshott between enterprise association and civil association (Oakeshott 1975, essay II), she might claim that, unlike civil societies, universities are institutions with concrete purposes to pursue, and this justifies them in controlling their own admissions, selecting only students whom it serves the aims of the university to admit. There is no point enrolling people for mathematics degrees who cannot solve quadratic equations. Societies, the critic alleges, don't have purposes in the same sense. But as Oakeshott correctly observed, modern liberal states cannot be understood purely as forms of civil association, i.e. arenas in which members pursue their own private purposes, subject to a common set of rules that condition conduct rather than directing it.¹⁰ They also have distinctive aims and policy goals, decided on by citizens insofar as they are democratic – developing the economy, pursuing social justice, protecting the natural environment, enhancing national culture, and so forth. When selection of immigrants is the issue, the criteria used will be justified by reference to these goals. Policy debates over immigration will typically take the form of weighing them against each other, and then proposing an admission policy that reflects this balance.

Another response to my argument would be to say that universities, although partially autonomous, are subject to democratic control by the state. Thus candidates for admission, assuming they are eligible to vote in nation-wide elections, do have an opportunity collectively to monitor the selection procedures that universities employ. The 'no exclusion without democratic voice' principle is met in their case too. But this overstates the extent to which democracies can legitimately control what goes on in universities. For example, it would be impermissible for the government to prevent a university from admitting students to read classics because it believes this is a useless subject to study. The state can set general parameters with which admissions policy must comply – no discrimination on the basis of class, race or gender, for example – but within those parameters universities have self-determination rights to set their own priorities in teaching and research. In a somewhat similar way, political communities are expected to abide by international law standards in formulating and implementing their immigration policies – they must be human rights compliant, for instance – but the substance of those policies is otherwise a matter to be decided internally.

To return to the main theme, although democracies should certainly give weight to the interests of different categories of prospective immigrants, they are not obliged to include these immigrants in the forum that decides immigration policy. The principle that would require this

– the All-Affected-Interests Principle that stipulates that everyone whose interests will be affected by a decision is entitled to be included in the body that makes it – is flawed as a general principle, even though there may be special cases in which it applies.¹¹ The example of university admissions is meant to illustrate this point. The value of self-determination gives political communities good reason to want to retain control of their immigration policies, alongside economic policy, social policy, environmental policy, and so forth. Each of these has to be formulated in such a way that it coheres with the others. Immigration policy cannot reasonably be outsourced to some demos other than the one that decides these connected questions, even if there were some special grounds for doing so, which I have argued there are not.

Why Deportation is Morally Different from Entry Refusal

The second objection to my position that I want to consider takes the form of a *modus tollens* argument. It suggests that if an appeal to self-determination can justify excluding immigrants, it can also justify deporting existing citizens. But we know that deportation of innocent citizens cannot be justified. Therefore the appeal must be rejected.

Javier Hidalgo has developed this objection by presenting the example of Leticia, an American citizen who is poor and uneducated, and therefore consumes more in welfare benefits than she is able to contribute to her society through taxation. She also has cultural values that are at odds with those of mainstream America. So apparently it is in the interests of most US citizens to expel Leticia, who conveniently can be deported to Mexico where she also has citizenship rights, so she is not left stateless or reduced to destitution. The self-determination reasons that would be given for not admitting Leticia's twin sister, who currently lives in Mexico, seem equally to justify expelling Leticia. As Hidalgo puts it:

States exercise control over access to their territories and membership rights by excluding foreigners via immigration restrictions. But states can also exercise control over access to their territories and the membership rights that they provide by deporting and denationalizing citizens. Compatriot deportation is just another way of exercising control over people's access to a state's territory and membership rights. So, if rights to self-determination are rights to control access to a territory and the benefits that states provide to residents and citizens, then rights to self-determination might justify compatriot deportation as well as immigration restrictions (Hidalgo 2014: 265-6).

In response to this challenge, one might be tempted to grasp the nettle and accept that deportation could sometimes be justified in the name of self-determination, thereby avoiding the alleged inconsistency. But this is a temptation to be resisted. There may be special circumstances in which democracies can be justified in deporting individual members, but these are cases in which the deportees have acted in a way that fundamentally breaches the implicit contract on which a democracy rests, for example they have behaved treasonably or embarked on a course of violence against fellow citizens.¹² The case of Leticia is not at all like that: Hidalgo correctly assumes that deporting her is inadmissible.

To rescue self-determination, it is therefore necessary to produce what Hidalgo calls an asymmetry argument that explains why deportation differs in a morally relevant way from entry refusal. As he notes, there are several possible versions of this argument to consider. My suggestion, which is significantly different from any of those he canvasses,¹³ is that citizens have rights that protect them against deportation whereas, special circumstances aside, prospective immigrants lack rights of entry.¹⁴ These anti-deportation rights are not merely rights in positive law – they have a moral basis. And such rights set limits to self-determination. Just as the right of self-determination does not extend to, say, capturing valuable foreign citizens and forcing them to work for the state, so it does not extend to expelling people who have the right to remain.¹⁵

What exactly are the rights that protect citizens against deportation? They can be seen as having two layers. The first is the right of residence, the right not to be involuntarily expelled from the place where you have settled and made your life. This right is held by all permanent residents whether or not they are citizens. It is justified by the interest that a person has in being able to settle in a place and become familiar with her surroundings, form social relationships there, pursue projects that are physically located in that place, and so forth.¹⁶ Then on top of that stands the right held by citizens to remain part of the reciprocal relationship that constitutes citizenship. Having accepted the obligations of citizenship, including potentially onerous ones such as being drafted into the military, a person cannot then be expelled simply because the majority now regard her as a net drain on their society's resources.¹⁷

Note that although rights of this kind are grounded in the interests of the right-bearer, the strength of a person's right does not depend on the particular weight of her interest in whatever it is that the right protects. The point is a familiar one from discussions of private property.

Where property rights are justified, it is because they serve the interests of property owners in having protected and uninterrupted control over the things possessed. But suppose I own a piece of woodland that interests me only as an investment that I hope to capitalize on by selling at a higher price in the future. My neighbour, in contrast, a keen amateur ecologist, is deeply interested in how the wood is managed. That interest nevertheless does not give him a right to enter the wood and start thinning the trees to create a more balanced environment for wildlife without my permission. Rights don't track the relative weight of interests in that one-to-one way.

I make this point because Hidalgo seeks to undermine the asymmetry of immigration restriction and deportation by introducing examples in which a current resident has very little interest in remaining where she is, because her life-plan could easily be carried out successfully in another country, whereas a potential immigrant may have a strong interest in entering, since there is no other way for him to execute his most important projects. In such a case, Hidalgo argues, the harm caused by deportation would be far smaller than the harm caused by exclusion. But, even leaving aside the morally relevant difference between inflicting harm by one's own action, and failing to intervene to remedy a harmful state of affairs caused by circumstances beyond one's control, this overlooks the difference between the two people at the level of rights. The resident has a right against deportation because of the general interest people have in security of residence and citizenship, even though in her particular case that interest happens to be relatively slight. On the other hand, since there is no general right to immigrate, a particular person's strong interest in immigrating cannot endow him with a right of entry, any more than my ecologist neighbour's strong interest in my woodland gives him the right to enter and manage it.

Conclusion

I have offered a general defence of the claim that immigration controls can be justified by an appeal to the value of self-determination. Although I sketched in some grounds for thinking that the threat to self-determination posed by large-scale immigration was not merely hypothetical, I need to stress that I am not here defending any particular immigration policy. That is something for citizens themselves to decide upon, bearing in mind their interest in self-determination as well as other factors. My claim is simply that they have a right to make decisions in this policy area, as in many others.

One challenge to my view that is hard to answer in a short space is that self-determination, even if it is both feasible and valuable, does not have *sufficient* value to outweigh the strong interests that many migrants have in entering (see Fine 2013: 262-4). This challenge raises two large questions that fall outside the scope of the chapter. One concerns the extent of justified national partiality: what relative weight are citizens required to give to the interests of people who are not yet their compatriots as compared to the interests of those who already are? The other concerns the trade-off between the values of collective self-determination and individual freedom. Behind this may lie disagreement about the nature of the human self of the kind that came to the fore in the so-called liberal-communitarian debate of the 1990s (for an overview, see Mulhall and Swift 1992). How much does it matter to human beings that they should form part of communities in which they feel at home, and whose fate lies in their own hands? Or is it more important that they should have a wide array of individual life-plans to choose between? I have written at greater length elsewhere about the extent of justifiable national partiality and about the reasons why self-determination matters (see, respectively, Miller 2005a and Miller 2019); here my aim has been to consider what relevance these values have for immigration policy.

Earlier versions of this chapter were presented at meetings in the following places: The Australian National University, Goethe University, Frankfurt, Melbourne University, Monash University, Queens's University, Kingston, and Stockholm University. Alongside the participants in those meetings, I should particularly like to thank Sue Donaldson, Bob Goodin, Andrew Lister, Margaret Moore, Christine Sypnowich and Richard Vernon for their comments.

¹ Among those who have appealed to self-determination as grounds for controlling immigration, see Walzer (1983), ch. 2, Miller (2005a), Wellman (2008), Altman and Wellman (2009), ch. 7, Pevnick (2011), ch. 2, Miller (2016), ch. 4.

² This assumption is widely accepted on all sides of the debate over immigration. For reasons first articulated by Walzer (1983), ch.2, but since reinforced by, among others, Carens (2013), ch. 3, it is morally unacceptable for a democratic society to deny access to citizenship to any of those who are permanently resident within it. To cite Carens, 'to meet the requirements of democratic legitimacy, every adult who lives in a democratic political community on an ongoing basis should be a citizen, or, at the least, should have the right to become a citizen if she chooses to do so' (p. 50).

³ As I note below, this is not intended to exclude cases in which, at a certain point in their lives, people come to realise that the goals they have been pursuing are not in fact the ends that matter to them most, and therefore change direction radically, for instance by switching to a different career.

⁴ In today's world, the groups that can justifiably claim self-determination at state level are likely to be *nations*, understood as peoples held together by a particular kind of historical and cultural identity. However for present purpose I want to leave it an open question whether nationality in this sense is empirically presupposed by the four conditions laid out below.

⁵ On the difference between multiculturalism as policy and multiculturalism as ideology, see Miller (2018).

⁶ This should not be read as defending the selection of immigrants on cultural grounds. Whether it is ever permissible to use cultural features as criteria when deciding who to admit is a difficult and contested issue, and I take no stand on it here. The point being discussed in the text is whether the overall rate at which immigrants are admitted can legitimately depend on the extent to which those chosen are likely to arrive with political or cultural values that are markedly different from those of most existing citizens.

⁷ This objection is pressed in Laegaard (2013): 660-1. On this question, see also Brezger and Cassee (2016).

⁸ See Abizadeh (2008). This argument is taken up and developed in Lepoutre (2016).

⁹ See Wellman and Cole (2011), ch. 4. In case the point should not be obvious, consider the following example. A group of women decide to set up a women-only recreation club because they want to be able to exercise, swim, and relax away from the intrusive male gaze. Unfortunately a few prurient men won't keep away, so the women have no option but to employ security guards, who on occasion have to use coercive force to eject these unwelcome intruders. Why would anyone think that these men have any claim to participate in democratic decisions over the club's policies?

¹⁰ No one reading Oakeshott can doubt that he aims to celebrate civil association, but he does not pretend that modern states are purely civil in character.

¹¹ The Principle has been widely discussed. Important contributions include Whelan (1983), Goodin, (2007), Nasstrom (2011), Owen (2012), and Arrhenius (2018).

¹² See Miller (2016). This was in reply to the contrary view defended in Lenard (2016).

¹³ Hidalgo (2016: 280, f.n. 3) briefly considers a rather narrower version of the rights-based argument

¹⁴ The special circumstances I have in mind will include the lodging of a valid claim to asylum by a refugee, and the position of someone who is owed entry as a form of reparation by a state that has exposed him to serious harm.

¹⁵ This is perhaps the point at which to underline that self-determination claims must be always be understood as subject to ethical constraints: the equally strong self-determination claims of other groups on the one hand, and the human rights of both insiders and outsiders on the other. The argument made here therefore presupposes the argument I have made elsewhere (Miller 2016b) that immigration as such is not a human right.

¹⁶ For a fuller account, see Moore (2015), ch. 3.

¹⁷ The argument from citizenship should not be confused with one that Hidalgo considers and rejects, namely the argument that citizens have ownership rights in their society that protect them against deportation by virtue of the productive contribution that they have made to its prosperity: see Hidalgo (2016): 267-9. The citizenship argument does not appeal to desert, but to reciprocity. Quite independently, however, I believe there are cases in which foreigners may gain a right to immigrate on grounds of desert: see my discussion in Miller (2016a): 115.

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