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Introduction

Much of the debate over the justice of immigration restrictions properly focuses on their impact on would-be migrants. For their part, defenders of immigration restrictions often focus on the potentially harmful effects of immigration on residents of receiving countries. In this article, I cut across this longstanding debate by focusing on ways in which immigration restrictions inflict harm on natives, specifically by undermining their economic liberty. The idea that such effects exist is far from a new one. But this article will examine them in greater detail. It focuses on both the libertarian “negative” view of economic freedom, and the more “positive” vision advanced by left-liberal political theorists.

Immigration restrictions severely undermine both types of economic liberty. That does not, by itself, prove that all such restrictions should be abolished. But it does strengthen the case for abolition, from the standpoint of a wide range of liberal and libertarian views. The issue is not just that migration restrictions reduce the economic liberty of natives, but that they do so on a vast scale – far more than is conventionally recognized. That applies to both negative and positive economic freedom.

Immigration policy raises a wide range of normative considerations, many of which cannot be addressed here. In this article, I focus on dimensions related to negative and positive economic freedom of natives, and argue that both weigh heavily against migration restrictions, from the standpoint of any theory that assigns significant value to

one or both of these types of liberty. Obviously, restrictions might still be justified on a variety of other grounds. But the economic freedom of natives is a crucial factor from a variety of standpoints.

I use “natives” to refer to all current citizens of receiving nations, which often includes many who were born elsewhere, but acquired citizenship either by naturalization, or by virtue of being foreign-born children of citizens. I use the term “natives” in this way because it is less clumsy than “current citizens” or other available formulations.

Part 1 of the article focuses on libertarian approaches to economic freedom. It shows that migration restrictions severely restrict the negative economic liberty of natives. That is true both on libertarian views that value such freedom for its own sake,¹ and those that assign value to it for more instrumental reasons, such as promoting human autonomy and enabling individuals to realize their personal goals and projects.²

In Part 2, I take up left-liberal “positive” theories of economic freedom, which primarily focus on enhancing individuals’ access to important goods and services and enabling them to have the resources necessary to live an autonomous life.³ Some also focus on expanding human capacities generally.⁴ Many give special emphasis to enhancing the economic prospects of the poor.

Here too, migration restrictions impose severe costs on natives. To the extent migration can sometimes harm the economic prospects of natives, the issue is better dealt with by “keyhole solutions” that address specific problems by means other than restricting migration.

Part 3 provides a brief overview of how to address situations where potentially harmful side effects of migration might undermine either negative or positive economic liberty of natives, without actually restricting migration. I have addressed such issues in greater detail in previous work,⁵ and here provide only a short summary of my framework for doing so. In this article, I do not address other, non-economic freedom related justifications for restricting migration rights. These include claims that immigration can be restricted to maintain the ethnic or cultural self-determination rights of natives, or to prevent negative side-effects of migration unrelated to economic liberty. But I have considered such arguments in detail elsewhere.⁶

A number of previous works have emphasized some of the harmful effects of migration restrictions on the economic freedom of natives, particularly of the negative kind.⁷ But they have not highlighted its immense scale. Nor have they combined into a single framework the effects on negative economic freedom and those on the positive kind. As discussed below, there is a synergy between the two. Expanding negative economic freedom through immigration also increases the positive kind.

The effect of immigration on the economic liberty of natives is far from the only issue at stake in debates over migration rights and policy. But it is nonetheless an important component of the discussion. It is particularly relevant from the standpoint of theories that emphasize governments' special duties to their own citizens.⁸ To the extent that migration restrictions inflict great harm on those citizens – from the standpoint of a range of different normative theories of economic liberty – the case for breaking down barriers to migration rights becomes stronger.

1. Libertarian Theories of Negative Economic Freedom

Prominent libertarian political philosopher Robert Nozick famously described economic freedom as “capitalist acts between consenting adults”.⁹ This is a great shorthand for the topic considered here. Economic liberty can be understood as the right to engage in consensual transactions involving the exchange of goods and services of many different types. Some libertarian theorists, including Nozick himself, value such liberty for its own sake.¹⁰ Others support it for more instrumental reasons, such as the promotion of autonomy and empowering individuals to pursue their personal projects.¹¹

It is easy to see how migration restrictions massively constrain the economic liberty of potential migrants. In many cases, they end up being cut off from a vast range of economic opportunities in freer, wealthier societies, and thereby consigned to a lifetime of poverty and severely constrained options under repressive and corrupt governments. There is already a substantial literature on these points, which I will not try recapitulate in detail.¹²

A few works have also noted that immigration restrictions constrain the negative economic liberty of natives, as well.¹³ It is not hard to see the logic. If the government bars a potential immigrant from entering the country, and thereby prevents her from starting a business, that restricts potential economic transactions by her employees and customers, many of whom would be natives. Similarly, if immigration restrictions bar migrant workers and renters, that reduces opportunities available to native employers, customers, and landlords, among others.

The issue is not simply that these natives have fewer economic opportunities than they would otherwise. At least from the standpoint of libertarian and other similar

theories of negative liberty, a reduction in opportunities is not by itself a reduction in economic liberty. For example, if Jane rejects my offer to become my research assistant, and instead accepts a more lucrative opportunity somewhere else, there is no reduction in my negative economic freedom, even though I lose the opportunity to have her as an employee.

Rather, negative economic liberty is undermined only when opportunities are barred through some sort of coercive action, either by the government or some other entity. In the case of immigration restrictions, such coercion is very obviously present, as would-be migrants are literally forcibly prevented from entering the country in question and pursuing opportunities there.¹⁴ If they choose to enter illegally, they risk being forcibly deported and even subjected to criminal penalties.¹⁵ As Joseph Carens puts it, “[b]orders have guards and the guards have guns.”¹⁶ While those guns are most often trained at migrants, the coercion involved also restricts the liberty of natives.

Current US law also imposes penalties (albeit civil fines, rather than criminal ones) on employers who hire undocumented immigrants.¹⁷ In this case and others like it, the guns are aimed at natives, as well.

In sum, coercive restrictions on migration are unavoidably also coercive restrictions on natives’ rights to engage in economic transactions with would-be immigrants. This is true even if the law only imposes direct penalties on migrants rather than natives. The latter are nonetheless affected by the former. But in fact, the law often directly coerces the natives, as well, most obviously in the case of employers punished for hiring undocumented immigrants, and also when it comes to laws punishing citizens who aid, harbor, employ, or abet illegal migrants in various ways.¹⁸ Many of those liable

to such punishment are, of course, people who seek to engage in economic transactions with immigrants.

Even if we assume that only “direct” constraints on economic liberty are morally significant, migration restrictions routinely impose such limitations on natives, as well as immigrants, often backed by the threat of criminal punishment. In fact, however, even a system that inflicted direct punishment only on migrants, nonetheless restricts the liberty of others. Few would dispute this in the case of restrictions on internal transactions. When segregation laws restricted the mobility of blacks, that clearly also restricted the liberty of whites who wished to engage in transactions with them. More generally, if a law bans Anne from engaging in economic transactions with Bob, it seems clear that the liberty of both is restricted, even if the law states that only Anne will suffer punishment, in the event of a violation.

Less obvious than the brute fact that migration restrictions constrain the negative economic liberty of natives is the enormous extent of that constraint. Few, if any, current government policies in the US and other liberal democracies, constrain natives’ economic freedom more. That is because immigration restrictions bar a truly enormous number of “capitalist acts between consenting adults,” as Robert Nozick called them.¹⁹

Prior to the Covid-19 pandemic, the United States usually took in some 1 million legal immigrants per year,²⁰ a figure that has recently been regained, after a steep decline.²¹ Even a relatively modest 10% increase in that figure would mean an extra 100,000 immigrants each year, and 1 million more over ten years. If we assume, very conservatively, that each of these people – if allowed into the United States - engages in five economic transactions per year with natives, that means failure to increase the

immigrant intake by 10% forestalls 500,000 such transactions in the first year alone, and 5 million transactions over ten years.

And that's just from the 100,000 people barred in the first year included in the analysis. If we expand our frame of reference to include the would-be migrants barred in Year 2, Year 3, and so on, we quickly end up with hundreds of millions of coercively prevented economic transactions with natives. The figure increases even more once we compare the status quo not to the modest reform of a 10% increase in legal migration, but to total abolition of immigration restrictions.

Economists estimate that the abolition of migration restrictions throughout the world would eventually double the world's gross domestic product (GDP).²² This is based on the reality that many millions of people are trapped in dysfunctional and oppressive political systems and could greatly increase their productivity if given the chance to move to freer, more prosperous societies. Upon integration in their new homes, they can take advantage of the "place premium" from working in a location with better economic and political institutions.²³

The rise of remote work during the Covid-19 pandemic might potentially reduce place premiums. Instead of moving to the United States, an Indian or African worker could potentially just work remotely for a US-based firm. But data indicate that only about 18-26% of workers in advanced economies such as those of the US and Western Europe can work remotely three or more days per week; many of those who can do so are still likely to be more productive if they can meet in-person with colleagues or customers on a regular basis.²⁴ While technological breakthroughs could potentially increase the

percentage of jobs that can be done entirely remotely, place premiums are likely to remain major factors in productivity for a long time to come.

If mainstream economists' estimates of the economic effects of free migration are even remotely close to correct, this implies that migration restrictions forcibly blocking a truly enormous number of beneficial economic transactions between immigrants and natives. Economic liberty is restricted on an almost unimaginably vast scale. This remains true even if abolishing migration restrictions would "only" increase world GDP by, say, 25% or 50%, instead of doubling it. The quantity of economic transactions forcibly blocked by migration restrictions would still be enormous.

At least in the United States, the scale of the effect is magnified by the fact that, relative to natives, immigrants are more likely to engage in entrepreneurship, establish new businesses, and contribute to scientific innovation.²⁵ US immigration restrictions are particularly significant in reducing scientific innovation by immigrants and their children, because the United States has so many of the world's most important research facilities.²⁶

Barring people who contribute disproportionately to entrepreneurship, business formation, and scientific innovation likely blocks even more beneficial economic transactions than barring an equivalent number of statistically average people would. The former likely engage in more and larger transactions with more natives, than the latter. For present purposes, it is largely irrelevant whether the disproportionate representation of immigrants in innovation and entrepreneurship is due to selection effects (immigrants are more likely to be risk takers), the fact that immigrants are, on average, younger than natives, or some other factor. Social science data suggest that multiple factors are likely at work.²⁷ Regardless of the precise explanation for this

disparity, it magnifies the degree to which migration restrictions constrain economic liberty.

In some cases, one can argue that the impact of migration restrictions on natives' economic freedom is minimal, because natives could substitute transactions with other natives, or with those immigrants who are allowed to enter, even in spite of restrictions. There are indeed likely to be situations where there is little difference between a transaction with a would-be immigrant who gets barred, and the next-best alternative. But there are also likely to be many cases where the difference is large. That is especially likely to be true if the person excluded makes a significant entrepreneurial or technical innovation. Even if only a small fraction barred immigrants would have achieved such innovations, the absolute number of high-value transaction barred by their exclusion may still be large.²⁸ For example, even if only 10% of economic transactions between immigrants and natives involve situations where there is a large gap - from the natives' perspective - between this exchange and the next-best alternative, that still means that immigration restrictions block hundreds of thousands – perhaps even millions – of “high-value” transactions every year.

Another way of gauging the enormous impact of immigration restrictions on the economic liberty of natives is to compare it to the effects of deporting large numbers of native-born workers, comparable in magnitude to the number of would-be migrants excluded by immigration restrictions. If, for example, the United States were to deport 1 million natives, few would deny that would have a massively negative effect on the economic liberty of those who remain, even if we discount entirely the impact on the liberty of those deported. The same point applies to excluding a comparable number of

migrants, especially if the two groups were roughly comparable in skills and demographics, but even if they were not.

Expulsion of natives might have a greater effect in so far as it would disrupt more existing relationships, such as those between employees and their employers, for example. But that would be at least partly offset by the greater average propensity of immigrants to work, innovate, and establish new businesses.²⁹ At the very least, the two scenarios are both likely to have effects on economic liberty in the same rough general ballpark. Even if excluding one would-be immigrant, on average, had “only” 25% or 50% as much of a negative impact on natives’ economic liberty as expelling one native, the former would still lead to very high aggregate estimates of the effects of immigration restrictions, given the vast numbers of migrants barred by them.

The enormous impact of migration restrictions on natives’ negative economic freedom holds true regardless of whether we assess it from the standpoint of deontological libertarian theory, or under approaches where its primary value resides in its effects on autonomy or the pursuit of life plans and “projects.”

From a deontological libertarian or libertarian-leaning perspective, almost every coercive restriction on economic liberty is a significant rights violation.³⁰ From this standpoint, it does not matter whether the next-best alternative to interacting with a barred immigrant is desirable or not. Some deontological viewpoints might downplay or even ignore the significance of very minimal restrictions on economic transactions. For example, if each such transaction is subject to a one cent tax, that might be too petty to qualify as a meaningful constraint. But that surely is not true if the transactions are subject to heavy civil fines (as under current US law), or if they are prevented entirely

because the person who might have entered into them with you has been deported or blocked from entering the country to begin with.

Any theory that assigns intrinsic value to negative economic liberty at all would have to count such constraints as at least somewhat significant. And even if each individual blocked transaction is only a small constraint on economic liberty, the aggregate impact of many millions of them still adds up to a massive effect.

From a more instrumental standpoint, some exchanges are more significant than others. For example, blocking a transaction that opens up a rewarding new career may impact autonomy or project pursuit more than blocking some minor exchange.³¹ Occupational choice may be a particularly important component of autonomy, in so far as it can affect the trajectory of an entire life.³²

But whether we value all voluntary economic transactions more or less equally or give special priority to some, migration restrictions block a truly vast number of them, for natives as well as for potential migrants. Thanks to migration restrictions, many thousands, perhaps even millions, of natives are cut off from careers that might otherwise open up to them, thanks to immigrant entrepreneurs. Others are barred from opportunities that would be created by scientific and technological innovations immigrants disproportionately facilitate.³³ And all of these effects are on a vast, almost unimaginable scale.

The enormous scale of immigration restrictions reduces the significance of debates over how morally significant each individual blocked transaction is. Even if each individual instance is of only minor significance, the cumulative impact of millions of such cases is still great. If only a small proportion of the transactions (e.g. – 1% or 10%)

have high importance (e.g. – those that involve innovations, or those that help people start a new and more rewarding career), that still translates to a huge aggregate number of high-value transactions blocked – many thousands every year.

If any other policy adopted by liberal democratic governments restricts economic liberty more than migration restrictions do, it is difficult to see what it is. Perhaps the War on Drugs is a possible competitor, as it leads to the arrest and imprisonment of hundreds of thousands of Americans every year, and blocks numerous potentially valuable economic transactions.³⁴ But, unlike migration restrictions, drug laws do not block *all* economic transactions that any significant group of people might undertake within a given country. They only block those involving specific banned substances, which (for the vast majority of citizens) are a small subset of the total range of transactions those people could engage in. By contrast, immigration restrictions categorically bar all transactions that require the excluded person's presence in the destination country. A Mexican or an African barred from the United States by immigration restrictions is not simply barred from selling a few specific substances in the US; she is barred from doing *anything* there. And that, in turn, imposes a vast range of constraints on any Americans who wish to engage in activities that require her presence in the country.

The question of how to measure negative liberty is a disputed one, and there is no consensus on the subject.³⁵ But the effects of immigration restrictions on it are gargantuan under any plausible approach to measurement. Whether we weight each transaction equally or give greater weight to more important ones; whether we take a deontological approach to liberty or a more consequentialist one, it is hard to avoid the conclusion that the impact is enormous.

The direct effects of immigration restrictions on natives' negative economic liberty are enormous, by themselves. But restrictions also have a number of significant indirect effects that are also substantial.

Immigration restrictions almost always require an extensive enforcement apparatus to make them effective. That, in turn, requires significant restrictions on the economic liberty of natives, not just that of migrants. It is virtually impossible to restrict the latter, without also regulating the former. Such indirect effects of migration restrictions on natives can have a big effect on economic liberty.

Perhaps the most striking example is the way in which many US citizens are caught up in the machinery of detention and deportation established to apprehend and expel illegal migrants. In the 1930s, the US government deported some 600,000 American citizens to Mexico, mostly Mexican-Americans whom the authorities mistook for undocumented migrants.³⁶ Such practices persist on a smaller, but still substantial scale, today.

Political scientist Jacqueline Stevens estimates that the federal government detained or deported some 4,000 American citizens in 2010 alone, with a total of 20,000 between 2003 and 2010.³⁷ These abuses are rooted in the extremely low levels of due process afforded in immigration detention and deportation proceedings, compared most other severe restrictions on liberty.³⁸ In principle, these practices can be reformed and stronger protections against mistaken detention and deportation introduced. But doing so would make it difficult to quickly deport large numbers of migrants to begin with. Between 2007 and 2018, the United States deported well over 300,000 migrants every year, except one (295,000 in 2017) a staggering number that would be difficult to handle if extensive due process protections were required.³⁹

In addition to infringing liberty more generally, detention and deportation are severe constraints on economic liberty, specifically. At the risk of stating the obvious, people who are detained or deported are severely limited in their ability to engage in Nozickian “capitalist acts between consenting adults.”

While not as drastic in their impact as detention and deportation, other aspects of migration restriction policy also indirectly restrict the economic liberty of natives. For example, efforts to regulate employers to prevent them from hiring illegal migrants also raise the cost of hiring other workers, by requiring ID and background checks that create new expenses and often lead to “false positives” (misidentifying US citizens as undocumented migrants).⁴⁰ Similarly, the construction of walls and other barriers in order to keep out migrants along land frontiers such as the US border with Mexico often requires the use of eminent domain to seize private property,⁴¹ which in turn severely impedes the economic liberty of owners.⁴²

Some argue that libertarian and other similar theories of freedom can justify immigration restrictions on the grounds that governments have a right to exclude migrants at will for the same reasons that private property owners have the right to exclude trespassers, and members of private clubs can bar new members.⁴³ I have criticized such theories in detail elsewhere.⁴⁴ Here, I will only reiterate the point that acceptance of the idea that national governments are entitled to the same sorts of powers over their territories as homeowners and club members would entail the near-total destruction of liberty for natives, no less than immigrants.⁴⁵

For example, homeowners and club members have the right to restrict speech and religion on their land (and in the case of clubs to limit membership to those who espouse

particular religious and political views). They also, of course, can impose tight restrictions on virtually any economic transactions on their property. Clubs can obviously restrict membership to those who abjure particular types of transactions. In this way, acceptance of the analogy between governments and private clubs or homeowners would eviscerate libertarian economic liberty, as well as other rights valued by libertarians – and liberals more generally.

These quasi-libertarian arguments for a general right of governments to exclude migrants are distinct from narrower claims that exclusion is sometimes justified on the basis of specific negative side-effects of migration. Some of these might potentially threaten negative economic liberty, such as claims that immigrant voters might support illiberal economic policies, or claims that immigration will overburden the welfare state, thereby undermining economic freedom. I outline a framework for dealing with such issues in Part 3.

2. Immigration and Positive Theories of Economic Freedom

Positive theories of economic freedom, advanced primarily by left-liberals, have a very different focus from negative ones defended by libertarians. Broadly speaking, theories of positive economic liberty can be divided into two categories. Some focus generally on expanding access to economic resources and transactions, so as to widen the range of choice available to people and increase their capacities.⁴⁶

Others place special emphasis on ensuring access to resources and opportunities for the poor and disadvantaged, most notably in the case of John Rawls' famous "difference principle," which requires economic inequalities to be structured in ways that

maximize benefit to the least well-off group within a society.⁴⁷ Still other theories combine these two themes in various ways, emphasizing both the need to prioritize the poor, and to ensure generally widespread expansion of economic choice and autonomy.⁴⁸

Unlike negative-liberty theorists, positive-economic liberty advocates do not necessarily assign any inherent value to market economic transactions. They value them, if at all, only in so far as such transactions enhance human choices and capabilities, and improve the lot of the disadvantaged. If these goals are better achieved through government intervention that limits market transactions than by more laissez-faire policies, positive liberty advocates have good reason to support the former at the expense of the latter. Nonetheless, it turns out that migration restrictions are a serious threat to positive economic liberty, just as they also undermine the negative kind. They do so not because of the intrinsic value of economic transactions blocked by immigration restrictions, but because of their instrumental effects.

If the relevant frame for applying positive-liberty theories is the population of the entire world, then the case for a strong presumption in favor of “open borders” migration rights is easily made. Freedom to migrate can expand positive economic freedom for millions of people around the world, whose options are now severely limited. Moreover, many of them are among the world’s poorest and most oppressed people. Enabling them to move to wealthier and freer societies would simultaneously vastly expand economic freedom conceived of as increased autonomy, choice, and capability, and *also* disproportionately benefit the poor, thereby greatly reducing economic inequality.⁴⁹

Things are more complicated if the focus is limited to natives of the receiving country, as demanded by some political theorists who argue that governments have a

right to exclude migrants in order to benefit the former, or that principles of equal opportunity and distribute justice apply primarily within national borders, not across them.⁵⁰ In that event, the benefits of migration to migrants – even the poorest among them – become of little significance compared to the impact on natives.

However, there is compelling reason to conclude that a strong presumption in favor of open migration will also greatly expand the positive economic freedom of natives. As already noted,⁵¹ eliminating migration restrictions would create vast new wealth, potentially doubling world GDP. Such an enormous expansion of productivity and resources could hardly avoid creating enormous benefits for natives, as well as immigrants. Even if the former captured “only,” say, 20% of the new wealth, that would still be a dramatic improvement in their position relative to the status quo. And that is likely to be case whether the freedom in question is defined as access to resources, opportunities to improve human capacities, or some combination of both.

Moreover, some of the new wealth is likely to be used in ways that create especially large benefits in expanding positive economic liberty for natives (as well as migrants). As discussed in Part 1, immigrants disproportionately contribute to scientific and medical innovation. Many such innovations create literally life-saving benefits. A dramatic recent example highlights this point.

Both of the two most successful Covid-19 vaccines developed so far – those produced by Pfizer and BioNTech, and Moderna - were produced in large part by immigrants from poor nations, or children thereof, who could have made these pathbreaking contributions had they or their parents been forced to remain in their countries of origin. Noubar Afeyan, co-founder of Moderna, emigrated with his parents

from Lebanon to Canada, as a teenager.⁵² Ugur Sahin and Ozlem Tureci, the husband and wife team that founded BioNTech, are children of Turkish immigrants who came to Germany as low-skilled guest-workers.⁵³

These vaccines have saved many millions of lives around the world.⁵⁴ And immigration made them possible. It is also obvious that, in the process, they have greatly expanded positive economic freedom. It is difficult or impossible to exercise any such freedom if you are dead or seriously ill from Covid, and also hard to do so in an economy that remains paralyzed by the pandemic, as many would be to a much greater extent, absent vaccination.

Perhaps one can argue that these benefits will be captured so long as potential innovators can migrate to *some* nation where they can reach their potential, even if many doors remain closed to them. But the more are closed, the more such people will be excluded from the place where they could be at their *most* productive, even if there are still opportunities available to them better than those in their countries of origin.

More broadly, technological and scientific innovation is crucial to expanding positive freedom over time. It is central to the expansion of positive economic freedom over time, by any measure.⁵⁵ To the extent that free migration increases the pace of such progress, it dramatically contributes to the expansion of positive economic liberty.

Moreover, scientific and technological progress, in most cases, disproportionately benefits the poor and disadvantaged, thus satisfying the concerns of those who believe the latter deserve special consideration in theories of economic freedom and distributive justice. The wealthy can, to some extent, use access to labor and capital to substitute for technology. As Milton and Rose Friedman famously put it, “[t]he rich in Ancient Greece

would have benefited hardly at all from modern plumbing: running servants replaced running water.”⁵⁶ This probably understates the benefits of plumbing, even for the wealthy. But there is little doubt that plumbing and many other similar innovations benefited the poor to a greater degree than the rich.

The poor also benefit disproportionately from many medical innovations, such as the Covid vaccines. They have a higher mortality rate from Covid and other contagious diseases, due to tighter living conditions, and being more likely to have to work in person, among other factors.⁵⁷

The contribution of immigrants to scientific and other innovation is so great that it by itself likely outweighs any negative effects of immigration on the positive liberty of natives, including the native-born poor. Massive reductions in disease and mortality and increases in standards of living caused by technological improvements easily outweigh such possible negative effects, as wage competition in some industries.

Immigrants’ contributions to growth and innovation through their economic interactions with natives illustrates a key synergy between promoting negative and positive economic freedom. Increasing the former by breaking down barriers to migration can in turn increase the latter, through resulting increases in wealth and improvements in technology.

In theory, benefits to the native poor from migration might be maximized by taking in only those immigrants who are likely to become entrepreneurs or scientific innovators, but barring others, who are more likely to compete with the poor for jobs, rather than benefit them. In this way, government could potentially capture the benefits

created by immigrant scientists and innovators, while keeping out many, perhaps even most, other potential migrants.

Such possibilities may be part of what underlines wide-ranging support for increasing “high skill” migration, while restricting the “low skill” kind.⁵⁸ But enthusiasm for such discrimination assumes that government can do a good job predicting which types of workers will make useful contributions and where.⁵⁹ That assumption is unlikely to be true. Many of the most successful immigrant scientists and entrepreneurs arrived as children or at other points in their lives when their future success was virtually impossible to predict. The producers of the two Covid vaccines are notable examples. The disproportionate contribution of immigrants to American scientific research is in large part due to greater propensity of immigrants who arrived as children to focus on scientific fields in their education, not the arrival of qualified scientists as adults.⁶⁰

The native-born children of immigrants to the United States and Canada are also disproportionately likely to study and enter scientific fields.⁶¹ Obviously, the success of future children of current immigrants is even more difficult for government to forecast in advance than that of immigrants themselves. More broadly, if government-controlled allocation of labor was likely to be effective, socialist states such as the Soviet Union would have had far better economic performance.

The significance of contributions from the children of immigrants also undercuts the ability of governments to predict the entrepreneurial and scientific contributions of potential migrants by using proxies such as education and income. Children of immigrants routinely do much better than their parents in these respects.⁶²

Even if government could reliably identify those immigrants most likely to produce innovators and entrepreneurs, excluding large numbers of other potential migrants would still have a major aggregative negative effect on innovation and entrepreneurship. That is true even if the chances of any one member of that group making a major scientific or commercial innovation are low.

Imagine a group of potential migrants in which only 1 in 10,000 would make significant scientific or other innovations or become a significant entrepreneur (call such people “major innovators”). Still, if a country keeps out 1 million such people, that still means depriving itself of 100 major innovators. And that number rises with time, such that 10 years of keeping out 1 million migrants per year, means depriving the destination country of 1000 major innovators, and so on.

If given the opportunity, some of these individuals might have done things like develop cures or vaccines for deadly diseases, facilitate major technological breakthroughs, and so on. A small percentage of a large number itself cumulates to a large number.

Despite the major economic advantages of freedom of movement, it is likely that some native workers are net losers from migration, because migrants compete with them for jobs, thereby reducing their wages. In the United States, studies suggest this effect is largely limited to native-born high school dropouts.⁶³ Even so, it could be argued that, from the standpoint of theories prioritizing the economic freedom of the native-born poor, such immigrants must be excluded.

However, even if some small subset of native workers are net economic losers from immigration, there are ways to address this issue without actually excluding

migrants. The most obvious solution is to tap – through taxation - some of the vast wealth created by immigration and use it to subsidize the wages of whatever group of native workers we believe are unfairly disadvantaged.⁶⁴

In this way, we can simultaneously retain the economic benefits created by migrants – including those that expand positive economic freedom for natives – and mitigate possible downsides for the native poor. Moreover, this can easily be achieved simply by utilizing existing wage-subsidy programs, such as the US earned income tax credit.⁶⁵ It does not require any major institutional innovations. There are, however, a number of other possible mechanisms by which migrants or those who employ them and consume their products, could be incentivized to pay for such programs.⁶⁶

I do not necessarily endorse such discriminatory taxes and wage subsidies. I merely contend that – from the standpoint of theories of positive economic freedom that prioritize the needs of the native-born – they are preferable to exclusion of immigrants, including “low-skill” ones. The latter can still make important contributions to economic growth and development that expand positive liberty for natives (as well as themselves). This is especially true when we recall that those who arrive as low-skill workers need not remain so, nor is it likely to be true of many of their children.⁶⁷ And wage subsidies for natives can offset the possible negative effect of competition for jobs within particular industries.

As with the impact on negative freedom, the effect of immigration restrictions on natives’ positive freedom can be gauged to some degree by analogy with the effects of deporting native-born workers. It is difficult to deny that expelling, say, 1 million of the latter from the United States would have a hugely negative impact on the positive liberty

of those who remain, even if some might benefit from a reduction in job competition. By the same token, we can expect effects of comparable magnitude from barring equivalent numbers of migrants, especially if the latter are, on average, more likely than natives to engage in innovation and entrepreneurship.⁶⁸ And, here too, even if the negative effect on natives of excluding one migrant were only 25% or 50% as great as that of expelling one native, the aggregate negative impact of immigration restrictions is still likely to be enormous.

Like negative economic liberty, the positive liberty of natives is also undermined by the indirect effects of the enforcement system for migration restrictions. For example, when natives end up getting detained or deported by government agencies tasked with expelling illegal migrants, that very obviously reduces their positive liberty.⁶⁹ Similarly, to the extent that immigration enforcement targeted at employers increases the cost of hiring native-born workers, the latter lose out on opportunities to increase their income and thereby increase their positive liberty, defined as access to goods and services.⁷⁰

3. Addressing Negative Side Effects of Migration that Could Threaten Natives' Economic Freedom

While the direct effects of immigration on economic freedom are enormously positive, it might have some negative side-effects that mitigate or even outweigh them. In the extreme case, they could even have a devastating impact on institutions that protect economic liberty, thereby “killing the goose that laid the golden egg” that makes the nation in question attractive to migrants in the first place.

Such negative side-effects could potentially lead to deterioration of negative economic liberty, positive liberty, or some combination of both. For example, many

conservative – and some libertarian – critics of immigration fear that it will lead to an expansion of the welfare state, thereby imposing a huge fiscal burden on natives and undermining negative economic freedom in the process.⁷¹

Political philosopher Anna Stilz fears a situation that is the exact opposite of the scenario that concerns those who fear that migration will lead to increased welfare spending: in-migration of opponents of the welfare state to high-welfare countries might enable the former to outvote natives, and thereby eliminate or at least greatly reduce welfare programs the latter value.⁷² Immigration could undermine those programs either by draining resources for them or by reducing voters' support for welfare-state policies (possibly out of fear that too much of the money will go to immigrants rather than the voters' co-ethnics). If that happens, it might undercut positive economic freedom for at least a good many natives.

More generally, if immigrants turn out to be terrible voters or have harmful cultural values, their influx could lead to the deterioration and degradation of liberal democratic political institutions.⁷³ That, in turn, could undermine both positive *and* negative liberty. Institutional decline could both reduce the quality of welfare state programs that underpin positive liberty and the rule of law and other legal institutions that protect the negative version. Such decline could occur either because immigrant voters support candidates and parties with terrible policies, or because migrants have problematic cultural values that degrade institutions in other ways.

I have addressed these and other possible negative side-effects of migration in much greater detail in my book *Free to Move: Foot Voting, Migration, and Political Freedom*.⁷⁴ Here, I merely summarize my general framework for dealing with them.

That framework is based on a three-part test for assessing consequentialist objections to migration rights. Before concluding that restrictions are justified, we must answer three questions in ways that rule out alternative approaches to dealing with the supposed problem at hand.

First, we should ask whether the harm in question real? Many of the standard objections to expanding migration rights are greatly overblown, including those relevant to questions of economic liberty. For example, extensive evidence indicates that immigration generally does not increase burdens on the welfare state, and that the vast majority of immigrants are net contributors to the public fisc.⁷⁵ That implies they do not pose a threat to the negative economic liberty of natives, while simultaneously creating new revenue that can be used to expand welfare programs for the latter, if those programs are seen as essential to increasing positive liberty. The available evidence also suggests that immigration – even in cases where it comes as a massive surge – does not degrade the quality of liberal democratic institutions, as assessed by a wide range of metrics.⁷⁶ Thus, there is little reason for concern that immigration will kill the goose that lays the golden egg of either negative or positive liberty.

Second, where migration creates genuine problems (including for economic liberty), we should ask whether it is possible to deal with the issue by using “keyhole solutions” that minimize the risk without barring migrants.⁷⁷ For example, if it turns out that immigrants unduly increase welfare burdens, the obvious keyhole solution is to restrict eligibility for various welfare benefits—as already occurs under the Welfare Reform Act of 1996 and similar legislation in other nations.⁷⁸ The same remedy applies if migration undermines political support for beneficial welfare state policies because

voters' fear too much welfare spending goes to immigrants rather than natives. Native voters can be reassured by limiting or – in the extreme case – even abolishing immigrants' eligibility for various welfare benefits.

If immigrant voters are somehow a threat to liberal democratic institutions, to the welfare state, or to other structures that promote economic liberty, the government can limit their eligibility for the franchise. Here too, they can build on existing measures, such as the requirement that before being allowed to vote immigrants must pass a civics test—one that, incidentally, most native-born Americans would fail.⁷⁹ Many other nations have similar requirements.⁸⁰

Exclusion of immigrants from welfare programs and other government benefits available to natives may be a case of unjust discrimination. But, if so, it is still less unjust than excluding would-be migrants from the country entirely, especially if they thereby face lifelong poverty and oppression in their nation of origin. Discriminatory exclusion from welfare benefits in a relatively free and affluent society is less inegalitarian than being barred from that society entirely, and thereby consigned to much more severe deprivation elsewhere.⁸¹

One might ask why we should be more confident of the ability of governments to implement “keyhole” solutions than of their ability to select the most productive potential migrants, while keeping out others.⁸² The answer is likely to vary based on the particular keyhole in question. But, as a general rule, the keyhole solutions I propose are ones that do not require difficult judgments about the likely future behavior of individuals and their children. They involve relatively easy to administer general rules, such as limiting migrants' eligibility for welfare (if the concern is overburdening the welfare state),

requiring people to pass a language or civics test (if the fear is that they will lack linguistic skills, or be more ignorant voters than natives), and so on. Governments can and do routinely administer such policies.

By contrast, officials are unlikely to be good at sifting immigrants based on likely future entrepreneurship in a changing economy, and still less good at predicting the propensities of their children. And, as discussed above, even if the state could separate out groups less likely to be innovative, barring them might still forestall a large absolute number of valuable innovations.

Finally, where keyhole solutions are inadequate, we should ask whether tapping the vast wealth created by expanded migration to mitigate negative side effects that cannot be addressed in other ways. For example, if—contrary to most social science research—it turns out that immigration lowers the wages of native workers (thereby potentially constraining their positive freedom), then policymakers can tap some of the wealth generated by immigration to increase wage subsidies, such as the earned income tax credit, to whichever groups are adversely affected in ways we conclude are unjust.⁸³ As with discriminatory limitations on welfare benefits, imposing this kind of tax on immigrants might be a form of unjust discrimination.. But, here too, it is less unjust and less unequal than total exclusion from the society.

In *Free to Move*, I applied this three-part framework to a wide range of other potential negative side-effects of migration, such as increased crime, environmental degradation, illiberal nativist backlash, cultural degradation, and the spread of contagious disease, such as the Covid-19 virus.⁸⁴ I do not claim that this approach can definitively resolve all possible objections to migration, or that it proves restrictions are never

justified – including perhaps some justified on grounds of protecting natives’ economic liberty. But, combined with enormous benefits of migration, the three-part test does at least greatly narrow the range of potentially defensible migration restrictions.

Conclusion

Issues related to the economic liberty of natives are far from the only ones at stake in debates over immigration. The rights and interests of potential migrants also matter greatly. By the same token, there are obviously other types of justifications for migration restrictions. But negative and positive theories of economic liberty are nonetheless central points of contention in both public and academic debates over migration rights. And the existing literature has not paid adequate attention to the ways in which breaking down barriers to migration – far from threatening the economic freedom of natives – actually enhances it. This article helps fill that gap.

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¹ See Nozick (*Anarchy, the State and Utopia*).

² See Lomasky (*Rights, Persons, and the Moral Community*); and Tomasi (*Free Market Fairness*).

³ See Taylor (“What’s Wrong with Negative Liberty”); Dworkin (*Taking Rights Seriously*); and Parijs (*Real Freedom for All*).

⁴ See Sen (*Development as Freedom*).

⁵ Somin, *Free to Move*, chap. 6.

⁶ See Somin (*Free to Move*, chaps. 5-6); and Somin (“Migration and Self-Determination,” 805-35).

⁷ For a recent important example, see Kukathas (*Immigration and Freedom*, esp. 158-63).

⁸ For a recent helpful summary overview of various arguments for privileging the interests of natives in assessing immigration restrictions, see Waldron (“Philosophical Foundations of Migration Law”).

⁹ Nozick, *Anarchy, the State and Utopia*, 163.

¹⁰ See works cited above. For overviews of different libertarian theories of economic liberty, see Mack (*Libertarianism*, chap. 4), and Brennan (*Libertarianism: What Everyone Needs to Know*, chap. 6).

¹¹ See Lomasky (*Rights, Persons, and the Moral Community*); and Tomasi (*Free Market Fairness*).

¹² See Carens (*The Ethics of Immigration*); Carens (“Aliens and Citizens: The Case for Open Borders,” 249-72); Somin (*Free to Move*, chap. 3); Van der Vossen and Brennan (*In Defense of Openness: Why Global Freedom Is the Humane Solution to Global Poverty*, chap. 2); Huemer (“Is There a Right to Immigrate?” 29–61); and Caplan (*Open Borders: The Science and Ethics of Immigration*, chaps. 1-2).

¹³ See especially Kukathas (*Immigration and Freedom*, 158-63); and Carens (“Aliens and Citizens.”)

¹⁴ For a helpful, more detailed exposition of why immigration restrictions are unavoidably coercive, see Huemer (“Is There a Right to Immigrate?”).

¹⁵ See 8 USC § 1325 (outlining criminal penalties for illegal entry into the United States).

¹⁶ Carens, “Aliens and Citizens,” 251.

¹⁷ See 8 U.S.C. § 1324(a).

¹⁸ See 8 U.S.C. § 1324(a)(1)(i)-(v) (outlining penalties for a variety of such offenses).

¹⁹ Nozick, *Anarchy, the State, and Utopia*, 163.

²⁰ Somin, *Free to Move*, 202. This level has recently been regained. See Somin (“US Regains Pre-Trump, Pre-Pandemic Levels of Migration”).

²¹ See Somin, (“US Regains Pre-Trump, Pre-Pandemic Levels of Migration”).

²² See Clemens (“Economics and Emigration: Trillion Dollar Bills Left on the Sidewalk?”, 83–106); cf. Legrain (*Them and Us: How Migrants and Locals Can Thrive Together*, 69-73) (citing additional literature on this point); and Somin (*Free to Move*, 71-73) (assessing this estimate and addressing some criticisms of it).

²³ For overviews, see Clemens, Montenegro, and Pritchett (“The Place Premium: Bounding the Price Equivalent of Migration Barriers,” 201–13); Clemens, Montenegro, and Pritchett (“The Place Premium: Wage Differences for Identical Workers across the US Border”); and Clemens and Pritchett (“Income Per Natural: Measuring Development for People Rather than Places,” 395–434); see also Somin (“Foot Voting, Decentralization, and Development,” 1649–70, 1651–55) (summarizing implications of the place premium for economic development).

²⁴ For a summary of the data, see Somin (*Free to Move*, 57-59).

²⁵ For a recent overview and citations to data, see Somin (“How Immigration Restrictions Harm U.S. Citizens, Too,”); See also Kerr and Kerr (“Immigrant Entrepreneurship in America: Evidence from the Survey of Business Owners, 2007 and 2012,” 1–18); and Krol (“Effects of Immigration on Innovation and Entrepreneurship,” 551-69).

²⁶ Agarwal, et al., “Why U.S. Immigration Barriers Matter for the Global Advancement of Science”; see also Hunt and Gauthier-Loiselle (“How Much Does Immigration Boost Innovation?”, 31-56) (finding that 1

point increase in the percentage of immigrant college graduates increase the per capita number of patents in the United States by 9-18 percent).

²⁷ See works cited in note 24.

²⁸ See discussion of scientific innovation later in this article, which develops a similar point in greater detail.

²⁹ See discussion above.

³⁰ See Nozick (*Anarchy, the State, and Utopia*).

³¹ For a discussion of the relative importance of different types of economic transactions from such a standpoint, see Tomasi (*Free Market Fairness*, 76-79, 188-92).

³² See Tomasi (*Free Market Fairness*, 76-78).

³³ See discussion above, and sources cited there.

³⁴ For a recent overview of the vast scope of the War on Drugs, see Farber (“Introduction”).

³⁵ See Carter (“The Measurement of Pure Negative Freedom,” 38-50); and Steiner (“How Free: Computing Personal Liberty,” 73-89).

³⁶ Balderrama and Rodriguez, *Decade of Betrayal: Mexican Repatriation in the 1930s*.

³⁷ Stevens, “US Government Unlawfully Detaining and Deporting US Citizens as Aliens,” 606–720, 608.

³⁸ For an overview, see Somin (“Immigration Law Defies the American Constitution.”)

³⁹ Budiman, “Key Findings About US Immigrants.”

⁴⁰ See Nowrasteh and Harper (“Checking E-Verify: The Costs and Consequences of a National Worker Screening Mandate.”)

⁴¹ Eminent domain is called “expropriation” in many countries other than the US.

⁴² See Somin (“To Build the Wall, Trump Might Make Thousands of Americans Suffer”); and Dickinson (“Property Musings at the US-Mexican Border,” 162-82).

⁴³ See Wellman (“Freedom of Movement and the Right to Enter and Exit,” 83, 87); and Wellman (“Immigration and Freedom of Association,” 109–141).

⁴⁴ Somin, *Free to Move*, 110-15. See also critique in Huemer (“Is there a Right to Immigrate?”).

⁴⁵ For detailed discussion of this point, see Somin (*Free to Move*, 111-13).

⁴⁶ See Sen (*Development as Freedom*); and Berlin (*Four Essays on Liberty*).

⁴⁷ Rawls, *Theory of Justice*.

⁴⁸ See Freeman (*Liberalism and Distributive Justice*); and Nielsen (*Equality and Liberty*).

⁴⁹ For recent overviews of some of the relevant evidence on these points, see Somin (*Free to Move*, chap. 3); Van der Vossen and Brennan (*In Defense of Openness*, chap. 2); and Caplan (*Open Borders*, chaps. 1-2).

⁵⁰ See Rawls (*Theory of Justice*); Rawls (*The Law of Peoples*); Freeman (*Liberalism and Distributive Justice*, chaps., 4, 8); and Macedo (“The Moral Dilemma of US Immigration Policy: Open Borders vs. Social Justice”).

⁵¹ See discussion in Part 1 and sources cited therein.

⁵² See Somin (“Thank Immigration for the New Covid-19 Vaccines”).

⁵³ Somin, “Thank Immigration for the New Covid-19 Vaccines.”

⁵⁴ One recent analysis suggests that Covid-19 vaccines saved 3.2 million lives in the United States alone. See Fitzpatrick, et al. (“Two Years of U.S. COVID-19 Vaccines Have Prevented Millions of Hospitalizations and Deaths”); Another estimated 20 million lives saved around the world, in just the first year of vaccination. See Watson, et al. (“Global Impact of the First Year of COVID-19 Vaccination: A Mathematical Modelling Study,” 1293-1302).

⁵⁵ For important overviews, see Norberg (*Open: The Story of Economic Progress*); Mokyr (*The Lever of Riches: Technological Creativity and Economic Progress*).

⁵⁶ Friedman and Friedman, *Free to Choose*, 147.

⁵⁷ See Jung, et al. (“Coronavirus Infections and Deaths by Poverty Status: The Effects of Social Distancing,” 311-30).

⁵⁸ See Connor and Ruiz (“Majority of U.S. Public Supports High-Skilled Immigration”).

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- ⁵⁹ This passage is adapted from Somin (*Free to Move*, 157).
- ⁶⁰ See Rangel and Shi (“Early Patterns of Skill Acquisition and Immigrants’ Specialization in STEM Careers,” 484-89).
- ⁶¹ See Anderson (“Children of Immigrants are Top US High School Science Performers”); Finnie and Childs (“Who Goes into STEM Disciplines? Evidence from the Youth in Transition Survey,” s43-s55).
- ⁶² For an overview, see Waters and Pineau, eds. (*The Integration of Immigrants into American Society*, chap. 6).
- ⁶³ For a review of the evidence, see Somin (*Free to Move*, 149-50).
- ⁶⁴ For this “keyhole solution,” see Somin (*Free to Move*, 149-50), and Caplan (“Why Should We Restrict Immigration?”, 5–21).
- ⁶⁵ Somin, *Free to Move*, 150.
- ⁶⁶ See discussion of various mechanisms for increasing fiscal contributions of immigration in Somin (*Free to Move*, 140-41).
- ⁶⁷ See earlier discussion.
- ⁶⁸ See earlier discussion of these points.
- ⁶⁹ See discussion of this phenomenon in Part 1.
- ⁷⁰ See discussion of employer sanctions in Part 1.
- ⁷¹ See Krikorian (*The New Case Against Immigration: Both Legal and Illegal*, chap. 5).
- ⁷² Stilz, *Territorial Sovereignty: A Philosophical Exploration*, 194; Stilz, “The Duty to Allow Harmless Migration,” 7–8.
- ⁷³ For these sorts of concerns, see Borjas (“Immigration and Globalization: A Review Essay,” 961–74); Collier (*Exodus: How Migration Is Changing Our World*); and Barry (“The Quest for Consistency: A Sceptical View,” 279–87).
- ⁷⁴ Somin, *Free to Move*, chap. 6.
- ⁷⁵ Somin, *Free to Move*, 138-40.
- ⁷⁶ Somin, *Free to Move*, 130-34, 153-55. For the most thorough recent analysis of this issue, see Nowrasteh and Powell (*Wretched Refuse? The Political Economy of Immigration and Institutions*). See also Clemens and Pritchett (“The New Economic Case for Migration Restrictions: An Assessment,” 153-164); and Nowrasteh, Howard, and Forrester (“Do Immigrants Affect Economic Institutions? Evidence from the American States”).
- ⁷⁷ On the concept of keyhole solutions, see Somin (*Free to Move*, 128-29); and Caplan (“Why Should We Restrict Immigration?”, 5–21). The phrase “keyhole solution” seems to have been first introduced by Harford (*The Undercover Economist*, 130–31).
- ⁷⁸ On this keyhole and other ones relevant to the issue of overburdening the welfare state, see Somin (*Free to Move*, 139-40).
- ⁷⁹ See Somin (*Free to Move*, 130-32).
- ⁸⁰ See Somin (*Free to Move*, 130-32).
- ⁸¹ I develop this response to the discrimination objection in more detail in Somin (*Free to Move*, 131-32, 139-41).
- ⁸² See discussion of the latter, earlier.
- ⁸³ For discussion of a number of such proposals, see Somin (*Free to Move*, 149-50). See also discussion in Section 2 of this article.
- ⁸⁴ Somin, *Free to Move*, chap. 6.