

THE RIGHT TO EMIGRATE

EXIT AND EQUALITY IN A WORLD OF STATES

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IT IS WIDELY ACCEPTED that there is a right to emigrate: that one has the liberty to leave one's state if one wishes, and one's state may not permissibly prevent one from exiting its territory.¹ But what justifies this right? And what does this justification entail for the duties of states? Here, there is less consensus. This paper explores these issues. It offers a pluralist defense of the right to emigrate, on which this right has three primary grounds: (1) protecting basic rights, (2) realizing core freedoms, and (3) promoting social equality. To make this argument, I first show that existing justifications of the right to emigrate are incomplete. Second, I offer a novel egalitarian defense of the right to emigrate. Third, I demonstrate that this egalitarian position has important consequences for how states may regulate immigration.

I begin, in section 1, by clarifying what the right to emigrate is and what a defense of it must do. In section 2, I consider the limitations of standard defenses of the right to emigrate. This demonstrates that existing theories need to be supplemented by an alternative account. In section 3, I offer such an account, based on relational equality. Relational egalitarians allege that we have a claim against standing in relations of social inferiority with others and that this offers a potent complaint against unequal relations of political rule. The usual answer to this complaint is to *transform* the unequal relations that exist within states into equal ones. I propose that a robust right to emigrate constitutes a complementary response, which mitigates social inequality by making it more escapable. After considering objections in section 4, I argue in section 5 that the egalitarian case for the right to emigrate yields a corresponding case for a right to immigrate of a distinctive sort. In section 6, I conclude by drawing out the implications of this argument.

1 Despite its presence in the UN Declaration of Human Rights, respect for this right is not universal, even on a minimal understanding of what the right to emigrate entails.

1. WHAT IS THE RIGHT TO EMIGRATE?

The right to emigrate is, as used herein, a moral claim right to physically leave one's state's territory. This right is distinct from other, related exit rights. It is distinct from the right to leave a social group, as emigration need not entail breaking social ties.² Similarly, it is distinct from the right to renounce one's citizenship or shed one's political obligations. Leaving one's state does not usually require renouncing one's membership nor does it necessarily imply a dissolution of one's obligations.³ The right to emigrate is, rather, a right to leave one's state's *territory*.⁴ Moreover, the right to emigrate is a moral claim right, not a mere liberty. As such, it entails duties on other agents. Chiefly, it entails a negative duty on one's state not to interfere with one's departure.⁵

The clearest way to justify a right to emigrate is to show that it is necessary to protect some important interest or value. A successful defense along these lines must (1) identify some important interest or value, (2) explain how the right to emigrate helps protect that interest or helps realize that value, and (3) show that that interest or value justifies imposing duties on others.⁶ A theory that does these things fulfills the *primary task* of justifying the right to emigrate. However, a *full* account of the right to emigrate should do more than this. It should explain the scope of the right and whether it is a primary or remedial right.⁷ It should also explain what duties the right to emigrate imposes on one's

2 Okin, "Mistresses of Their Own Destiny"; Kukathas, "Are There Any Cultural Rights?"

3 Stilz, "Is There an Unqualified Right to Leave?"

4 Within the category of rights of territorial exit, one can distinguish a right to emigrate, which is long term or permanent, from a right to leave one's state temporarily for purposes of international tourism, visiting family, conducting business, and the like. The justification of the former right may be distinct from the latter, as the underlying interests at stake in these two forms of mobility may be different. Plausibly, the latter, insofar as it is a right, is grounded in the value of freedom of movement (see section 2.2). I confine my discussion to the right to emigrate.

5 The right to emigrate also comes with other Hohfeldian incidents, such as immunity against being interfered with in certain ways; it also, I argue later, correlates with positive duties on the part of other states. I stress that I am not offering an analysis of the *legal* right to emigrate in international law, nor does my argument directly imply that the right to emigrate is a human right.

6 Note that my formulation has a broader justificatory basis than interest theories, narrowly understood. For a defense of interest theories, see Raz, *The Morality of Freedom*. Compare Oberman, "Immigration as a Human Right."

7 On remedial rights, see Buchanan, "Theories of Secession," 34–36.

state.⁸ Finally, it should explain whether the right to emigrate entails a right to immigrate.⁹ I discuss these issues in sections 4–6.¹⁰

Section 2 considers the standard defenses of the right to emigrate. I argue that they are on their own inadequate. However, one assumption is worth making explicit first. This is that any full justification of the right to emigrate will be pluralistic: as there are several important interests at stake in emigration, the right to emigrate plausibly has multiple grounds. This implies that partial theories, which explain why people have such a right in a certain range of cases, are not thereby defective; they are merely incomplete. When I argue that certain accounts are only partial, I am claiming that these accounts must be *supplemented*, not rejected.

2. STANDARD DEFENSES OF THE RIGHT TO EMIGRATE

This section examines standard justifications of the right to emigrate. I argue that two standard accounts identify important interests that partially ground the right to emigrate. However, I show that these accounts are incomplete and need to be supplemented by some additional ground. I then argue that existing accounts of what these additional grounds might be are inadequate (in sections 2.3 and 2.4). This makes space for my egalitarian argument (in section 3).

2.1. Basic Rights

A first justification of the right to emigrate appeals to its role in securing people's basic rights.¹¹ On this view, the right to emigrate is “essentially protective.” Its function is to provide a “safety valve” for those whose states violate or fail to protect their basic rights.¹² No one should be forced to bear the cost of their basic rights going unprotected. A state that denies a person whose basic rights are in peril the opportunity to leave would be compelling her to bear this cost. This seems especially wrong when the state that denies exit also culpably fails to protect the person's rights.

8 For the standard view, see Whelan, “Citizenship and the Right to Leave,” 658.

9 For discussion of this issue, see Lenard, “Exit and the Duty to Admit”; Wellman and Cole, *Debating the Ethics of Immigration*; Cole, *Philosophies of Exclusion*.

10 I largely set aside a further question: When may the state restrict emigration? This has been the focus of the debate about the right to emigrate. However, this issue can only be adequately approached once one understands what justifies the right to emigrate in the first place (see section 4.2). I acknowledge, however, that the right to emigrate is not absolute.

11 Lenard, “Exit and the Duty to Admit”; Mancilla, *The Right of Necessity*, 113.

12 Lenard, “Exit and the Duty to Admit,” 5.

This line of reasoning suggests that when one's basic rights are not protected, one may leave and seek protection elsewhere. This argument adequately explains why those facing persecution, state breakdown, generalized violence, severe poverty, or other special hardships have an unassailable claim to emigrate. It explains the special claims of refugees and other necessitous migrants. Protecting basic rights is one ground of the right to emigrate.

However, it is not the only ground. The basic rights view only justifies a right to leave for those whose rights are in peril. The basic rights of Norwegians are not in jeopardy. So, if the basic rights view exhausts the justification of the right to emigrate, Norwegians lack a right to emigrate. But it is widely believed that it would be deeply wrong for Norway to prohibit its citizens from emigrating. The basic rights view cannot explain this: where individuals already live in a state that protects their basic rights, they lack, on this view, a claim to exit. The basic rights view thus "traps citizens of liberal democratic states in their home states."¹³ It therefore forms, at most, part of the full justification for the right to emigrate.

One might seek to broaden the core idea that the function of exit is protective to include other interests worth protecting, such as one's interest in adequate options.¹⁴ Such a broadening move has some plausibility. But the prospects for such an extension are limited: it is unclear how such an account can ground the claims to emigrate of the citizens of decently affluent, moderately sized liberal democracies. Basic rights thus cannot alone form the basis of a full theory of the right to emigrate, even if they form a crucial part of any such theory.

2.2. *Freedom of Movement*

The basic rights view must therefore be supplemented by some other normative consideration that better explains the right's scope. According to a second prominent theory, people have a range of general positive interests in freedom of movement: in moving, traveling, and residing where they desire. These include interests in pursuing one's attachments and associations, executing one's projects and plans, and having various life possibilities open: the argument can be developed in different ways based on which positive interests one thinks matter most.¹⁵ Since, it is argued, these interests ground basic liberties in the domestic context, they can, it is alleged, also ground a general right to

13 Lenard, "Exit and the Duty to Admit," 13. Lenard thinks that those whose basic rights are protected may also have positive interests "in living an autonomous life," which yield a more general claim to move. I consider this view momentarily.

14 Miller, "Is There a Human Right to Immigrate?"

15 Oberman defends this position ("Emigration in a Time of Cholera") and appeals to our interest in being free to access the full range of life options when they make important personal decisions; see also Oberman, "Immigration as a Human Right." Stilz bases her

immigrate or move freely across borders. But immigrating requires emigrating. So, the right to freedom of movement entails a right to emigrate.

I believe that our freedom interests play an important role in the justification of the right to emigrate. Nevertheless, I do not believe the value of freedom of movement is the sole ground of the right to emigrate. First, while the freedoms connected to emigration are important, they do not, on their own, ground a particularly strong right to emigrate. One's general interest in liberty may generate a substantial presumption in favor of a right to emigrate.¹⁶ However, the general presumption can, as elsewhere, plausibly be overridden in many cases where countervailing interests are at stake. Moreover, the significance of the positive freedoms protected by the right to emigrate varies widely. Weighty freedoms are not always at stake in emigration, given the diversity of migrants' circumstances.¹⁷ So, insofar as the case for the right to emigrate rests solely on its importance for freedom, it is doubtful that this always grounds a strong right to emigrate.

Second, the standard criticisms of the right to immigrate can also be applied to this defense of the right to emigrate.¹⁸ Consider Miller's response to Oberman's defense of the right to immigrate. Miller argues that positive interests in autonomy cannot ground a right to immigrate: we have no claim to the *optimal* menu of options from which to fashion our lives; we only have a claim to an *adequate* range of options. This claim, if true, undermines Oberman's defense of the right to immigrate.¹⁹ But it also undermines any corresponding defense of the right to emigrate. If Miller's adequate range view is correct, then the freedom of movement defense of the right to emigrate fails to ground such a right when one's state is sufficiently large and well-resourced. My aim is not to defend Miller's criticism here.²⁰ My point is rather that *if* Miller's critique undermines the right to immigrate, it *also* undermines the right to emigrate.

Most importantly, the freedom of movement defense cannot account for the *distinctiveness* of claims to emigrate. According to this defense, the wrong of

argument on an interest in developing our Rawlsian moral powers ("Unqualified Right"). For a classic statement of the open-borders view, see Carens, *The Ethics of Immigration*.

16 For criticisms of this position, see Blake, *Justice, Migration, and Mercy*; Song, *Immigration and Democracy*; Stilz, *Territorial Sovereignty*.

17 Compare Stilz, *Territorial Sovereignty*, 205–6.

18 Ypi argues for the need to theorize emigration and immigration together ("Justice in Migration").

19 Perhaps the importance of autonomy diminishes once one has adequate options. Still, being denied further options nevertheless diminishes one's autonomy. One's autonomy interests are not exhausted by claims to an adequate range of options, even if only these are relevant to justifying human rights.

20 For a response, see Oberman, "Immigration as a Human Right."

being denied freedom of movement is a function of, and proportional to, the value of the opportunities for mobility that are foreclosed when one is denied exit. There is nothing distinctive here about one's claim to *leave* one's state. The wrong in being denied exit is just one instance of the general wrong of being cut off from various options. Yet, the wrong of being denied exit from one's state is, intuitively, not reducible to being deprived of the set of options to which one is thereby denied access.

Those barred from exiting New Zealand, e.g., are barred from many more opportunities than those barred from leaving the United States. The latter is much bigger than the former. But there is still a sense in which one core wrong in the two cases seems intuitively equivalent.²¹ Or suppose the United States were justly annexed by Canada to form Greater Canada. This would *massively* expand mobility for Canadians: they could now move freely within the current territory of the US. But suppose, simultaneously, that the Greater Canadian government prohibited emigration. Per the freedom of movement defense, Canada's new exit restriction would be less bad than a similar restriction would have been before annexation. People's *real* net opportunities for free movement would have been *expanded*. Canadians can now go anywhere in the US; before they could not. Yet, Greater Canada's emigration ban seems *in one respect* no less problematic than Canada's emigration ban would have been pre-annexation. The freedom of movement view cannot explain this. It cannot explain the *distinctiveness* of claims to emigrate.²²

One might resist this conclusion. Perhaps being denied exit usually forecloses *more* options for mobility than being denied entry. While this is *usually* true, one can easily imagine cases where it is false. Suppose the world consisted of a few tiny states, the Microlands, and one massive one, Macroland. Macroland restricts emigration and immigration. In being denied emigration, Macrolanders' options are restricted only minimally; in being denied immigration, Microlanders' options are restricted very significantly. Nevertheless, there

21 This is compatible with recognizing that the size and nature of the place one inhabits matter for, e.g., reasons of autonomy. My point is that autonomy is not the only value at stake in emigration. It is also true that people might have backward-looking autonomy interests in leaving a particular place. However, these interests are of the very same kind one has in moving elsewhere, and so would not capture something distinctive about the right to emigrate as compared to the right to immigrate.

22 A related problem holds for Blake's associative defense of exit (in Brock and Blake, *Debating Brain Drain*). On this view, the right to exit is grounded in a claim to pursue associative relationships. However, immigration restrictions impact people's associative interests just as emigration restrictions do.

seems to be something especially wrong with Macrolanders being confined to their state beyond the options to which they are thereby denied access.²³

One might reply that my argument here rests on an unfounded asymmetry.²⁴ Some deny that there is a salient moral distinction between *one's state denying one exit* and being denied exit *because no other state will let one enter*. But my argument does not depend on this asymmetry. It depends on the claim that one has a special interest in *being able to leave one's state's territory*. To accept this, one need not take a stance on whether it is worse to be denied exit by one's state's emigration restrictions than it is to be denied exit by other states' immigration restrictions. Thus, although our positive interests in freedom of movement, such as our interests in autonomy, form an important part of the justification of the right to emigrate, they are not the whole story.

While basic rights and freedom of movement interests each have a role to play in grounding the right to emigrate, neither alone constitutes the whole story. Nor do they together fully justify the right to emigrate: a hybrid account that recognized both grounds still could not capture the right to emigrate's distinctiveness where people's basic rights are not at stake. To capture the distinctiveness and generality of claims to emigrate, one needs a more general, *backward-looking* theory concerned with the distinctive relationship between the prospective emigrant and the state or society they seek to emigrate from.

2.3. Voluntarism

The most venerable backward-looking account is voluntarist. Lockeans claim that political authority arises only when people freely bind themselves to the state. As this theory is often developed, the possibility of emigration plays a crucial role. The key idea is that one's continued residence in a state's territory can constitute a form of tacit consent. But it only constitutes valid tacit consent if one has a right to emigrate, for only if one has that right is one's consent freely given. So, the right to emigrate is necessary to secure the state's authority over its citizens.²⁵

However, the voluntarist defense is, ultimately, unpromising. Even if the right to emigrate is a necessary condition for residence to constitute valid tacit consent, it is patently not a sufficient condition. For consent to be valid, it must be given knowingly and voluntarily in a clear choice situation on the basis of adequate information.²⁶ Tacit consent through residence does not meet these

23 The wrong here is a *pro tanto* one. There may also be good reasons why a single state cannot accept *all* immigrants who seek to enter (see section 6).

24 See Wellman and Cole, *Debating Immigration*, 193–205.

25 Locke, *Two Treatises of Government*; Simmons, *The Lockean Theory of Rights*; Whelan, "The Right to Leave," 647–50.

26 Simmons, *Moral Principles and Political Obligations*, 79–83.

requirements. There is not widespread awareness that residence constitutes tacit consent. Moreover, for consent to be voluntary, the consentor must have a genuine alternative to giving her consent, the costs of which are not “extremely detrimental.”²⁷ But the costs associated with emigration are often very high.²⁸ Even if states were to defray the costs of exit, there are inherent costs to emigration and people have a moral right to stay. So, even under more favorable institutional arrangements, consent via residence would likely not be valid. At least, the conditions required for it to be so are extremely demanding.²⁹ It is therefore implausible that continued residence generates political obligations through tacit consent. But if consent via residence would not suffice even under favorable conditions to generate political authority, voluntarism is not what justifies the right to emigrate.

The voluntarist might reply that a right to emigrate “seems to go *at least part way* toward making citizenship and its obligations entirely voluntaristic.”³⁰ But it is unclear what the value is of standing in a *quasi-voluntary* relation to one’s state.³¹ Insufficiently voluntary consent is still a form of invalid consent, and invalid consent cannot do the moral work that valid consent does.

More importantly, there are plausibly other grounds for political authority. But if consent is not necessary, then securing tacit consent through residence is not as important as the voluntarist alleges. The voluntarist defense depends on the claim that *only* through consent can authority be secured. This likely commits one to libertarian anarchism.³² This is too steep a price to pay to justify the right to emigrate, as this sort of libertarianism severely constrains the state’s pursuit of justice.³³ While voluntarism has its attractions, I show later that these can be captured without appeal to consent.

2.4. Freedom of Association

Christopher Heath Wellman defends an alternative backward-looking view.³⁴ He thinks individuals have strong rights of freedom of association. An essential

27 Simmons, *Moral Principles and Political Obligations*, 81.

28 Hume, “Of the Original Contract.”

29 Compare Otsuka, *Libertarianism without Inequality*, ch. 5.

30 Whelan, “The Right to Leave,” 638, emphasis added.

31 Compare Simmons, *Justification and Legitimacy*, 146.

32 This sort of view is defended in Simmons, *Moral Principles and Political Obligations*; and Kukathas, *The Liberal Archipelago*.

33 These points state *my* reservations about voluntarism. While these reservations are not decisive, I suspect many will share them.

34 Wellman, “Freedom of Movement and the Rights to Enter and Exit.” Blake defends a similar view in *Debating Brain Drain*, 198–201.

part of freedom of association is the freedom *not* to associate. But citizens' relation to their state is an associative relationship. Citizens thus have a right to stop associating with their state (and, one might add, their compatriots). Just as a husband forcing his wife to remain in a marriage would be wrong because it would violate her right to freedom of association, it would be wrong for one's state to force one to remain in a political relationship with it.

Wellman argues that this view justifies an asymmetry between exit and entry. Since states too have claims to freedom of association, freedom of association also justifies the state's right to exclude.³⁵ Wellman's critics question whether states have rights of freedom of association and whether self-determination justifies harming immigrants.³⁶ But one might endorse Wellman's defense of the right to emigrate without endorsing his defense of the right to exclude. The above criticisms do not apply to Wellman's defense of the former.

However, a different criticism of Wellman's defense of the right to exclude does. Sarah Fine argues that Wellman's defense of the right to exclude fails because Wellman lacks a theory of territorial rights.³⁷ Freedom of association is about *membership* in a political community, rather than about a general permission to *interact* with those who one chooses. The mere presence of immigrants on one's state's territory does not constitute a form of association with them.³⁸ So, Wellman's theory justifies, if anything, control over membership, not territory. A yoga group that meets in Central Park may reject new members, but it cannot bar them from making use of the park. Analogously, Fine concludes that freedom of association can only justify denying membership, not prohibiting entry, absent some further story about the connection between territory and membership.

The problem afflicts Wellman's defense of the right to emigrate. Freedom of association may explain why citizens may *renounce their membership* in their state. But it does not explain why citizens have the right to *leave the state's territory*. To tweak Fine's analogy, freedom of association may explain why one may leave the prison's book club; it does not explain why one may exit *the prison*. To do that, one must explain the link between territorial exit and membership, which Wellman does not do. So, for all Wellman says, it should be fine for the state to ban emigration as long as it ensures that everyone can, like Thoreau, isolate themselves in the wilderness and renounce their membership. This, after all, is a great way to avoid associating with anyone.

35 Wellman, "Freedom of Movement," 81–86.

36 Van der Vossen, "Immigration and Self-Determination"; Fine, "Freedom of Association Is Not the Answer."

37 Fine, "Freedom of Association Is Not the Answer," 353–55.

38 Fine, "Freedom of Association Is Not the Answer," 343.

Wellman might reply that one necessarily associates with the state as long as one remains within its territory. But this conflates two senses of association: association as membership and association as interaction.³⁹ There is no general permission to interact only with those one chooses to interact with. We have many obligations—reparative duties, duties of rescue, etc.—the discharge of which requires interacting with others in limited ways and that are not defeated by a general right not to associate.

Second, Wellman takes freedom of association to operate in a wide range of contexts.⁴⁰ On his view, the freedom not to associate is important because it is a constitutive part of one's autonomy. Yet, it is implausible that one has a completely general interest in association grounded in autonomy that is at once weighty enough to be rights grounding and general enough to apply across all associative contexts. Not all associations have an equally significant effect on one's autonomy. One's association with one's family is quite different from one's association in one's labor union. It seems implausible that a simple autonomy interest grounds a universal right to freedom of association that holds for all associations. Rather, what grounds various rights to freedom of association varies depending on the nature of the association and the way that association affects one's interests.⁴¹ That we have a right to freedom of association in some context, then, must be the *conclusion* of a more complex argument, which points to the *particular* interests at stake in that context.

Thus, Wellman's argument does not explain what about our association with the state makes it an important site of associative freedom. Indeed, at first glance, the state is a bad candidate for such associative freedom. One's claim to freedom of association in intimate relationships is usually stronger than one's freedom of association in non-intimate contexts. But one's association with the state is impersonal. Indeed, it seems like the sort of case in which one's freedom of association may be permissibly constrained, as in prohibitions against discrimination by private businesses. Without a richer account of the nature of one's associative relationship with the state and the particular interests implicated therein, the freedom of association defense of the right to emigrate fails, for it does not explain why associative principles properly apply to this relationship.

Wellman might reply that one's relationship to the state is indeed distinctive. Surely this is correct. But the real work in this argument for the right to emigrate must be done by an account of the important individual interests in

39 Brownlee, "Freedom of Association," 269.

40 Wellman acknowledges that the right to exclude has different weight in different associative contexts. But the differences, in his view, are merely in degree.

41 Brownlee, "Freedom of Association."

relating freely to the state *rather than* by a generic autonomy interest. Wellman thus treats the general right to freedom of association vis-à-vis one's state as what explains the right to emigrate, but such a right to freedom of association is *what needs to be explained*.

Finally, one's rights not to associate are plausibly circumscribed by one's (enforceable) duties toward others.⁴² One cannot generally shirk one's duties just because discharging them requires associating with others. We often have duties the discharging of which requires some kind of association. Taking care of one's child requires associating with her. But freedom of association cannot defeat one's parental obligations if no one else is willing to step in. Similarly, we have political obligations or other duties toward our compatriots and fulfillment of these obligations likely sometimes requires our continued association with the state and our compatriots.

If one's duties usually circumscribe one's associative rights, then Wellman's own theory of political obligation in conjunction with his defense of the right to exclude undermines his defense of the right to emigrate. For Wellman admits that Samaritan duties can defeat one's right to freedom of association and believes that our Samaritan duties can only be adequately discharged by our compliance with the laws of a legitimate state.⁴³ But suppose no other state is willing to accept one, as, per Wellman, is their right. Then, one could only discharge one's Samaritan duties by discharging them in one's state. In such cases, one's state would be justified in prohibiting one from leaving. This saps the force of the right to emigrate.⁴⁴

One might avoid this by embracing an extreme version of philosophical anarchism. This version denies not only that one has a general, content-independent obligation to obey the law, but also that one has any positive obligations to one's compatriots. Alternatively, one might claim that one has a right to escape one's political obligations at will. Neither position seems promising. One's obligations to one's compatriots are important duties and one cannot typically shed one's weighty obligations so easily. It also seems plausible that one sometimes has positive obligations to one's compatriots.⁴⁵ So, I do not find Wellman's view convincing.

42 Brownlee, "Freedom of Association," 275.

43 Wellman, "Samaritanism and the Duty to Obey the Law."

44 The problem of reconciling political obligation with the right to emigrate is general. Plausibly, some distributive obligations survive emigration. It is also likely that states may sometimes impose certain conditions on emigration, such as exit taxes on the super-rich (Stilz "Unqualified Right"). I discuss a similar issue briefly in Lovett and Sharp, "What Immigrants Owe."

45 Stilz, "Unqualified Right," 66–73.

I have argued that existing defenses of the right to emigrate face important limitations.⁴⁶ The basic rights theory and the freedom of movement theory both partially ground the right to emigrate. However, the former's scope is limited and the latter cannot explain what is distinctive about claims to emigrate. These accounts need to be supplemented by some additional backward-looking ground. However, prominent theories of this kind are unpersuasive. We need an alternative theory that supplements the freedom of movement view and the basic rights view and identifies some weighty interest in exiting one's state's territory.

3. A RELATIONAL EGALITARIAN DEFENSE OF THE RIGHT TO EMIGRATE

I will now offer an egalitarian defense of the right to emigrate. I first explain the conception of relational equality on which my argument relies and why it yields a complaint against political rule, and note some limitations of the standard response to this complaint (section 3.1). I then offer two arguments for the right to emigrate based on this conception (sections 3.2 and 3.3).

3.1. *The Problem of Social Hierarchy and the Transformative Solution*

My argument begins from the claim that there is something distinctively wrong with standing in hierarchical social relations with others. Consider caste societies, slave societies, and patriarchal societies. The social relationships found in such societies are deeply problematic. This is not only because of their deleterious consequences for the oppressed; nor is it only because they fail to distribute important goods fairly. Rather, such social structures are, relational egalitarians claim, also objectionable in themselves because they treat some as inferiors and others as superiors. Those confined to positions of inferiority in a social hierarchy may legitimately complain that they do not relate to their compatriots as equals; they have a complaint against "inferiority" or "subjection."

These ideas have been defended by Niko Kolodny, Elizabeth Anderson, and Daniel Viehoff among others.⁴⁷ I will not defend them further here. Instead, I

46 Rather than making a direct case for the right to emigrate, one might focus on the things that states must do to stop emigration. This requires coercion: building walls, staffing them with armed guards, threatening prospective emigrants, etc. That these actions are coercive and harmful is sufficient reason not to control emigration *in these ways*. Compare Mendoza, "Enforcement Matters." However, if this were the only problem with emigration restrictions, there would be no problem with the state building an impassable but unmanned wall to keep its citizens in. I, therefore, doubt that the wrong of restricting emigration is reducible to the harms of enforcement.

47 Kolodny, "Rule over None II" and "Political Rule and Its Discontents"; Viehoff, "Power and Equality"; Anderson, "The Problem of Equality from a Political Economy Perspective." I

will argue that *if* one accepts this anti-hierarchy conception of relational equality, one must also endorse the right to emigrate.

To make this argument, I must first say more about this strand of egalitarianism. A crucial question for these theorists is what makes a relationship objectionably hierarchical. A compelling answer has been offered by Kolodny. He suggests that social hierarchies are primarily constituted by three factors. Inequalities in power are the most obvious factor. It is the master's power over the slave that makes him the slave's superior. A second factor is inequality in *de facto* authority. The fact that the lord can issue commands and directives that must be obeyed by the peasant marks him as the peasant's social superior. A final factor is inequality of "consideration." The fact that Brahmins are held in high regard and treated with flattery and deference, while Dalits are viewed with contempt and expected to defer, marks the former as socially superior and the latter as socially inferior.⁴⁸ Disparities in power, authority, and consideration, Kolodny contends, amount to relations of objectionable social hierarchy when the disparities are particularly pronounced, are difficult to avoid, and permeate the whole of society. For our purposes, the first two factors, power and authority, are most relevant.⁴⁹

Crucially, not all disparities in power, authority, and consideration create social hierarchies of an objectionable sort. For one, such disparities are only objectionable when they occur within the context of a genuine social relationship.⁵⁰ There are no "relations of inferiority" between me and Emperor Diocletian: though he had more power than I ever will, he wields no power *over* me. Defenders of relational equality therefore pick out the social relations within particular political communities as a matter of special concern. Kolodny also claims that disparities in power and authority constitute an objectionable form of social hierarchy only where they are *unmitigated* by various *tempering factors*. Disparities in power sometimes occur in one-off encounters; they are not part of

defend such a view in Sharp, "Relational Equality and Immigration."

48 Kolodny's category of "consideration" is somewhat elusive (see "Standing and the Sources of Liberalism"). I therefore do not rely on it here.

49 I focus on Kolodny's account because it is the most developed. However, I suspect, with one exception, that nothing hinges on which account of social hierarchy one adopts. Any plausible account will likely have similar implications since such a view will frame political inequality as a threat to equal social standing in many circumstances. The exception concerns the relation between power and justification. If one thinks that appropriately justified power raises no egalitarian complaint, then this may weaken the scope of my argument. For a defense of this view, see Viehoff, "Power and Equality." I also discuss this in Sharp, "Relational Equality and Immigration," 675–78.

50 Scanlon, *Why Does Inequality Matter?* 9; Wellman, *Debating Immigration*, 62. For discussion, see Sharp, "Relational Equality and Immigration," 648.

an entrenched relationship. Other disparities, such as a teacher's power over her students, are limited in time and place or in their content. Power disparities may also be tempered by being subject to higher-order control or easily avoidable. These kinds of factors *limit* one's complaint against unequal power and authority; so, one's complaint against inequality is strongest where they are absent.

Social egalitarians contend that the complaint against social hierarchy is applicable to political relationships. Political relationships involve significant disparities in power and authority and are not usually subject to the above tempering factors. Inequalities in power and authority are constitutive of political rule. Those who hold office (or who have greater influence over who ultimately does) possess an outsized share of political power and authority. Political rule pervasively structures people's lives. There is no "higher" authority to which one may appeal; the state's power is vast and largely unbounded. Unless relations of political rule are suitably tempered or constrained, political rule thus threatens subjection.⁵¹

This provides a diagnosis of what can be problematic about one's relation to one's state and one's compatriots. State power is the power of public officials. Unless suitably constrained, it places one in a position of social inferiority vis-à-vis those who hold office. Similarly, influence over the levers of state is often unequal. When some citizens have disproportionate political influence, the state's power and authority is, to a greater degree, *their* power and authority.⁵² We, therefore, have a *pro tanto* complaint against unequal political power and authority.

The standard response to this complaint is transformative: we should *equalize* power and authority.⁵³ It is usually argued we should do so by adopting a robust form of democracy, since democracy equalizes political power. I endorse this argument for democracy. It is persuasive as far as it goes. But it suffers from some limitations.

Actual democracies are representative democracies. Yet, representative democracies inherently involve unequal power. Representatives have far more power than those they represent. They have far more influence over state policy than ordinary voters. Even the most ideal representative democracy will therefore be characterized by a great deal of political inequality.⁵⁴ What goes for

51 Kolodny, "Rule over None II" and "Political Rule and Its Discontents."

52 Kolodny, "Rule over None II."

53 Kolodny, "Rule over None II"; Viehoff, "Power and Equality."

54 Compare Lovett, "Must Egalitarians Condemn Representative Democracy?" Lovett believes that it is a mistake to think egalitarians must show representative rule is not problematic at all; the best egalitarians can show is that representative democracy minimizes the problem.

representatives goes double for the state's administrative authorities, who necessarily have considerable discretion over policy. Democracy thus does not eliminate political inequality. At best, democracy *tempers* that inequality by giving ordinary citizens a share of collective control over their representatives. It realizes equality better than other alternative political institutions. But, even in their most ideal practicable form, democracies retain significant inequalities.⁵⁵

Second, actual democracies do not live up to egalitarian ideals. Social equality requires that each person possess an equal opportunity to influence political decisions in line with their judgment. But actual democracies permit vast inequalities in informal opportunities for political influence. They distribute various goods, such as wealth, unequally and those with more of these goods typically possess much greater opportunities to influence political outcomes than others. Since inequalities in informal influence undermine social equality, no existing democracy adequately realizes equality.⁵⁶

One might reply that we should simply make existing democracies more genuinely democratic. I agree that democracy's egalitarian shortcomings must be remedied. We should distribute wealth and power more equally. Still, such transformations are not easy to achieve. Entrenched elites typically refuse to give up their power, and intractable collective action problems must be overcome to force them to do so. In most societies, there is no easy path to fully realizing political equality. Moreover, pursuing real transformative change requires much from ordinary citizens, and those who are subjected to social inequality are not always required to bear these burdens.⁵⁷ It is therefore worth thinking about *complementary* responses to the problem of social hierarchy. I will now defend the right to emigrate as one such response.

3.2. The Remedial Argument

How might those relegated to positions of social inferiority respond to the inequality of their existing political relations? One alternative to transforming relationships is to exit or break them. Call this the *avoidance solution*. Suppose one is married to a domineering partner. One response to the inequality within one's marriage is to transform it into a marriage between equals; another response is to get a divorce. In exiting one's marriage, one escapes the power

55 Perhaps full direct democracy would resolve this problem. But such a form of government is likely impracticable and not best supported by the balance of reasons.

56 Kolodny, "Rule over None II," 332–35.

57 Distributing political power fully equally may come at the costs of inefficiency or instability, or hinder the quality of decisions. The role these costs should play in debates about what form democracy should take is analogous to the role the potential negative costs of emigration should play in arguments for the right to emigrate.

and authority of one's partner: they can no longer control one's life in the same way. One can make a similar case for the right to emigrate. If one stands in unequal social relations within one's state (and suitably equalizing those relationships is infeasible), then one has a right to extricate oneself from those social relations. One can do so by leaving the state's jurisdiction. Social equality thus grounds a right to emigrate.

Let us sketch the argument more carefully. The efficacy of the "avoidance solution" stems from the underlying relational nature of the complaint. Complaints against social inequality, I argued earlier, only arise within the context of real social relationships. It is not just that someone has greater power, e.g., that forms the basis of one's complaint; it is that *they* have power over *you*. This means that one's complaint against it can be resolved *either* by equalizing the social relationships one is in *or* by dissolving those relationships.

Yet, actual states are sites of relational inequality. This inequality is entrenched enough that a transformative solution is infeasible or involves undertaking extremely high personal costs. When one's social relationships cannot be transformed into relations of equality, one's complaint against inequality does not simply disappear. Instead, one has a right to extricate oneself from unequal social relations. Yet, the state's power and authority are jurisdictionally bound. When you are in a state's jurisdiction, its laws by and large apply to you. When you are outside that state's jurisdiction, they largely do not. When you are within the state's borders, it exerts great influence over your life. When you are outside its borders, that influence is significantly attenuated.⁵⁸ Now, emigration involves exiting the state's jurisdiction. So, emigrating allows one to escape being subject to those who hold power in one's state. Social equality thus grounds a right to emigrate.

Let me emphasize two points about the remedial argument. First, the avoidance solution need not be seen as a competitor to the transformative solution. The two are not exclusive. I do not believe that the possibility of emigration renders anodyne political inequalities that would otherwise be intolerable.⁵⁹ My claim is rather that, when the transformative option is not available, one's claim against social subordination grounds a right to emigrate because doing so allows one to escape that subordination. Second, it is worth remarking on the strength of the right to emigrate that equality supports. Those who defend democracy on social egalitarian grounds typically believe that one's claim to live in a robust democracy is rather strong. If one accepts this claim, one should

58 These points are often made by subjection theorists. See, e.g., Blake, "Immigration, Jurisdiction, and Exclusion."

59 Contrast this view with Kukathas, "Exit, Freedom, and Gender."

also accept that the remedial argument grounds a claim to emigrate of *at least* equal strength, as these claims share the same ground.

3.3. *The Constitutive Argument*

The remedial argument emphasizes that *actually emigrating* can be a way to escape social inequality; therefore, one has a right to do it. This contention can be complemented by a second argument, which emphasizes the importance of *having the option* to emigrate, whether or not one exercises it. There's an important connection between exit and power. Political relationships pose a special threat to equality not only because political power is final, coercive, and pervasive, but also because political power is impossible or prohibitively difficult to avoid. This contrasts political power (ideally) with other asymmetric power relationships. Employment can be a site of domination, given the vast power bosses hold over their workers.⁶⁰ But employer power is often seen as less troubling than political power to the extent that it is more escapable.⁶¹ When labor markets offer a wide range of decent job options, workers can choose not to work for their boss. The fact that any particular boss's power is escapable makes that power more (even if not fully) compatible with social equality.

Consider again an unequal marriage. Now, compare two scenarios. In scenario one, you live in a patriarchal society that bans divorce, stigmatizes divorced persons, and provides no resources for those seeking to leave their current partner. In scenario two, you live in a society with robust divorce laws, with no stigma against divorce, and that has social policies that make leaving your partner as easy as such a consequential decision can possibly be. Being stuck in a hierarchical marriage is in case one much worse than it is in case two.⁶² But the only difference between the two cases is the way your exit options are structured. So, exit options are partially constitutive of social inequality. They are part of what *makes* unequal power and authority troubling.

Kolodny argues for this claim. He notes, for example, that "if one can exit a slave 'contract' at will, either because, as one knows, one can void it at will, or because it is already void (that is, will not be enforced by third parties), then it is not clear in what sense one really is a slave."⁶³ There is a negative and a positive lesson here. Negatively, the more inescapable a given form of unequal power is, the more troubling it is, all else being equal. This lack of exit options

60 Gourevitch, "Labor Republicanism and the Transformation of Work"; and Anderson, *Private Government*.

61 Kolodny, "Help Wanted"; Taylor, *Exit Left*.

62 Compare Brake, "Equality and Non-Hierarchy in Marriage."

63 Kolodny, "Rule over None II," 304.

is part of what makes the state's power over us so troubling since "one typically cannot escape the effects of political decisions at will, or at least not without high cost."⁶⁴ Positively, "the freer one is to exit what would otherwise be a relation of social inferiority, the less it seems a relation of social inferiority in the first place."⁶⁵ This is because "what seems to matter for relations of social inferiority and superiority is not so much equality in *actual* power, authority, and consideration, but instead equality of *opportunity* for power, authority, and consideration, where equality of opportunity is understood not as equal ex ante chances, but instead as *ongoing freedom* (both formal and informal) to exit relations of inequality."⁶⁶

Yet, Kolodny overlooks an implication of his view.⁶⁷ The ability to escape political power comes in degrees. Escaping political power can be made more feasible and less costly by altering the broader institutional arrangements in which political rule is embedded. Recognizing a robust right to emigrate makes the state's power more escapable, since the state's power is *territorially* jurisdictional, that is, particularly operative on those who reside within the state's territory. Therefore, a right to emigrate can play a *constitutive* role in reducing one's complaint against political inequality. It mitigates (the badness of) that inequality. This is especially so when the right to emigrate is accompanied by genuine exit options.

Let me clarify three things about the constitutive argument for the right to emigrate. First, again, my claim is not that having a right to exit fully alleviates the problem of hierarchy. The fact that people can emigrate does not render political inequality anodyne, for people also have a right to live as equals in their home state. Rather, my claim is that a robust right to emigrate helps temper inequality. It makes political inequality less bad than it otherwise would be. It helps make political relationships more like relations among equals. In this regard, my defense of the right to exit is on a par with egalitarian defenses of democracy. Representative democracy mitigates the badness of the inequality inherent in representative political rule by giving the ruled a share of higher-order control over their rulers; it does not eliminate the power inequality between ruler and ruled.⁶⁸

Second, I leave open the precise connection between exit and equality. There are different ways to understand this. One possibility is that when A

64 Kolodny, "Rule over None II," 305.

65 Kolodny, "Rule over None II," 304.

66 Kolodny, "Rule over None II."

67 Kolodny, "Rule over None II," 304n19. Kolodny also suggests that what matters might be the ability to exit political relations *as such*, rather than the ability to exit any particular relationship. I discuss this in section 4.1.

68 Compare Lovett, "Must Egalitarians Condemn Representative Democracy?"

has an exit option in her relationship with *B*, this mitigates the badness of *B*'s power over *A*. The thought here is that even if the extent of *B*'s power over *A* is not affected by the presence of the exit option, that the presence of a suitable exit option makes *A*'s relation to *B* *less bad* because the relation is less like an *entrenched hierarchy*. This is because social hierarchies are less bad when they are less ossified: hierarchical social relations are less bad when those subject to them are offered genuine equality of opportunity such that each person has a real option to move out of their subordinate position. On this view, the right to emigrate gives people a real option to escape relations of subordination, thereby mitigating the badness of those relations. A second possibility is that when *A* has an exit option in her relationship with *B*, *A* is less subject to *B*'s power. Suppose that *A* has power over *B* just in case *A* can get *B* to do what she wants. If *A* tries to get *B* to ϕ , *B* is likely to ϕ . This means one does not have power over people who obstinately defy one, and that one does not have power over people who one has no impact on. On this view, it is natural to think that when *B* has greater exit options this reduces *A*'s ability to get *B* to do what he wants. If *B* can easily and costlessly exit her relationship with *A*, then *B* is less likely to do what *A* wants her to do unless she desires to do so. Exit options thus reduce the power of the powerful. On either view, the right to emigrate is defensible.

Finally, note that my argument might be extended. I have focused on the inequalities in power and authority constitutive of political rule. But these are not the only relational inequalities that exist within states. Many contemporary societies contain forms of social ranking, in which some members of the state receive greater social consideration than others, due to pervasive social norms localized to that society. Examples include anti-Blackness in the United States and casteism in India. These standing-based inequalities can also be mitigated by a robust right to emigrate. This is because such inegalitarian social norms are often rather parochial. Norms about caste do not travel outside of South Asia and its diasporic communities. Anti-Blackness is particularly egregious in the United States. So, recognizing a right to emigrate can also play a limited role in ameliorating inequalities in social standing.⁶⁹ Moreover, when a state characterized by such norms hinders emigration, it is *ipso facto* enforcing those unjust social relations. This is something states have strong reason not to do.

69 My claim is *not* that a right to emigrate renders, e.g., anti-Blackness anodyne, but rather that there is value in making oppressive circumstances more escapable. Some Black political thinkers have emphasized similar ideas. Frederick Douglass, for example, although critical of the colonization movement and the Great Migration, concedes that the "right to emigrate is one of the most useful and precious of all rights" (*Negro Exodus from the Gulf States*. Baldwin emphasizes the lifesaving function of emigration in "The Art of Fiction," 78. See also Wright, "I Choose Exile."

This completes my initial defense of the claim that the value of relational equality partially grounds the right to emigrate. This view has several attractions. Like the basic rights view, it emphasizes the “protective” function of exit, though it offers a theory with wider scope. Like the freedom of movement view, the egalitarian argument entails that a merely formal right to exit is deficient, while capturing what is distinctive about exit. My view explains the appeal of voluntarism—since *unescapable* power is a special threat to social equality, having the option to exit transforms one’s relation to the state—without basing authority solely on consent. Finally, my account captures the insight that people have a claim to extricate themselves from certain relationships without treating freedom of association as an independent value.

4. OBJECTIONS

To complete the egalitarian case for the right to emigrate, however, I must address three key questions. Would such a right to emigrate really reduce inequality? Might it not instead exacerbate inequality? Does the egalitarian argument support a *right* to emigrate with sufficiently broad scope? I consider these questions in this section.

4.1. *Does the Right to Emigrate Reduce Inequality?*

One might question whether the right to emigrate reduces relational inequality. This point can be pressed in different ways in reply to the remedial and constitutive arguments. Consider first the former. Here, one might note that leaving one’s state does nothing to improve the egalitarian character of the social relations within that state. It is true that emigration does not necessarily reduce inequality for those who remain. But the thought that this undermines the remedial argument rests on two mistaken assumptions. The first is that the only way to better realize social equality is to create more equal social relationships. Rather, one can also better realize equality by *breaking* unequal ones. Early feminist advocates of the right to divorce had no illusions that it would fully transform unequal marriages into equal ones, but they nevertheless thought that the ability to escape marital domination was important.⁷⁰ Second, the objector seeks to aggregate complaints against social inequality in an inappropriate manner. Leaving one’s state may not improve political inequality for others, but it does allow one to avoid that inequality. This suffices to justify the right to emigrate, since one has a claim against social inferiority.

70 This is not the *only* case for the right to divorce; it is also justified on other grounds.

Against the constitutive argument, the objector might note that merely having a right to emigrate does little to alter one's social relationship to one's state when one does not exercise that right. After all, even if states recognize the right to emigrate, the costs of emigrating remain significant. But the right to emigrate tempers inequality only when the costs of emigration are not catastrophic.

Yet, the objection is again overstated. For one, there is a significant distinction between having no possibility of exit and there being costs to exit. Having an exit option can matter, even where that option is costly. Leaving any marriage has costs associated with it. But there is a real difference between having the option to leave and lacking it. The same holds for emigration. For another, the lesson to draw from the objection is that my account does not just entail a merely formal right to exit (i.e., a negative right against being denied exit); it requires that each person have *real* exit options (that is, a genuine option to move elsewhere). Third, the costs of emigration are variable. While they cannot be *fully* eliminated, much can be done to reduce them. What the objection shows is that states should take steps to reduce the costs of emigration. I discuss these points further in section 6.

Finally, both objections assume that having a right to emigrate does nothing to alter the social relations within one's state. Yet, this is often false. As has been remarked in a wide variety of contexts, exit options often translate into bargaining power.⁷¹ Being able to credibly threaten to exit gives one leverage. Being able to credibly threaten to leave one's state, all else being equal, heightens one's voice. If one can threaten to take one's labor elsewhere, one is more likely to be able to pressure one's employer than if one stuck in a monopsonic company town. So too do exit options give one more leverage over one's state.

Now consider a more fundamental objection to the constitutive argument. The constitutive function of the right to emigrate is, I argued, to render state power more escapable. But emigration is movement from one state to another. While a right to emigrate may allow one to escape the power of *any particular state*, it does not make *state power as such* escapable.⁷²

There are four responses to this objection that, together, explain why recognizing this important truth does not undermine the constitutive argument. The first two stem from the underlying relational structure of complaints against social inequality. Relational equality grounds both agent-neutral and agent-relative claims. It grounds claims on all to do their part to reduce social subordination: we should all work to bring about a more equal world. Yet, it also grounds

71 Taylor, *Exit Left*, 36; Hirschman, *Exit, Voice, and Loyalty*; Clark, Golder, and Golder, "An Exit, Voice, and Loyalty Model of Politics."

72 See Kolodny, "Rule over None II," 304n19.

agent-relative claims. If we stand in an unequal relationship, I have a directed claim against you that *you stop subordinating me*. This claim correlates with an agent-relative reason on the part of those who wield power to at least mitigate that power disparity—that is, a reason *for them* not to allow one to emigrate. Thus, even if one lives in a society where people of a certain group are necessarily enslaved to someone, one has a particular claim against the individual one is enslaved to as that person has elected to exercise asymmetric power over one.⁷³ So, even if one's outside options would also involve subordination, one still retains a claim to emigrate because one has a directed claim against subordination. Thus, states still have special reasons to respect the right to emigrate.

Second, the objection turns on the denial that there is a significant distinction between necessarily being subject to *someone's* power and being necessarily subject to the power of a *particular person*. It assumes that the latter lacks any independent significance. But this is not so. In the literature on employment justice, it is common to distinguish *domination by one's employer* from *structural domination in the labor market*.⁷⁴ The former occurs when one is subject to a particular boss, the latter when one is structurally forced to sell one's labor to some boss. While these problems compound one another, they are partially independent of one another. Being necessarily subject to a *particular person's* power is, in one way, worse than merely being necessarily subject to someone's power. If *A* has power over *B* to the extent that *A* can get *B* to do what she wants, then having an exit option can reduce *A's* power over *B*, just by allowing *B* to more easily escape her subjection to *A* and so avoid having to obey *A's* commands. Thus, even if the constitutive argument only resolves the former problem, this is not insignificant.

Third, the objection neglects the importance of exit options on bargaining power. The key to increased bargaining power is that one can *credibly threaten* exit. But one's threat to emigrate can be credible even where one's outside options are no better in terms of subordination than one's current options. Improving one's social relations in terms of equality is not the only reason one might want to migrate: there are a range of other reasons one might

73 It might seem that this claim stands in tension with the argument of section 5, where I contend that states' immigration policies play a constitutive role in creating unequal power relations between states and their subjects. However, *A's* claim against subordination to *B* is distinct from *A's* claim that *C* and *D* not help uphold *B's* power over *A*. An enslaved person's complaint against fugitive slave laws was that they made masters' power over enslaved persons inescapable, not that they made each white person a master. Playing an objectionable role in constituting an unequal power relationship between *A* and *B* is not equivalent to wielding that power in that relationship.

74 Compare Gourevitch, "Labor Republicanism and the Transformation of Work."

have to move and it is plausible that some other state will be better along one of these dimensions. Moreover, one's threat to emigrate can be credible *even where* the costs of exit are significant. The key thing to making an emigration threat credible is that the state *believes you might leave*. Although actual states are well aware that emigration can be costly, they are also aware that many people emigrate despite the obstacles they face. This makes most exit threats at least somewhat credible where people have a real exit option. Moreover, a just migration regime, of the sort defended in section 6, that favors ensuring admission options to democracies with low social inequality, would also further enhance the bargaining power of potential emigrants by making their exit threats more credible.

Finally, the objection assumes that all states are equally subordinating. But subordination comes in degrees. For example, one is less subject to social inequality in the average democracy than in a dictatorship. Thus, even if some amount of subordination is inescapable, emigration can be a way to escape its worst forms. Moreover, social positions are not fixed across states: there can be localized forms of status inequality that differ from state to state.⁷⁵ So, even in a world of states, the right to emigrate could mitigate relational inequality.⁷⁶

4.2. Might the Right to Emigrate Undermine Equality?

Even if the right to emigrate can mitigate inequality, one might worry that recognizing such a right might have unintended negative consequences on the distribution of power that offset its positive effects. The affluent are more mobile and can more easily absorb the costs of hopping jurisdictions. One might therefore worry that recognizing a more robust right to emigrate would give them increased bargaining power. The affluent might threaten to leave the state's jurisdiction unless political decisions are made that favor their interests.⁷⁷

75 James Baldwin explores the ambivalence of his social position in France in "Equal in Paris." He was more direct about Turkey: "Turkey saved my life" (in Zaborowska, *James Baldwin's Turkish Decade*, 8).

76 Note two further *prima facie* implications of my view. First, it gives us some reason to prefer a world in which people have the option to exit the state system altogether. Second, it gives us some reason to prefer a world of states to a world state. I doubt that considerations of equality are decisive in either case: in the former, people plausibly have a natural duty to engage in some form of social cooperation, which means opting out of the state system altogether would be unjustified; in the latter, the costs and benefits of different modes of global governance are various, and it is possible that the benefits of a world state, egalitarian or otherwise, might outweigh the egalitarian costs identified here.

77 For discussions of differential exit options, see Hirschman, *Exit, Voice and Loyalty*, 25; Taylor, *Exit Left*.

Since they command greater resources, they hold greater leverage.⁷⁸ Given this inequality, greater mobility might increase power inequalities by disproportionately increasing the wealthy's bargaining power.

It would indeed be problematic if recognizing a right to emigrate had such effects. Yet, there are reasons to doubt that it would. First, rich people do not typically flee as soon as marginal tax rates increase. There are often strong incentives for them to stay put.⁷⁹ Moreover, the right to emigrate can and should be pursued as part of a broader egalitarian agenda. The appropriate response to concerns about unequal leverage that might result from greater mobility rights is not to stop mobility. It is to address the underlying inequalities in wealth and resources that give rise to those disparities. Eliminating these disparities is independently part of what realizing relational equality requires. Egalitarians should favor redistribution *and* recognize a right to emigrate.

Bringing about greater material equality is, however, no easy task. Entrenched interests stand in the way. So, should one institutionalize such a right *absent* these broader egalitarian efforts? Note first that this worry describes the status quo. In the actual world, the affluent have greater opportunities for mobility than the poor. They can usually emigrate if they want to. The appropriate solution to this problem is not to close the border. This is in part because, on my pluralist view, there are also *nonegalitarian reasons*, in particular, reasons of autonomy, to support a right to emigrate. Since banning emigration fails to take these reasons seriously, it should not be the first-choice response to the potential differences in mobility leverage.

Instead, egalitarians should, where possible, endorse an alternative response. Bargaining power inequalities occur for two reasons: the least advantaged lack the financial and social means to move, and the affluent can use the threat of emigration as leverage. The right to emigrate can be institutionalized in ways that minimize both problems. First, the state could *resource exit* by defraying the costs of emigration for the disadvantaged.⁸⁰ It can provide resources for those who lack the means to leave. It can help them secure visas elsewhere. It can provide language courses and job training to help reduce the costs of moving. These measures make it easier for the disadvantaged to move and thus give the disadvantaged greater leverage. They also reduce the leverage the advantaged

78 Compare Lindblom, "The Market as Prison."

79 Young argues for this claim using data about the mobility behavior of millionaires both within the United States and globally (*The Myth of Millionaire Tax Flight*). Millionaires tend not to emigrate because elite social, cultural, and human capital is often place specific.

80 Similar points are developed in Taylor, *Exit Left*, 37–43 *et passim*.

have over the disadvantaged by making the wealthy's bargaining power more avoidable and making the state's power more escapable by reducing exit costs.⁸¹

Second, the state could prevent differences in mobility and wealth from being converted into differences in leverage.⁸² The simplest way to do this is to create mechanisms that stop the affluent from threatening to take their resources with them when they leave, such as exit taxes on the superrich.⁸³ Exit taxes of the right kind can block the conversion of the rich's mobility options into superior bargaining power. If one cannot take all of one's wealth when one leaves the state, then one is less able to leverage one's resources into bargaining power by threatening to leave. Since the right to emigrate can be tailored to reduce bargaining power inequalities, one need not ban emigration in order to counteract these inequalities.

Similar points apply to a second version of this worry, which concerns human capital. One might worry that recognizing a robust right to emigrate would bolster the bargaining position of those much-coveted, scarce skills, such as medical training, vis-à-vis the state, and thus generate an inequality between them and their compatriots. However, health care workers in the developing world do not have much leverage over their compatriots, even though they are much more mobile. Otherwise, one would expect them to have successfully bargained for more competitive pay. This has not, as a rule, been the case. Health expenditure remains only a fraction of GDP in most developing states. Moreover, it is not clear that leverage vis-à-vis employers, e.g., translates into leverage over other members of society. It thus seems unlikely that high-skilled workers can leverage emigration threats in a manner that will give them substantial power over their low-skilled counterparts.

This raises, however, a more general question about how my view should deal with the potential for emigration to cause brain drain and other similar phenomena. Empirically, scholars offer varying assessment of net costs and benefits of emigration of high-skilled medical workers.⁸⁴ Yet, there is little evidence that most forms of emigration exacerbate relational inequality.⁸⁵ More importantly,

81 Taylor, *Exit Left*.

82 Compare Walzer's claim that we should block the conversion of inequalities in one "sphere" into inequalities in another (*Spheres of Justice*, 17–20).

83 Stilz defends this proposal in "Unqualified Right."

84 For an overview of empirical research on the brain drain, see Brücker, Docquier, and Rapoport, *Brain Drain and Brain Gain*.

85 Consider two further reasons one might think emigration increases inequality. First, emigration may have negative distributive effects in source countries. Docquier, Ozden, and Peri argue that emigration can depress low-skilled workers' wages ("The Labour Market Effects of Immigration and Emigration in OECD Countries"). Such studies are, however,

we should not settle our general view of the right to emigrate solely by focusing on brain drain. Indeed, the debate about brain drain typically *presupposes* that there is such a right and asks when it may be permissibly restricted.⁸⁶

This is not to deny that there might be cases in which large-scale emigration would exacerbate relational (or distributive) inequality or have other negative social impacts. However, given the weighty interests at stake in emigration, ways of mitigating emigration-induced inequalities that do not involve restricting mobility, such as exit taxes or positive incentives to stay, should be favored where feasible. Cases where emigration would enhance inequality or cause serious harm and where that harm can *only* be averted by emigration restrictions at most indicate that the right to emigrate is defeasible and that there may be transition costs to moving toward a just global migration regime that can address these problems in a coordinated way. Any all-things-considered defense of emigration restrictions in a particular case requires grappling seriously with the values that justify the right to emigrate in the first place. This article thus lays the groundwork for discussions of whether and how emigration restrictions might be justified—an important issue that is beyond the scope of this paper.⁸⁷

4.3. *Does the Right to Emigrate Have Sufficiently Broad Scope?*

The right to emigrate is usually understood to apply to all persons in all states. Yet, it might seem as though my argument cannot support a *universal* right to emigrate. Consider first whether my argument applies to all states. Perhaps inequality can be reduced sufficiently without recognizing the right to emigrate.

premised on the status quo, in which migratory options are deeply unequal. Karadja and Prawitz suggest emigration can also have positive egalitarian benefits (“Exit, Voice, and Political Change”). Second, emigration might function as a safety valve for autocratic regimes. Pfaff and Kim find an inverse relation between exit and protest (“Exit-Voice Dynamics in Collective Action”). Yet, there is a reason why autocrats are so keen on controlling emigration. Alemán and Woods suggest emigration *restrictions* enhance autocratic stability (“No Way Out”). Peters paints a nuanced picture on which emigration to democracies undermines autocratic stability (“Restraining the Huddled Masses”). The autocratic safety-valve approach likely functions only when autocrats can *stop* most people from migrating—a violation of the right I defend—while *selectively* encouraging others to leave. In neither case are emigration’s overall effects clearly inegalitarian and it is anyway doubtful that these kinds of effects would offset the clear egalitarian gains of a robust right to emigrate.

86 Compare Brock and Blake, *Debating Brain Drain*; Oberman, “Can Brain Drain Justify Immigration Restrictions?”

87 Other important issues the right to emigrate raises include its relation to theories of political obligation and to the state’s power to execute just punishment to, e.g., fairly incentivize compliance with the law.

Consider an egalitarian utopia that distributes all goods, including political power, equally. In such a utopia, the right to emigrate might seem unnecessary: there is no inequality that must be rendered escapable. One might extrapolate from this. Perhaps some actual states—maybe Iceland—are already sufficiently equal. So, perhaps equality does not justify a right to emigrate for Icelanders. Thus, one might conclude, my argument cannot justify a right to emigrate *that applies to all states*.

I concede that the strength of one's claims to emigrate can vary. They can vary according to the degree of inequality to which one is subject. Yet, this is a feature of my account, not a bug. Any theory of emigration should recognize that actual claims to emigrate will vary in strength. In states less marred by inequality, one's claim to emigrate may be weaker; the worse one's social position in one's state is, the stronger one's claim. Still, the right to emigrate has an important function even in the most ideal political community. Relational equality demands that we *minimize and constrain* the power disparities in political rule to the *greatest degree possible* consistent with other values. Yet, even the most ideal political community—short of an impracticable form of full direct democracy—would likely contain *considerable* political inequality. Recognizing a right to emigrate thus has a role to play in redressing inequality in all states.

One might wonder whether this role is significant enough to justify a strong *right* to emigrate from the egalitarian utopia. I am admittedly uncertain how strong one's egalitarian claim to emigrate would be in this case. But I do not think this is damning. My argument still shows that relational equality provides a *strong reason* to protect a right to leave: it is essential to ensure that social cooperation is really free cooperation among equals. This is an important and novel conclusion about what kinds of migration policies egalitarians should favor. So, my argument is hardly trivial, even if one believes the connection between emigration and equality is purely instrumental and contingent in nature. Moreover, there are no egalitarian utopias. No actual society—not even Iceland!—comes close. So, my argument still justifies a right to emigrate from all actual states.

Still, there is a different way in which my argument might fail to be universal in scope. Perhaps it shows that all who are subjected to political inequality have a right to emigrate. But not everyone is so subjected. Those who occupy *superior* social positions are not. So, one might think, my argument cannot justify a right to emigrate for everyone.

The objection is again overstated. Even if those in positions of social superiority do not have a direct claim to emigrate, they may still have a *derivative* claim to emigrate. Standing in relations of superiority is bad: one has strong moral reason not to do it. But if one occupies such a position unavoidably due to, e.g., pervasive social norms that confer greater standing on members of one's

social group, one might have a claim to extricate oneself from such relations. Now, many such people *avoidably* occupy positions of superiority. The powerful could give up their power. But they could nevertheless acquire such a right by renouncing their power.

More importantly, my argument justifies a right to emigrate for the vast majority of people. Social and political power and authority are, in all actual societies, heavily concentrated. The fact that an egalitarian justification does not extend to everyone in all possible circumstances need not undermine its force in the cases in which it does apply. Finally, as I argued earlier, the full case for the right to emigrate is pluralistic.⁸⁸ Equality plays an important role in justifying the right to emigrate. But autonomy considerations and other positive interests in mobility have a role to play too. Equality need not do all the work.⁸⁹ So, lack of universality is not a decisive reason to reject my egalitarian argument.

5. AN ARGUMENT FOR THE RIGHT TO IMMIGRATE

I have defended the right to emigrate. I will now make a derivative argument for a right to immigrate. On the standard understanding, there is a universal but merely formal right to emigrate but no corresponding right to immigrate.⁹⁰ While it is unjust for one's state of current residence to bar one from leaving, no such injustice occurs when other states refuse to let one enter. My egalitarian argument shows that this is the wrong way to understand the relation between exit and entry.⁹¹

My argument for a limited right to immigrate begins from the observation that a merely formal right to emigrate does very little to reduce social inequality. It does nothing to make state power escapable. What is crucial is that one has *genuine exit options* that can be exercised *without prohibitive cost*. A merely formal right to emigrate does not provide such options. It does not guarantee that emigrants have anywhere to go. The right to emigrate can only serve its egalitarian function when accompanied by a corresponding right to enter at

88 The pluralist nature of my defense of the right to emigrate raises the question of how these different grounds of the right to emigrate relate to one another. A plausible view is that basic rights take lexical priority over relational equality, which in turn often, but not always, takes priority over one's positive interests in freedom of movement. This view has implications for how a just migration regime should be designed, which I discuss below.

89 Perhaps equality can do more work still: the principle of equal treatment may also require that we recognize a right to emigrate for all once we recognize it for some.

90 For a defense, see Wellman, "Freedom of Movement."

91 For other criticisms of the standard view, see Cole, *Debating Immigration*; Lenard, "Exit and the Duty to Admit."

least some other state. This provides some reason to favor a limited right to immigrate *somewhere*.

Now, one might object that this does not immediately ground a *right* to immigrate. The fact that protecting people's exit options would serve an egalitarian function does not entail that states are *under a corresponding duty* to accept immigrants. Accepting immigrants, it is often alleged, comes with costs. It must be shown that other states have a responsibility to bear those putative costs. But it is sometimes thought that the duties states have to outsiders are limited: it is not obvious that states must benefit outsiders, let alone benefit them by allowing them to immigrate. So, while states have reason to accept immigrants in order to help realize social equality by promoting effective exit, one might nevertheless deny that states have a duty to do so.

This challenge can be answered in two steps. The first step is to show why states have some special duty or reason to accept emigrants, which makes it appropriate to require them to bear the burdens of doing so. The objection alleges that when states exclude immigrants, they are merely failing to benefit them and that excluding states have no special responsibility for their predicament. But these claims are false. When states refuse to accept emigrants, they are not merely failing to benefit them; they are *actively helping to maintain* the inequality that emigrants endure. States do quite a lot to prevent people from moving. They build walls and post armed guards. They build elaborate architectures of remote control. All this means that states bear some responsibility for the plight of outsiders seeking to emigrate.⁹²

This point can be made in two different ways. The stronger version claims that states generally play an active role in constituting the very inequality at stake. Recall that the significance of the inequality between a given citizen and their state is a function of the extent of the state's power *and* of the individual's exit options. But an individual's exit options are determined by the actions of other states generally. So, by excluding immigrants, the community of states plays a constitutive role in making the power of each state more difficult to escape. But if states' exclusionary immigration policies generally play a role in constituting social inequality in other states, then states have a special responsibility to help redress that inequality. Emigrants have a complaint against *states in general* that they stop constraining their exit options.

This argument depends on the potentially controversial claim that actions of a third party, *C* (or a group of third parties, *G*) can be constitutive of a power

92 There is an even weaker way to make the case. We have weighty reason not to allow others to be subordinated when it is not costly for us to prevent it. You should jump in the pond to free a slave even if it ruins your suit! This principle applies to states. They should therefore allow some immigration, absent defeating considerations.

relation between *A* and *B*. Yet, I think this claim is defensible.⁹³ Consider the system of American chattel slavery. The relationship between enslavers and enslaved persons clearly involved a “dyadic” power relation of an asymmetric and objectionable sort. But these problematic dyadic power relations were themselves constituted by—and indeed only existed because of—a broader network of social institutions that made it possible.⁹⁴ One central institution here was the fact that slave ownership was enforced by third parties, such as slave catchers, who were backed by law and would apprehend and return enslaved persons to their enslavers. This social institution helped constitute the power relationship between the particular “master” and the “slave.” My claim is that states collectively play this kind of role in constituting power asymmetries. States typically return those they exclude to their states of origin; this helps constitute the power of their states over them.

More broadly, states are, one and all, participants in a practice of territorial sovereignty. This practice constitutively confines people to political rule in particular territories and thus subjects them to rule by those who wield power in those territories. States participating in this practice collectively *recognize* those rulers, authorize them to wield political power, and often causally support them in doing so. These facts mean that states collectively bear responsibility for the plight of those who live under the rule of the state system and, in particular, for ensuring that this system is compatible with the demands of equality.⁹⁵

However, the case for a limited right to immigrate does not hinge on these controversial claims. A weaker point suffices. Even if states’ exclusionary immigration policies do not help constitute inequality in states of emigration, such policies still help cause it. They are a key part of the reason why outsiders must endure that inequality. States thus knowingly contribute to maintaining relations of subordination. That people are generally denied the right to emigrate is a kind of structural injustice. This is a direct result of the actions of states collectively. States bring this situation about through their immigration control policies. They know that these policies reduce the exit options of those in other states, and they know (or could easily know) that this results in subordination. Greater social inequality is a foreseeable result of their actions. So, by acting to exclude immigrants, states knowingly help bring about grave structural injustice. States should not knowingly help cause structural injustice and it is only by changing their immigration policies that states could avoid doing so.

93 For a further defense, see Vrousalis, “The Capitalist Cage.”

94 Compare Gourevitch, “Labor Republicanism and the Transformation of Work,” 601–3.

95 My argument thus highlights the significance of the way states interact and are positioned within a system of states. For a critical overview of arguments of this kind, see Sharp, “Immigration and State System Legitimacy.”

Still, one might retort, this duty is too demanding. The claim that each state must accept an unlimited number of immigrants would be too high a burden to impose. This brings me to the final step of my argument. My egalitarian case for the right to emigrate straightforwardly does not entail that emigrants have a right to enter whichever country they choose. Rather it shows that states are under a *collective duty* to institute a global migration system that (a) adequately protects the right to emigrate and (b) can fairly distribute the costs of protecting this right. Under such a system, the costs of accepting emigrants would not be prohibitive; so, states are required to institute such a system. I elaborate on these claims further below as part of a broader exploration of states' duties in regulating migration.

6. IMPLICATIONS

I will conclude with a brief discussion of the implications of my theory for the duties of states. I highlight the duties that this right imposes on states of emigration (section 6.1), then consider the duties it imposes on states collectively (section 6.2). I conclude with a brief remark on what states should do under conditions of noncompliance (section 6.3).

6.1. *The Duties of States of Emigration*

The right to emigrate is often thought to impose only a negative duty on one's own state not to prevent one from emigrating. However, on my account, the right to emigrate also grounds a number of positive duties on one's state. An underlying aim of the right to emigrate is to temper the inequality inherent in political rule by making that inequality more escapable. But the extent to which political inequality is escapable depends on how costly people's exit options are. States therefore have positive duties to reduce the costs of exit for their citizens, especially the most disadvantaged ones.

There are three primary costs associated with exit—exit, mobility, and entry costs—and states can reduce all of these costs. *Exit costs* are associated with what one leaves behind: friends, family, opportunities, attachments, culture. The state can reduce these costs by recognizing a right to return, such that those who emigrate are not permanently cut off from their significant social and cultural attachments.⁹⁶ *Mobility costs* are associated with moving itself. The state can assist in securing visas and defraying the financial costs of emigrating, particularly for the disadvantaged (or states could collectively eliminate visas altogether). *Entry costs* are associated with adapting to one's new destination:

96 This right is already recognized in international law.

finding employment, learning a new language, making social contacts. Here, states can play a role in helping emigrants adapt: they can help emigrants find employment, provide job training, acquire language skills, and provide support to social organizations for emigrants.⁹⁷ States have significant latitude in how they discharge these duties, and these duties are limited by considerations of demandingness. But if there are easy ways to reduce the costs of emigration, states should do so.

6.2. *Duties on States Collectively*

I argued that relational egalitarianism requires real and robust options to emigrate and this entails a collective duty on the part of states to work to create political institutions that make this possible. What kinds of institutional arrangements would protect the right to emigrate? This section explores this issue. First, I highlight some minimal requirements that must be met to protect effective exit. I then argue that these minimal requirements do not best realize equality, and that there is strong reason to favor a regime characterized by greater openness. Finally, I argue that although a world of open borders would *best* realize relational equality, it is not clear that egalitarians must endorse open borders. The overall picture is one on which states may have some discretion in how they institutionalize a global migration regime that protects effective exit.

At a minimum, a migration system must meet two conditions to protect effective exit. First, it must ensure that each person has at least one state to which they can immigrate. To play its constitutive function in mitigating inequality, each person must have a real option to emigrate, which requires a corresponding option to immigrate somewhere. Second, it must ensure that this destination is a decent option. Otherwise, the right to emigrate would not effectively play its constitutive role. The option to immigrate to North Korea would not reduce social inequality. This means that states with comparatively democratic governments, lower political inequality, and a decent standard of living should be preferred.

These minimal conclusions entail that a strictly unilateral and discretionary system of migration control is untenable. The denial of effective exit options for some is a predictable result of states exercising unilateral control over their borders. States therefore have a duty to engage in cooperative endeavors to ensure that a system of effective exit is realized. Such a system would distribute the burdens of protecting effective exit such that no one state must bear all the costs.

97 I leave open whether the duty to defray these costs should fall on states of emigration or destination states.

Although this *minimalist system* of global migration management would make the international order more compatible with equality, it would not adequately protect the right to emigrate. This requires making inequality sufficiently escapable. To do this, effort must be made to adequately reduce the costs of emigration. But the minimalist system makes few such efforts. It provides emigrants with only one option, makes no provision for taking their destination preferences into account, and makes no provisions for group or family migration. Under such a system, the costs of emigration will remain intolerably high for many.

Therefore, a more open system is plausibly required. Such a system should provide emigrants with a range of potential destinations, protect family migration, and take their migration preferences into account. A variety of different institutional arrangements might meet these moderately more demanding requirements. A global migration regime of this kind might, for example, incorporate a preference-matching system, in which both states and emigrants “rank” destination choices. Or it might use some other mechanism for factoring in mobility preferences. Admittedly, this system would require receiving states to take on greater burdens. It is an open question how high these burdens are and whether states are required to take them on. I believe that states are generally obligated to take on these burdens. This is not only because equality is an important value and greater openness would also better realize many important freedoms. It is also because immigrants are often a net benefit to the states that accept them and the burdens of accepting them are often overstated. However, I will not argue for these claims here, since my aim is not to settle this issue.

This system of *moderate openness* is, however, nevertheless compatible with significant (though not unlimited) discretion on the part of states concerning whom to admit and thus stops short of open borders. Equality does not require that each person has a right to enter whichever state they choose. Protecting effective exit is thus compatible with a world in which states collectively manage migration, as long as states coordinate appropriately and the costs of emigration are suitably reduced.

However, there is reason to believe that a world of open borders, combined with widespread real opportunities for mobility, would best realize effective exit. This is because open borders would reduce the costs of emigration to the greatest extent. However, equality arguably does not require open borders, since states might merely be required to implement a sufficiently egalitarian migration system, rather than an optimally egalitarian one. Nevertheless, equality provides support for open borders *as an ideal*.⁹⁸ The important point for our

98 Compare Oberman, “Immigration as a Human Right,” 33n2.

purposes, however, is that all three systems of migration governance would fare much better than current arrangements at protecting the right to emigrate. How heavily one weights the values that comprise my pluralist view as well as how one regards the costs of emigration will play a crucial role in how one thinks a system protecting effective exit should be designed and thus in determining which of these systems for regulating global mobility one ultimately favors.

6.3. Duties Under Noncompliance

I have argued that states are under a collective duty to institute a fair global migration system that better protects the right to emigrate. But states have, obviously, yet to institute such a system. They have thereby failed to do their duty. What does my argument imply under such conditions? The primary thing it implies is that states are required to accept a substantially greater number of immigrants. This is because doing so would help better approximate the ideal of social equality on which the right to emigrate is partially based. This duty is not, however, unlimited. So, states may perhaps prioritize those whose egalitarian claims are most urgent. My argument thus provides yet another reason why states should loosen their immigration restrictions.⁹⁹

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99 For a complementary argument, see Sharp, "Relational Equality and Immigration." I thank Daniel Viehoff, Samuel Scheffler, Katharina Anna Sodoma, Matthew Lister, Matthias Hoesch, Adam Lovett, Sophie Cote, Rob Long, Clara Lingle, and Marko Malink as well as participants at Social Ontology 2021, the Ethics and Applied Philosophy Graduate Conference at University of North Carolina Charlotte, Washington Square Circle, and the NYU Equality in Immigration Workshop for helpful feedback.

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