

The right to freedom of movement: human or political?

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Abstract: There are two main approaches to freedom of movement: one is the freedom-centered view, which sees freedom of movement as an inherent aspect of human freedom; the other is the state-centered view, which sees freedom of movement as an eminently political right. In this article, I develop a hybrid account that combines both approaches. On the one hand, I argue that freedom of movement is a human freedom right whose main purpose is the protection of autonomy. On the other hand, I argue that freedom of movement is a political right properly held against the state. Against the freedom-centered view, I conclude that there is no human right to international freedom of movement. Against the state-centered view, I contend that everyone within the state is entitled to freedom of movement irrespective of their citizenship.

Keywords: freedom of movement; human rights; political rights; immigration; open borders.

ES Libertad de movimiento: ¿derecho humano o político?

Resumen: Existen dos enfoques principales sobre la libertad de movimiento: uno es el enfoque basado en la libertad, el cual considera la libertad de movimiento como un aspecto inherente a la libertad humana; el otro es el enfoque Estado-céntrico, que afirma que la libertad de movimiento es un derecho eminentemente político. El presente artículo desarrolla una teoría híbrida que combina ambos enfoques. Por un lado, se sostiene que la libertad de movimiento es un derecho humano cuya finalidad principal es la protección de la autonomía. Por otro lado, se argumenta que la libertad de movimiento es un derecho político que las personas poseen frente al Estado. Contra el enfoque basado en la libertad, se concluye que no existe un derecho humano a la libertad de movimiento más allá de las fronteras. En contra de la visión Estado-céntrica, se defiende que todas las personas residentes en el territorio estatal, independientemente de cual sea su ciudadanía, tienen derecho a la libertad de movimiento.

Palabras clave: libertad de movimiento; derechos humanos; derechos políticos; inmigración; fronteras abiertas.

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Introduction

There are two main approaches to freedom of movement: the freedom-centred view and the state-centred view. The freedom-centred view is implicit in most arguments defending a human right to immigrate. Common to them is the idea that freedom of movement protects basic human interests, most notably, the interest in being able to move and choose where to live. Border controls coercively prevent people from moving to other countries, and therefore constitute a *prima facie* violation of their right to freedom of movement. The argument can also be made on instrumental grounds: freedom of movement allows people to exercise basic human freedoms such as freedom of association, occupation, expression, and conscience. It is a constitutive aspect of valuable liberties, which in turn makes it a valuable liberty as well. If people were confined to their neighbourhood, their freedom of association would be severely constrained, and so would their job options and religious choices. By the same token, if people are confined to their countries of origin, one might

argue, they will not be able to associate with outsiders, find better jobs elsewhere, or practice their religion if this has few or no adherents in their own country. Finally, we have the cantilever argument, according to which every reason one might have for moving within state borders may also be a reason for moving across state borders. The right to immigrate is grounded in the same interests and values as the right to domestic mobility. Therefore, the argument concludes, it is morally inconsistent to assert one right without recognizing the other.

The state-centred view denies that immigration is a human right. On this view, freedom of movement is a membership right properly held against the state. It allows citizens to mobilize, assemble, demonstrate, and organize politically, providing a check against governmental power. Foreigners do not need a comparable right to move because they belong to another state and are therefore subject to a different authority. In this article, I argue that both the freedom- and the state-centred view have a point. The former adequately captures the value of freedom of movement as a human freedom right necessary for the protection of autonomy. The latter is right in pointing out that freedom of movement is a political right properly held against the state.

While both views provide valuable insights, they are incomplete. The freedom-centred view overreaches the right, prioritizing freedom of movement when other (more) important interests are at stake. By contrast, the state-centred view risks underprotecting it, excluding non-members from its bearers and reducing the value of freedom of movement to the exercise of political rights. Combining both approaches, I will argue that freedom of movement is both a human freedom right necessary for the protection of autonomy and a political right properly held against the state. The result is a hybrid account of freedom of movement that is able to account for the intrinsic value of freedom of movement, without thereby concluding that it ought to extend across state borders.

The contribution of this article is threefold: first, it resolves the inadequacies of and the tension between the state- and the freedom-centred view; second, it proposes a non-arbitrary way of defining the scope of freedom of movement; and third, it develops a normative framework that accords the right to freedom of movement to everyone within the state's borders, regardless of their citizenship. The article is divided into three parts. The first part surveys the state-centred view on freedom of movement, and argues that it reaches the right conclusion –namely, that freedom of movement is restricted to the state level– albeit for the wrong reasons. The second part addresses the freedom-centred view, according to which freedom of movement should be extensive, granting access to the full range of existing life options, in order for people to be autonomous and enable them to pursue their life plans. Contrary to this view, I contend that freedom of movement, like any other human freedom right, only grants access to an adequate range of options. Building on the insights from the previous parts, the third part seeks to answer the question of scope. Since states are primarily responsible for protecting the autonomy of those over whom they exercise political authority, the article concludes that freedom of movement is properly held against, and therefore its scope is coextensive with, the state.

1. The state-centered view

On the state-centred view, freedom of movement is a political right properly held against the state. It comprises three different rights: the right to domestic mobility and settlement, the right to leave, and the right of return. In this article, I will focus primarily on the former, since what is at stake in debates on freedom of movement is the scope of the right to mobility and settlement, namely, whether it is restricted to the territory of the state or should extend across state borders.¹ If people had a right to move to and settle in other countries irrespective of their citizenship, then the right to leave and the right of return would be virtually redundant. There are at least four reasons why freedom of movement might be said to be necessary within, but not beyond, borders: the first is to ensure equal treatment before the law and to prevent discrimination; the second is to make political rights effective; the third is to secure consent to state authority; and the fourth is to avoid domination by the state. I will argue that they all fail either because they entail that freedom of movement should also extend across state borders or because they restrict it to those who are already members. Let us discuss each argument in turn.

1.1. Equal treatment and non-discrimination

First is the claim to equal treatment and non-discrimination by the state. No state can live up to minimal standards of legitimacy if it violates the moral equality of persons, which requires at the very least that people be treated equally before the law. One obvious way in which a state can fail to respect the moral equality of persons is by discriminating against (some of) its members on racial grounds. For example, during Apartheid, black South Africans were subjected to severe restrictions on their freedom of movement and residence and were required to carry travel documents with them. These documents, called “passes”, specified which areas they were allowed to enter and reside in, asking for special permits to travel beyond these areas. The so-called “pass” laws were part of a broader system of racial segregation that divided the country along racial lines and treated black people as racially inferior and hence as morally unequal. In light of this danger, some have stressed the importance of the right to freedom of movement within borders as a form of protection against state discrimination (Miller, 2016a, p. 26).

¹ If the right to freedom of movement is to ground a human right to immigrate, it must comprise both the right to international mobility and settlement. Otherwise, it would be impossible to distinguish the right to travel from the right to immigrate (Altundal, 2024).

Freedom of movement is also a prerequisite for equality of opportunity, since it allows individuals to take advantage of opportunities in other parts of the country, thereby preventing discrimination on arbitrary grounds. Suppose that a country is divided into two parts: region A is rich and stable, whereas region B is poor and dangerous. If citizens of B were confined to their region due to internal restrictions on freedom of movement, their right to equal treatment would be seriously compromised, since they would not have access to the same opportunities as citizens of A. In this way, the right to freedom of movement serves as a protective mechanism against wrongful discrimination (of minorities) by the state.

Having freedom of movement across the country puts a check of some degree on this sort of corruption. If the government is consistently biased toward people in one part of the country, then people from other parts can at least move there to take advantage of the benefits the government is assigning. Without freedom of movement, the government can consistently benefit people in particular areas whilst excluding others entirely from those benefits (Hosein, 2013, p. 34).

I think this argument has some merit, and it definitely points in the right direction. However, it misses the mark on two fronts. First, it is vulnerable to the cantilever argument, in that “if the goal of a right of free movement were to prevent discrimination on objectionable grounds, there would be just as much reason to adopt a right of free movement across borders as there would be to adopt a right of free internal movement” (Carens, 2013, p. 243). Even if most states no longer exclude immigrants (at least openly) on racial and religious grounds, they continue to employ wrongfully discriminatory selection criteria (Shachar & Hirschl, 2014; Egan, 2020; Lim, 2023; Akhtar, 2024). Although facially neutral, these criteria usually serve as a proxy for excluding people who lack desirable assets, belong to the dispreferred race or religion, or are merely perceived as unfit for membership. Second, a state can problematically constrain domestic freedom of movement without thereby engaging in wrongful discrimination against (part of) its population. Consider how mobility is strictly regulated under authoritarian regimes. The case of North Korea comes to mind. As a 2022 report from the United States Department of State attests:

The government restricted freedom of movement for those lawfully within the state. [...] Security checkpoints on main roads at entry and exit points from every town hampered movement. [...] The government strictly controlled permission to reside in, or even to enter, Pyongyang, where food availability, housing, health, and general living conditions were much better than in the rest of the country.²

I do not think these restrictions stem from an animus against North Korean citizens, but rather from an attempt at controlling them. We can also envisage cases in which countries permissibly erect internal barriers on freedom of movement without the aim of discriminating against people. For example, during a humanitarian crisis or in the event of an environmental catastrophe, citizens can be prevented from moving to the affected zones. These restrictions seem to be legitimate, since they apply to everyone equally and are aimed at protecting people from significant harm (Lenard, 2025, p. 416). What about restrictions that are selectively enforced and target particular groups for exclusion? These need not always be problematic. Suppose that residents in a neighbourhood decide to build a wall around its perimeter to insulate themselves from more insecure parts of the city, which are beleaguered by a dangerous gang. If there is anything wrong with that wall, I submit, it is not that it treats outsiders as inferiors.³ If this is correct, our reluctance to internal restrictions on freedom of movement cannot be solely explained by the wrongs of discrimination.

Someone could object that “from the fact that some mobility restrictions might be allowed without violating equality, it does not follow that grounding freedom of movement on its relevance to the protection of equal treatment does not work.”⁴ This is because a right can have more than one ground, and the existence of exceptions to a ground does not invalidate the ground. For example, from the fact that freedom of expression can be rightly curtailed for reasons other than preventing censorship (e.g., to protect privacy), it does not follow that preventing censorship does not provide a plausible ground for recognizing the right to freedom of expression. However, note that my argument is not only that freedom of movement can be rightly curtailed for reasons other than ensuring equal treatment or in ways that violate the principle of equal treatment, but also that it can be wrongfully curtailed for no such reason. In other words, equal treatment and non-discrimination are neither sufficient nor necessary grounds for freedom of movement: they are not *sufficient* because they do not explain the wrongness of mobility restrictions that apply equally to all; and they are not *necessary* because freedom of movement may be permissibly curtailed even though people are being treated unequally.

² Available at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/north-korea/> (Last accessed: 9 March 2025).

³ To be clear, it may well be that gated communities involve structural discrimination against the poor (Lippert-Rasmussen, 2024). However, the problem with gated communities seems to lie with the unjust background conditions of inequality and poverty that are usually correlated with higher crime rates rather than with the gates themselves. In other words, gated communities are epiphenomenal, rather than the source of a distinctive wrong. If there were no troublesome inequalities and everyone had decent opportunities, “what individuals do with their discretionary income or accrued wealth would seem to be up to them, even if they choose to invest in greater security than the social order provides to all citizens” (Lippke, 2024, p. 132). However, nothing hinges on the plausibility of this claim. Imagine that those living in gated communities are not rich people but members of a persecuted minority who are at high risk of victimization. I believe that there would be nothing wrong with gated communities in that case, and at any rate they would not involve wrongful discrimination against outsiders.

⁴ I thank an anonymous reviewer for raising this concern.

1.2. Political agency and consent to state authority

Second, we have the argument about the importance of freedom of movement for the exercise of political rights. According to this argument, citizens in a democracy are both authors and subjects of the law, which means that they must have equal opportunities to participate in the making of collective decisions. If citizens do not enjoy a robust set of rights and freedoms, they cannot meaningfully exercise their political agency. Freedom of movement is a necessary precondition for democratic participation (Longo, 2012, p. 47). It allows citizens to rally for their candidates, attend meetings, run political campaigns, demonstrate, assemble, and engage in other forms of political action. By contrast, when authoritarian regimes want to curb opposition, one of their very first measures usually consists in restricting freedom of movement by, for example, imprisoning political dissenters, banning demonstrations, or imposing a curfew.

Thus, the values of democracy and political equality both support freedom of *intranational* movement. These values do not seem to demand similarly extensive freedom of *international* movement [...]. In the absence of a world government there is no shared political institution whose decision making everyone on Earth must participate in together. Similarly, in the absence of a world government there is no institution that is required to favor equally every individual on Earth (Hosein, 2013, p. 34 [emphasis added]).

The argument from political equality and democracy can be complemented with an argument about consent to state authority. Following Blake (2005, p. 235), we can conceive of freedom of movement “as resulting from the need to justify political authority to specifically those individuals who face such authority.” States owe their citizens some justification for the pervasive web of laws that they coercively impose on them. The right to domestic mobility is part of the package of rights that states must protect to justify their coercive authority over citizens. Accordingly, we can legitimately distinguish current citizens’ from prospective immigrants’ right to freedom of movement based “upon the distinct political contexts in which their claims against the state are made” (Blake, 2008, p. 965). Only the former are pervasively subject to the ongoing coercion of the state, whereas the latter are seeking to become subject to it. “When individuals face the shared web of coercion constitutive of a modern political state, they acquire distinct duties to one another in virtue of this fact” (Blake, 2008, p. 967).

What is so special about state coercion that justifies this different treatment? According to Blake, state coercion impinges on, but at the same time is a necessary condition for, individual autonomy. “Without some sort of state coercion, the very ability to autonomously pursue our projects and plans seems impossible; settled rules of coercive adjudication seem necessary for the settled expectations without which autonomy is denied” (Blake, 2001, p. 280). This feature of state coercion explains why we cannot do away with it. But it must still be justified to those over whom it is exerted: “We have to give all individuals within the web of coercion, including those who do most poorly, reasons to consent to the principles grounding their situation by giving them reasons they could not reasonably reject” (Blake, 2001, p. 283). This line of reasoning, initially invoked to justify domestic distributive justice, can also be used to justify domestic freedom of movement (Blake, 2005). The point is that if people are to consent to state authority, they must be afforded some protections, which would presumably include the right to domestic mobility. Since prospective immigrants are not yet embedded in the coercive legal and political structure of the state, they are not owed the same kind of justification –in terms of the right to freedom of movement– as citizens.

I am largely sympathetic to this argument and the one before. But there is a blind spot in them. If freedom of movement is a membership-specific right, as these arguments seem to suggest, then we cannot explain why non-citizens have a right to freedom of movement within the state. This would have the further morally perverse implication that a state may restrict the freedom of movement of some people over whom it exercises coercive political power by excluding them from membership (Abizadeh, 2016, p. 115). Blake explicitly compares the right to freedom of movement with the right to vote. When France denies US citizens the right to vote, he argues, it is not treating them as morally inferior. “The restriction recognizes, rather, the distinct institutional contexts in which French and American citizens are situated” (Blake, 2008, p. 967). But if freedom of movement is a political right akin to the right to vote (Blake, 2020, pp. 42-43), then foreign residents lack the right to freedom of movement within the state. However, immigrants, even unauthorized ones, are subject to most of the laws of the countries where they live, and their autonomy is equally infringed by state coercion. So, if we have to give all individuals within the web of coercion, and not just citizens, reasons to consent to state authority, it makes no sense to treat freedom of movement as a membership-specific right.

1.3. Protection against state domination

Finally, freedom of movement is said to be necessary to protect citizens from state domination. For example, Sarah Song (2019, pp. 100-101) argues that “the right to domestic free movement serves as an important check on state domination of vulnerable minorities within the political community. The right to domestic migration is grounded in a concern to protect citizens against abuses of government power.” Similarly, Miller (2016b, pp. 55-56) suggests that the “right to free movement serves as a significant check on state domination of minorities, helping to safeguard their other human rights.” Without the right to domestic mobility, citizens could not engage in political activities such as rallying, demonstrating, and petitioning, which are crucial for holding the government accountable and claiming their rights. Freedom of movement also allows citizens to vote with their feet, providing them with a valuable safeguard in cases of despotic or arbitrary rule. This is arguably not the case of foreigners (with the exception of refugees), who are subject to a different authority, and therefore do not depend on entry into another state for the exercise of political freedoms. As such, they

can be protected from domination by other states without the need to immigrate to these states, let alone without a human right to immigrate. In conclusion, whereas domestic freedom of movement is necessary to avoid domination by the state, international freedom of movement does not seem so (Niño Arnaiz, 2025).

I agree that migrants can be effectively protected against state domination without the right to international freedom of movement. The problem, one might worry, is that in the absence of robust institutional protections for migrants' rights, border controls are bound to be dominating. To the extent that migrants are vulnerable to human rights violations due to the lack of legal protections, the possibility of freedom of movement across borders serving as a necessary check on governmental power remains a real one.⁵ Indeed, Alex Sager (2017) has made a powerful case for open borders on grounds of non-domination. He identifies three factors that make domination in immigration enforcement almost inevitable: dispersion, externalization, and privatization.

First, border controls are carried out by multiple agents, most of whom are not directly accountable to citizens, let alone migrants. Second, in an effort to avoid public scrutiny and shirk responsibility for human rights, borders have *de facto* been moved thousands of kilometers away to third countries (both of origin and transit) that stop migrants from reaching their destination so that they cannot claim asylum upon arrival (Shachar, 2019). Finally, sovereign powers are increasingly exercised by non-state actors such as airline companies and private contractors, creating a diffuse chain of command that makes it difficult to assign responsibility for a particular decision. The practice of border control operates under a logic where each participant has the incentive and the ability to evade legal responsibility for human rights violations (Sandven, 2024, p. 552). Add to this the absence of an international body with a clear mandate to protect the human rights of migrants and the fact that there is usually no possibility to contest admission decisions in court. The result is a situation of structural domination in which the human rights of migrants go largely unmet.

In effect, the possibility of successfully and *reliably* establishing any claim against the popular sovereign's authoritative power, including that of demanding robust respect for one's basic human rights, depends on claimants' capabilities to act as recognized bearers of a right to justification (Schmidt, 2022, p. 961).

However, in a world "in which rights realization significantly depends on one's contestatory and deliberative subjecthood and the presumption of enjoying such subjecthood is a privilege restricted to those deemed part of the popular sovereign," "migrants are not positioned to effectively *demand* justification" from the sovereign (Schmidt, 2022, p. 961). Their lack of legal standing makes them vulnerable to domination by the agents involved in border control. They are subject to a decision that has a great impact on their lives and over which they have no say. This is problematic, because it puts them at the mercy of other states. To the extent that states wield discretionary power over immigrants through their border regimes in a way that fails to track their relevant interests, the potential for domination is ineliminable (Costa, 2016, p. 411). "The only plausible way to avoid bureaucratic discretion and dominating migrants is to reduce the power of the state and of private actors to enforce border controls and to significantly open borders" (Sager, 2017, p. 45).⁶

The arguments considered so far have focused on the political value of freedom of movement. As we have seen, these arguments fail to show that freedom of movement is only necessary at the state level, or else imply that states may legitimately restrict domestic mobility when it comes to non-citizens. I take the latter to be an unpalatable implication of the state-centred view, which suggests that there is something more to freedom of movement than its political function. In fact, if we treat freedom of movement as an exclusively political right, we seem to be unable to explain what is wrong with being held captive, for instance. We need to look beyond the political value of freedom of movement to focus on its autonomy-protecting function. This does not mean that freedom of movement has no political value, but it needs to be complemented with the freedom-centred view.

2. The freedom-centered view

On this view, freedom of movement is valuable in and of itself and necessary for the protection of autonomy. In other words, it has both intrinsic and instrumental value: "freedom of movement should be seen as having both an instrumental value *for* autonomy and an intrinsic value *of* autonomy" (Bauböck, 2009, p. 7; see also Torresi, 2010, p. 26). The human right to immigrate can similarly be grounded in the protection of autonomy. Kieran Oberman (2016) has made an argument along these lines.⁷ The argument can be stated as follows:

⁵ The main point of contention seems to lie in whether border controls are inherently dominating or whether they can be reformed to conform with human rights standards. I have argued elsewhere for the latter view (Niño Arnaiz, 2024). However, even if border controls cannot be reformed, it does not necessarily follow that they must be abolished. For not all instances of domination are morally wrong, and states can act wrongly without thereby losing their legitimacy. Nevertheless, the present article accepts for the sake of argument that border controls are inherently dominating, and that immigrants cannot be protected against state domination without opening borders. The aim of this article is to show that there is no human right to immigrate, but only a remedial right. The concession thus serves as a stress test for my argument rather than a retreat from its conclusion.

⁶ For a skeptical view, see Honohan (2014) and Tóth (2023). These authors do not deny that border controls are dominating. What they argue is that it does not necessarily follow that states should open their borders to avoid dominating migrants.

⁷ Huemer (2010) and Hidalgo (2019) also make freedom-based arguments for open borders. I focus here on Oberman's argument instead of Huemer's and Hidalgo's because the latter rely on a libertarian conception of freedom, which, as Stilz (2019, p. 204) aptly notes, would render many uncontroversial state regulations (such as minimum wage laws, mandatory pension plans, professional licenses, and even many taxes) problematic. This is no problem for libertarians, of course: "so much the worse for the state!"—they might respond. Hidalgo himself acknowledges in an article co-authored with Freiman (2022) that "only libertarianism

- 1) Human freedom rights are valuable because they protect autonomy and enable people to pursue their life plans.
- 2) In order to protect autonomy and enable people to pursue their life plans, human freedom rights must be extensive, robust, and universal: *extensive*, because they grant access to the full range of existing life options, not merely an adequate set of them; *robust*, because they should not be abridged for expediency reasons; and *universal*, because they belong to every human being alike irrespective of their citizenship.
- 3) Freedom of movement is a human freedom right.
- 4) Therefore, freedom of movement should be extensive, robust, and universal.

Consider the human right to freedom of association. If only citizens were allowed to associate, or if they could associate only with a limited number of people, or if the state could forbid the exercise of this right for expediency reasons, it would not serve its intended function. People need to be free to associate with others to be able to pursue their life plans. Without an extensive, robust, and universal right to freedom of association, people's autonomy would be severely constrained.

The same can be said about freedom of movement: if only citizens were allowed to move, or if they could move only within the confines of their neighbourhood, or if the state could arbitrarily interfere with their freedom of movement, people's life plans would be thwarted and their autonomy would be severely constrained. For this reason, the argument goes, freedom of movement must be extensive, robust, and universal. However, without a human right to immigrate, freedom of movement is *not* extensive, robust, and universal. It is not extensive because people do not have access to the options available in other countries; it is not robust because states can restrict movement across borders without due cause; and it is not universal because only citizens have an unconditional right to enter the state. In conclusion, in order for freedom of movement to be truly extensive, robust, and universal, the right to immigrate should be recognized as a human right: people should be free to move to and settle in other countries irrespective of their citizenship, and states should not restrict immigration for expediency reasons.

In response, some have argued that one need not have access to the full range of existing life options to be autonomous. What people must have access to as a matter of justice is an adequate range of options, not the whole range (Pevnick, 2011, pp. 84-85; Miller, 2014, p. 366). Each state must provide its citizens with an adequate range of options to choose from, which means that they need to be able to move to where the options are. The value of autonomy thus supports the right to domestic mobility. However, since states are not primarily responsible for protecting the autonomy of foreigners, and since justice does not require access to the full range of existing life options, they do not owe them equal protection of the right to freedom of movement. As long as people have access to an adequate range of options where they live, they have no right to immigrate to other states.

"The point here is that liberal societies in general offer their members *sufficient* freedom of movement to protect the interests that the human right to free movement is intended to protect" (Miller, 2014, p. 365). So, whereas domestic freedom of movement is necessary for the protection of autonomy, international freedom of movement usually is not. Surely, when a state does not provide its citizens with an adequate range of options and when it is unable or unwilling to protect their human rights, these people have a right to immigrate to another country where their human rights would be adequately protected (Blake, 2013, pp. 125-126). But this stops short of a human right to freedom of movement across borders. The latter entails that people should be free to move to and settle in other countries irrespective of their citizenship *and* of whether their human rights are adequately protected at home.

I agree that justice does not require people to have access to the full range of existing life options. Nevertheless, the question remains why (current) states should be taken as a benchmark for adequate options, and therefore whether state borders should determine the scope of freedom of movement. Given the huge differences in size and degree of development between countries, what counts as sufficient freedom of movement in one country will hardly be sufficient in another. Moreover, this would have counterintuitive implications for freedom of movement. If it is permissible to restrict the freedom of movement of those who come from a country which offers an adequate range of options without impinging on their autonomy, then those who live in a country which offers a *more* than adequate range of options could have their freedom of movement restricted without having their autonomy impinged as long as they continue to have access to an adequate range of options (Torresi, 2010, p. 30).

In other words, if the human right to freedom of movement is grounded in the right to access an adequate range of options, then a state offering a more than adequate range of options could restrict domestic mobility in proportion to its surplus (Carens, 2013, pp. 243-244). For instance, suppose that Belgians do not have a right to immigrate to other countries because Belgium already offers an adequate range of options. By the same

can provide a robust justification for open borders." If "only libertarian principles can provide this kind of justification for open borders", then rather than reject open borders, those "philosophers who agree that people have human rights to immigrate have a reason to favor libertarian principles" (Freiman & Hidalgo, 2022, p. 284). I lack the space to discuss the libertarian argument for open borders in detail. However, it seems to me that "libertarianism is not for freedom of international movement so much as it is against the control of international migration by any actor other than the individual property owner" (Higgins, 2013, p. 92). Freedom of movement would be highly constrained in a libertarian utopia in which most land were privately owned. The robustness of the libertarian case for open borders is inversely proportional to the internal consistency of libertarianism. If we keep all else equal in the world, then libertarianism does indeed provide a robust justification for open borders. But the more we move away from the actual world to one governed by libertarian principles, the weaker the case for open borders becomes (Loewe, 2022).

token, one could not blame the United States for restricting its citizens' freedom of movement to Belgium-sized chunks, since it currently offers a more than adequate range of options as compared to Belgium (Oberman, 2016, p. 39). In conclusion, if we want to define the scope of freedom of movement in terms of access to an adequate range of options, we cannot do so by reference to current state borders. We need to find a non-arbitrary way of determining the scope of freedom of movement. I will take up this question in the next section.

I want to focus first on Oberman's argument. According to him, "if human rights are to fully protect our freedom to access the full range of life options, then we must have a human right to immigrate to other states" (Oberman, 2016, p. 36). It seems that what is doing all the work in this argument is the 'extensiveness' condition: freedom of movement should be extensive to allow people to access the full range of existing life options. In other words, the argument presupposes that people are entitled to access the full range of existing life options. Otherwise, it could not explain why human freedom rights must be extensive, since it is the fact that people are entitled to access the full range of existing life options which grounds a human right to immigrate, which in turn makes human freedom rights extensive. To say that the right to immigrate is grounded in the fact that human freedom rights are extensive would beg the question, since what is at stake is whether human freedom rights, including the right to freedom of movement, *should* be extensive.

To defend the right to immigrate, then, the argument needs to show that human freedom rights must be extensive if they are to protect autonomy and enable people to pursue their life plans. But is it really necessary that human freedom rights grant access to the full range of existing life options to protect autonomy and enable people to pursue their life plans? We do not normally say that our autonomy is infringed because we do not have access to the full range of existing life options. It suffices that one has access to an adequate range of options to protect the interests that human freedom rights are intended to protect. Consider the human right to marriage and to freedom of religion. They protect the autonomy of people to make choices about whom to marry and which religion to practice free from state interference. It seems that one need not have access to the full range of potential partners and religious practices to make autonomous choices in the marital and religious realms. Otherwise, none of us could be said to be truly autonomous.

To be sure, if I were given only the option to choose between two designated candidates for marriage or were told that I cannot profess a given faith, my autonomy would be seriously infringed. But I do not think that the choice to marry my spouse and the decision to attend the Catholic church near my house on Sundays are less genuine or free because I have made them from a subset of the existing options. Indeed, to tell my spouse and coreligionists that the choice was not truly autonomous and genuine would be insulting. What matters for the protection of autonomy is that everyone has access to an adequate range of options, *and* that this range is not arbitrarily constrained. In other words, what matters is that human freedom rights are extensionally adequate, robust, and universal.

The second premise of the argument should therefore be recast as follows: "In order to protect autonomy and enable people to pursue their life plans, human freedom rights must be extensionally adequate, robust, and universal: *extensionally adequate*, because they grant access to an adequate range of options; *robust*, because they should not be abridged for expediency reasons; and *universal*, because they belong to every human being alike irrespective of their citizenship." Let us consider freedom of movement in light of this modified premise. In order to protect autonomy and enable people to pursue their life plans, freedom of movement should grant access to an adequate range of options, it should not be abridged for expediency reasons, and it should be held by every human being irrespective of their citizenship.

It seems that this is how we conceive of freedom of movement within borders. Once people have access to an adequate range of options, the right to domestic mobility does not grant unconditional access to wherever one likes. The interests in freedom of movement, weighty as they are, need to be balanced against other interests. The more options people have access to beyond an adequate range, the less weight the interests in freedom of movement will carry relative to other interests. Accordingly, when other (more) important interests are at stake, the latter will usually prevail over the interests in freedom of movement beyond an adequate range.

If freedom of movement granted access to the full range of existing life options, we could not explain why the government may restrict domestic mobility or impose conditions on its exercise to protect other (more) important interests even when there are less restrictive ways to do so. For instance, suppose option A and B are both equally effective in protecting public health. The difference is that A is more restrictive in terms of freedom of movement, whereas B is more costly in terms of public resources. It seems that once people have access to an adequate range of options to move, the government is not required to prioritize freedom of movement at all costs. The interests in freedom of movement beyond an adequate range are not so compelling as to decisively tip the balance in favor of B when other (more) important interests are at stake. However, if freedom of movement were extensive, it would counterintuitively call for B.⁸ The government would have to devote more public resources (option B) until there was no longer any need to restrict freedom of movement (option A) to protect public health, even if the interests in freedom of movement in this case are minimal compared to the interests in saving public resources that could be used to address more important needs.

⁸ In Oberman's (2016, p. 46) words, "social costs can only justify restrictions [on freedom of movement] under two conditions: (1) the costs are particularly severe, and (2) there is no acceptable alternative means to address them." Additionally, states have background or dynamic duties to address the underlying causes of freedom of movement and to minimize the costs that it imposes so that the trade-off does not arise in the first place (Oberman, 2016, pp. 51-52).

There is a tendency to compare freedom of movement with other human freedom rights such as freedom of expression.⁹ Both freedom of movement and freedom of expression are core liberal freedoms (Sparrow, 2016). Moreover, the free movement of ideas and the free movement of people can bring about similar changes in the character and membership of a community. Yet, the government is not allowed to restrict freedom of expression to prevent changes of this sort. It does not matter that the interests in freedom of expression in a particular case are not especially weighty or that there are other (more) important interests at stake. There is a strong presumption in favor of freedom of expression that can only be overridden in exceptional circumstances. States should afford the right to immigrate the same protection, when traded off against other interests, that they afford freedom of expression (Oberman, 2016, p. 50).

If the citizens of X have rights to control the future shape and direction of their community, then it is hard to see why it would be permissible to restrict the freedom to immigrate but impermissible to restrict freedom of speech (Freiman & Hidalgo, 2016, p. 9).

The same considerations that justify restrictions on freedom of movement –namely, the right of a community to control its character and composition– would also seem to justify restrictions on freedom of expression. Therefore, the two rights stand and fall together: either immigration is a human right on a par with freedom of expression, or the interest of a community in controlling its composition prevails.

This comparison is tricky, for two reasons. First, freedom of movement is unlike the right to freedom of expression because it requires public provision in addition to legal protection for its exercise. Freedom of expression is just about being allowed to express oneself, not about being provided with the means to do so. For example, if I want to publish a book, no one is under a duty to fund the publication of my book. In contrast, freedom of movement does require the state to provide people with the means to exercise it.¹⁰ People are free to move precisely because there are *public* roads, sidewalks, bridges, tunnels, and accessible transportation systems that make their movement possible. Without these publicly available infrastructures, mobility would be severely constrained, as the means of movement would be a scarce resource owned by private parties and therefore subject to their exclusive control rather than a public good provided by the state for common use.

If the bulk of public roads and parks were privatized, we would have a legitimate reason for complaint. This is because freedom of movement is not merely about being allowed to move, but also about having access to an adequate range of options to move. It makes more sense to compare freedom of movement with the right to own property. Both have a direct material impact on others, and they are subject to stricter regulation (James, 2019, p. 8). Freedom of expression cannot be regulated in the public interest, whereas freedom of movement and the right to own property can.¹¹ Thus, if the expression of libertarian ideas were to lead to the privatization of public roads, we could not restrict the expression of such ideas, but we could set strict limits to the privatization of roads. By contrast, if freedom of movement were like freedom of expression, we could not oppose the privatization of public roads. As long as the state did not arbitrarily interfere with people's freedom of movement, they would have no legitimate reason for complaint.

Second, even if freedom of movement were like freedom of expression and should not be regulated in the public interest, it still does not follow that freedom of movement is extensive. No human freedom right grants unqualified access to the full range of existing life options. For example, freedom of expression does not include libel and disclosure of private information. Similarly, there is no right to trespass onto others' private property and to jaywalk. If human freedom rights are to protect autonomy and enable people to pursue their life plans, they cannot be extensive. Otherwise, we could have our autonomy constantly infringed by others and we would be unable to reliably pursue our legitimate life plans. There are limits to the range of options people can access, namely, those imposed by others' rights.

Oberman might respond that his argument is not that human freedom rights grant access to the full range of existing life options, full stop. Rather, the argument is that human freedom rights protect access to the full range of existing life options from arbitrary interference by the government. There is nothing arbitrary in the government restricting this range to protect other people's human rights. What is arbitrary, he might say, is

⁹ Freedom of movement has also been compared to reproductive freedom (Brezger & Cassee, 2016; Meijers, 2022). I focus on freedom of expression instead because the latter is among the most robust of human rights. Moreover, the analogy between freedom of movement and reproductive freedom has been cast into doubt (see Carnes, 2018; Ferracioli, 2018).

¹⁰ Suffice it to say, freedom of movement does not grant unconditional access to wherever one likes; nor does it entitle one to the resources needed for travelling. For example, I may want to visit Las Vegas, but others are not required to bear the costs of my trip. However, this is precisely because human rights, including freedom of movement, do not provide access to the full range of existing life options, but only to an adequate range. By contrast, if I were denied access to the physical environment and communal spaces around which my life revolves, my autonomy would be seriously infringed.

¹¹ When I say that freedom of expression cannot be regulated in the public interest, I mean that it must not be sacrificed for the general benefit or to promote collective welfare, not that it cannot be (temporarily) restricted to protect the rights of individuals and preserve the basic conditions of democracy and the social order. On the other hand, the fact that freedom of movement is robust does not mean that it cannot be regulated in the public interest. It is one thing to say that the government must not restrict freedom of movement for expediency reasons, it is quite another to deny that the government may regulate freedom of movement in the public interest. For example, the government should not restrict domestic mobility without due cause and remove me from my dwelling unless it is strictly necessary, but there are limits on where I can move to and the terms on which I can settle in a place. The former involve arbitrary restrictions on freedom of movement and settlement, whereas the latter refer to the proper contours of the right. It is perfectly possible to treat freedom of movement (and more in keeping with how we conceive of other human rights such as the right to freedom of occupation and to own property) as both robust and subject to public regulation.

when the government coercively prevents access to the full range of options without it being necessary to protect human rights. Note, however, that what is doing the argumentative work here is not the right to access the full range of existing life options, but the fact that this range should not be arbitrarily restricted. In other words, it is because human freedom rights are robust and universal that the government cannot arbitrarily restrict the range of options human freedom rights grant access to nor the people who can make use of these rights. What is at stake is, of course, whether this range should be extensive or extensionally adequate. To insist that human freedom rights are extensive because they grant access to the full range of existing life options simply begs the question.

3. The scope of freedom of movement

Let us return to the “adequacy” objection, according to which domestic mobility could be arbitrarily restricted by states offering a more than adequate range of options. This objection does not apply to the modified premise because the latter claims that human freedom rights should not be abridged for expediency reasons and that everyone is entitled to their protection. Accordingly, states may not arbitrarily restrict freedom of movement within borders even though they provide access to an adequate range of options. One might worry that the above response is too quick, since there appear to be cases where interfering with people’s choices is clearly impermissible despite their having access to an adequate range of options. Consider the following example:

Bradley receives several job offers. But he especially wants to work in a firm where his friends work. [...] Imagine that another person, Ron, stands next to the firm’s building [and prevents him from taking up that job offer]. [...] It is wrong for Ron to interfere with Bradley’s liberties, even though Bradley has adequate options (Hidalgo, 2014, pp. 219-220).

The wrongness of the interference does not lie in Bradley’s inability to access the full range of existing job options, but in the fact that his human right to freedom of occupation is being arbitrarily constrained. In other words, the example does not show that human freedom rights are extensive, such that people are entitled to access the full range of existing life options. Rather, what the example shows is that human freedom rights are robust and universal, such that people should not be prevented from accessing a particular option without due cause. In fact, restricting access to a particular option is not always wrong. For example, imagine that Bradley is refused entry to a food bank on the grounds that he earns sufficient income to afford buying food. There seems to be nothing wrong with preventing him from accessing the food bank’s resources because he already has access to an adequate range of options. By the same token, one might argue, states should not refuse entry to immigrants who come from countries where their human rights are not adequately protected, but they may refuse entry to those immigrants whose human rights are adequately protected at home.

However, there is still the question of scope, namely, how far freedom of movement ought to extend. It makes no sense to say that human freedom rights are robust and universal if the range of options they grant access to or the group of people who are entitled to their protection can be narrowed down by conveniently drawing the scope of freedom of movement. Otherwise, the government could arbitrarily restrict human freedom rights by arbitrarily defining the scope of freedom of movement. For example, it could argue that a particular area does not count as part of the state territory for the purposes of claiming asylum (Shachar, 2019, pp. 115-119) or it could break up its territory into a thousand petty fortresses by declaring the different parts independent (Weltman, 2021, pp. 263-264). More to the point, if freedom of movement should not be abridged for expediency reasons even though people already have access to an adequate range of options, then why does this only apply to freedom of movement within borders but not to freedom of movement across borders? Call this the “arbitrary scope” objection.

On the one hand, if one wants to avoid the adequacy objection, one needs to define the scope of freedom of movement in independent terms –for example, in terms of what counts as sufficient freedom of movement for its own sake–, rather than in terms of access to an adequate range of options. In this way, the state could not arbitrarily restrict freedom of movement even though it provides access to an adequate range of options. But how can we determine what counts as sufficient freedom of movement in a non-arbitrary way without first defining what counts as an adequate range of options to move? On the other hand, if we define freedom of movement in terms of access to an adequate range of options, then the state could restrict the freedom of movement of those who already have access to an adequate range of options, so we would fall prey again to the adequacy objection.

The problem seems to be that to determine what counts as an adequate range of options, one needs to know first what counts as sufficient freedom of movement. People need to have sufficient freedom of movement to have access to an adequate range of options. However, unless we know what counts as sufficient freedom of movement in terms of access to an adequate range of options, we cannot define the scope of freedom of movement in a non-arbitrary way. This poses no problem for those who argue that human freedom rights are extensive. But for those who, like me, claim that human freedom rights grant access to an adequate range of options, the question of scope is crucial.

I do not think we need to know what counts as sufficient freedom of movement to define the scope of freedom of movement in terms of access to an adequate range of options. The confusion lies in the fact that freedom of movement is both intrinsically and instrumentally valuable. That is, people need to have sufficient freedom of movement to be able to move *and* to be able to exercise their human rights. Therefore, when we talk about the scope of freedom of movement, we need to distinguish between the scope for the exercise

of the human right to freedom of movement (*intrinsic* scope) and the scope for the exercise of other human freedom rights (*instrumental* scope).

If human freedom rights were extensive, the scope of freedom of movement would be one and the same, corresponding to the whole world. In such case, the scope of freedom of movement would be overdetermined, explained both by the fact that human freedom rights are extensive (and therefore the *instrumental* scope of freedom of movement needs to be extensive as well) and by the fact that freedom of movement is a human freedom right (and therefore the *intrinsic* scope of freedom of movement would itself be extensive). But when defining human freedom rights in terms of access to an adequate range of options, we need to be careful not to conflate the intrinsic with the instrumental scope of freedom of movement. While the scope of freedom of movement is extensionally adequate in both cases, the underlying rationale is different in each case. The intrinsic scope of freedom of movement is determined by the fact that people need to have an adequate range of options to move, whereas the instrumental scope of freedom of movement is determined by the fact that it grants access to an adequate range of options.

We do not need to determine what counts as an adequate range of options to move independently of what is necessary to have access to an adequate range of options in order to define the scope of freedom of movement because the range of options it grants access to is determined by what is necessary to protect autonomy and enable people to pursue their life plans, not by what constitutes sufficient freedom of movement as such. In other words, we do not need to determine the intrinsic scope of freedom of movement to define its instrumental scope because the intrinsic function of freedom of movement is already subsumed by its instrumental function, namely, the protection of autonomy. Freedom of movement is necessary for the protection of autonomy because it provides access to an adequate range of options, both in terms of freedom of movement for its own sake and in terms of what is necessary to have access to an adequate range of options.

By focusing on the protection of autonomy in terms of access to an adequate range of options, we do not need to determine independently what counts as sufficient freedom of movement to define its scope. Rather than asking how much freedom of movement is sufficient as such, we need to ask how many options constitute an adequate range for the protection of autonomy. Does this mean that we should carve up state borders so that they contain exactly an adequate range of options, nothing more and nothing less, as the adequacy objection entails? That would be the case if the only function of freedom of movement were the protection of autonomy and if having access to an adequate range of options were all that mattered for the protection of autonomy.

If all that mattered about freedom of movement were having access to an adequate range of options, there would seem to be nothing objectionable about the South African Apartheid government's restricting its black citizens' freedom of movement, since arguably they still had access to an adequate range of options. This suggests that there is more to freedom of movement than having access to an adequate range of options. As the state-centered view asserts, freedom of movement is also important for the exercise of political agency. If the state could arbitrarily restrict freedom of movement within borders, citizens could not effectively participate in the democratic process. Equally important, the right to domestic mobility serves as a check on governmental power. It protects everyone, not just citizens, from domination by the state and other powerful groups therein. When governments seek to control their population or to oppress a minority, one of the most effective measures consists in restricting freedom of movement. It is therefore not enough that freedom of movement grants access to an adequate range of options (the "extensional adequacy" condition); everyone should enjoy this right on an equal footing with others (the "universality" condition); and it should not be abridged for expediency reasons (the "robustness" condition). This explains why states should not arbitrarily restrict freedom of movement within borders even though they provide access to an adequate range of options.

The problem, one might insist, is that the scope of freedom of movement, defined as it is by (current) state borders, is itself arbitrary. As we have seen, states vary greatly in terms of size and degree of development. As a result, they do not always grant access to an adequate range of options, or conversely, they grant access to a more than adequate range. Is there a non-arbitrary way of defining the scope of freedom of movement that does not involve the redrawing of borders? I believe there is. We should determine the scope of freedom of movement by reference to the agent that is responsible for the protection of autonomy. In the present world, each state is primarily responsible for the protection of autonomy, so there is nothing arbitrary in defining the scope of human freedom rights, whose aim is the protection of autonomy, by reference to the very agents that are responsible for its protection.

The state is in a unique position not only to protect our autonomy, but also to infringe upon it. Accordingly, states owe some protections to those over whom they exercise political authority. Those protections take the form of human rights, which comprise the minimum conditions that people must be afforded to protect their ability to make autonomous choices about their lives free from state interference. Even if would-be immigrants are subject to the coercive power of border controls, they are not subject to the pervasive web of laws that shape the lives of citizens and residents. Only the latter can have their autonomy and political agency systematically *denied* by the state, and it is precisely against those sorts of threats that human rights, including freedom of movement, are intended to protect. Freedom of movement is therefore both a human freedom right necessary for the protection of autonomy and a political right properly held against the state.

A corollary of my argument is that those who lack access to an adequate range of options at home should not be prevented from moving. Following Blake (2013, p. 125), states have a right to exclude unwanted immigrants only when "these immigrants already have adequate rights-protection within their countries of origin [...]. The argument only holds, that is, when there in fact *is* adequate rights-protection in the country from which the individual

is seeking to emigrate.” When immigrants come from countries that are either unable or unwilling to protect their basic human rights, there is a *remedial* responsibility on the part of other states to let them in (Song, 2019, p. 115). But this is not the same as saying that there is a human right to immigrate to the state of one’s choosing. The remedial argument for the right to immigrate is limited in two important respects: first, it is limited in the number of people who can make use of this right –only those people who do not have access to an adequate range of options in their own countries or whose human rights are threatened at home can claim a right to immigrate; and second, it is limited in the number of countries that the right grants access to– namely, to any *one* country which offers an adequate range of options and protects basic human rights (Miller, 2007, p. 206).

4. Conclusion

In this article, I have argued that freedom of movement is a human freedom right necessary for the protection of autonomy and a political right properly held against the state. The fact that it is a human freedom right explains why everyone is entitled to freedom of movement irrespective of their citizenship, and the fact that it is a political right explains why it does not extend across state borders. People do not need to have access to the full range of existing life options to be autonomous, but they do need to be secure in the exercise of their rights. If the state could arbitrarily interfere with freedom of movement within borders, people’s ability to autonomously pursue their life plans would be severely undermined.

Nevertheless, the importance of freedom of movement goes beyond the protection of autonomy. It is also necessary for the exercise of political rights and to protect people from potential abuses by their government. If freedom of movement is to provide a check against governmental power, it should not be abridged for expediency reasons, and everyone within the state should be afforded this right. However, the values of autonomy and political agency do not seem to require one to have access to the full range of existing life options. People need to have an adequate range of options to move to be able to pursue their life plans, and this range should not be arbitrarily restricted to avoid domination by the state, but their freedom of movement extends no further than that.

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