

Selling Citizenship: A Defence

JAVIER HIDALGO

ABSTRACT *Many people think that citizenship should not be for sale. On their view, it is morally wrong for states to sell citizenship to foreigners. In this article, I challenge this view. I argue that it is in principle permissible for states to sell citizenship. I contend that, if states can permissibly deny foreigners access to citizenship in some cases, then states can permissibly give foreigners the option of buying citizenship in these cases. Furthermore, I defend the permissibility of selling citizenship against the objections that selling citizenship values citizenship in the wrong way, corrupts civic norms, and unfairly discriminates against poor foreigners. I conclude by noting that, although selling citizenship is not intrinsically wrong, it could still be wrong for states to sell citizenship in practice. If existent immigration restrictions are unjust, then it may be impermissible for states to sell citizenship in the real world.*

1. Introduction

In October 2013, the government of Malta announced a new initiative: it would sell Maltese citizenship. Under this scheme, applicants would not need to live in Malta for any length of time to acquire Maltese citizenship. Applicants just needed to pay €650,000 and undergo a screening process. Malta is a member of the European Union. So, foreigners who buy Maltese citizenship would also gain citizenship in the EU. The Maltese government defended this initiative on the grounds that it would generate revenue and stimulate the economy. But many observers criticized this proposal. The Vice President of the European Commission gave a speech in which she declared: ‘citizenship cannot be taken lightly. . . . One cannot put a price tag on it.’¹ The European Parliament adopted a resolution condemning the Maltese government’s proposal. The resolution claimed that Malta’s policy ‘undermines the very concept of European citizenship’ and that ‘EU citizenship should never become a tradable commodity.’² In response to widespread criticism, the Maltese government amended their proposal to require applicants to live in Malta for a year before they can acquire citizenship.

As this controversy illustrates, many people believe that it is morally impermissible for states to sell citizenship. Legal theorists Ayelet Shachar and Ran Hirschl express a common sentiment about selling citizenship when they proclaim: ‘we must resist . . . the notion that money can buy “love of country” — or secure membership in it.’³ People raise several different objections to selling citizenship. Some theorists argue that cash-for-citizenship schemes express defective attitudes toward the good of citizenship or fail to value the good of citizenship in the right way.⁴ Other authors object to selling citizenship on the grounds that it is unfair. Selling citizenship favours wealthy foreigners and excludes poorer applicants. Some critics argue that selling citizenship would undermine social solidarity and damage democratic institutions.⁵ Critics raise other objections to selling citizenship as well.⁶

In this article, I will defend the sale of citizenship. More precisely, I contend that, if it is sometimes permissible for states to prevent foreigners from immigrating, then it is also permissible for states to give these foreigners the option of buying citizenship.⁷ My argument will proceed as follows. In Section 2, I will sketch a presumptive argument for selling citizenship. In Section 3, I will consider the objection that selling citizenship values citizenship in the wrong way by treating it as a mere commodity. In Section 4, I will consider the objection that selling citizenship would degrade civic norms and undermine social solidarity. In Section 5, I will evaluate the objection that selling citizenship is unfair or discriminatory. I conclude the article in Section 6.

2. An Argument for Selling Citizenship

I endorse the following view:

Permissible Sale. It is, in principle, morally permissible for states to sell citizenship to foreigners.

Permissible Sale is consistent with some restrictions on selling citizenship. It is plausible that states can permissibly refuse to sell citizenship to dangerous criminals, terrorists, or people with contagious diseases. Furthermore, there could be contingent reasons why it would be wrong for a state to sell citizenship. Maybe selling citizenship would have seriously bad consequences in some cases. If so, then it would be wrong for a state to sell citizenship in these cases. Permissible Sale does not say that selling citizenship is always permissible. It says that there is nothing intrinsically wrong with selling citizenship.

Permissible Sale also leaves open how exactly states should go about selling citizenship. States can sell citizenship in different ways. States can sell citizenship for a fixed price. Alternatively, states can auction citizenship rights to the highest bidder. Some economists, such as Julian Simon, suggest that states could loan foreigners the amount that is necessary to buy citizenship and allow them to gradually repay this loan.⁸ I will focus here on the more fundamental question of whether there is anything inherently wrong with selling citizenship.

I will now give an argument for Permissible Sale. This argument aims to establish that we have strong, defeasible reasons to believe that it is permissible for states to sell citizenship. My argument goes like this. It is sometimes morally permissible for states to deny citizenship to foreigners. But, if states can permissibly deny citizenship to some foreigners, then states can permissibly give these foreigners the option of buying citizenship. After all, insofar as states can legitimately deny foreigners access to citizenship altogether, it seems morally acceptable for states to allow foreigners to purchase citizenship for a price. So, states can permissibly sell citizenship to foreigners. In other words, the argument goes:

1. In certain cases, it is permissible for states to deny foreigners access to citizenship.
2. If it is permissible for a state to deny foreigners access to citizenship, then it is *prima facie* permissible for this state to sell citizenship to these foreigners if this transaction is voluntary and does not violate anyone's entitlements.
3. Some foreigners would voluntarily purchase citizenship in other states if they had the option of doing so and these transactions would not, in general, violate anyone's entitlements.

4. So, it is *prima facie* permissible for states to sell citizenship to foreigners in certain cases.

If an action is *prima facie* permissible, then this action is normally permissible, but there may be special circumstances that explain why this action is impermissible in particular cases. If the above argument is correct, then we have a defeasible reason to think that it is permissible for states to sell citizenship, although we need to consider possible countervailing reasons before we can safely conclude that this would be all-things-considered permissible. I will now clarify and defend the premises of this argument.

Let's start with the premise that states can sometimes permissibly deny foreigners access to citizenship. If states can permissibly restrict immigration in any cases at all, then it follows that states can sometimes permissibly deny some foreigners access to citizenship. Citizenship and the right to immigrate go together. If a person has citizenship in state A, then this person has the right to immigrate to and permanently reside in A. But most people accept that it is sometimes morally permissible to restrict immigration. So, most people should agree with the claim that states can sometimes permissibly refuse to grant foreigners access to citizenship. In fact, even philosophers who believe that most actual immigration restrictions are unjust acknowledge that some immigration restrictions can be justified in certain circumstances. I will now explain why people who believe that states have rights to exclude potential immigrants and adherents of (broadly) open borders should both accept premise 1.

Many philosophers defend immigration restrictions. Some authors justify immigration restrictions by invoking the cultural impact of immigration. Immigration can cause rapid cultural change. David Miller and Will Kymlicka argue that citizens have strong interests in controlling or preserving their national cultures and these interests permit states to restrict immigration in order to control the pace of this change.⁹ Christopher Wellman and Michael Walzer appeal to the value of collective self-determination in defending immigration restrictions.¹⁰ Walzer and Wellman contend that the citizens of a political community have the right to control their own affairs and shape their future character. Furthermore, a fundamental aspect of collective self-determination is having control over the membership of one's political community. If citizens have rights to control their membership, then they are entitled to exercise this control by restricting immigration. Other theorists, such as Ryan Pevnick, argue that citizens collectively own their territories or institutions.¹¹ Property-owners can permissibly exclude people from their property. For the same reason, citizens can decide to deny foreigners access to their territory and institutions. Political theorists have proposed other justifications of immigration restrictions as well.¹²

So, philosophers have given a variety of different arguments for the view that states can permissibly restrict immigration. If any of these arguments are sound, then premise 1 of my argument for selling citizenship is true. This does not mean that actual immigration restrictions are permissible. Other moral considerations, such as obligations to assist people who are badly off, can outweigh states' rights to exclude foreigners. States may be morally required to admit a large number of refugees, asylum-seekers, and perhaps even economic migrants. Perhaps actual states fail to satisfy their duties to assist the global poor and, so, their immigration restrictions are objectionable. Nonetheless, Miller, Walzer, Wellman and other defenders of the right to exclude would endorse premise 1 of the argument for Permissible Sale.

Yet some political theorists, such as Joseph Carens, Chandran Kukathas, and Michael Huemer, defend open borders.¹³ These theorists point out that immigration restrictions infringe on valuable freedoms. Immigration restrictions obviously interfere with people's freedom of movement. But immigration restrictions also impinge on freedom of association and the economic liberties. They forbid people from selling their labour to willing buyers abroad and prevent people from living with their associates, such as their friends and family members, in other countries. Immigration restrictions also prevent people in poor countries from escaping poverty and deprivation. According to philosophers who defend open borders, the moral reasons to refrain from interfering with the freedoms of foreigners and to avoid reinforcing global poverty generally defeat the moral reasons to restrict immigration.

But even philosophers who defend the view that foreigners have rights to immigrate concede that immigration restrictions are permissible in certain circumstances. Suppose that a billion people would immigrate to rich states if they opened their borders. This migration would probably impose severe costs on the citizens of these states. Brian Barry claims that migration on this scale might cause massive overcrowding, the breakdown of public services, ethnic violence, environmental degradation, and other costs.¹⁴ Most people who defend open borders acknowledge that immigration restrictions would be justified in these extreme circumstances. For example, Carens writes: 'If a rich country like the United States were simply to open its doors, the number of people from poor countries seeking to immigrate might truly be overwhelming. . . . Under these conditions, it seems likely that some restrictions on immigration would be justified' in order to protect public order.¹⁵ Huemer also acknowledges that, if open borders had severe costs for recipient societies, then the moral reasons to prevent these costs would override foreigners' rights to immigrate.¹⁶

People who believe that people have rights to immigrate to other states can coherently endorse the permissibility of some immigration restrictions because other moral considerations can outweigh rights to immigrate. Most people agree that it is permissible to infringe on a person's rights in order to prevent sufficiently bad outcomes from occurring. For instance, you can permissibly break someone's arm in order to save the lives of, say, ten people. If open borders would have sufficiently bad outcomes, then preventing these outcomes would justify infringing on the rights of potential immigrants. Thus, unless advocates of open borders endorse absolutism about rights, they must conclude that some immigration restrictions are at least in principle permissible. If immigration restrictions are justified in these circumstances, then it is also permissible for states to deny some foreigners access to citizenship. My argument for Permissible Sale aims to show that, insofar as any restrictions on access to citizenship are in principle permissible, it is in principle permissible to sell citizenship. So, if my argument is sound, then philosophers such as Carens and Huemer who believe that most actual immigration restrictions are unjust should endorse Permissible Sale as well.

Let's now turn to premise 2 of my argument. This premise holds: if it is permissible for a state to refuse to grant citizenship to foreigners, then it is *prima facie* permissible for this state to sell citizenship to these foreigners if this transaction is voluntary and does not violate anyone's entitlements. The intuition here is that, if states are entitled to deny foreigners the option of gaining citizenship at all, then it is hard to see why it would be wrong for states to give the foreigners the option of purchasing citizenship.

Consider an analogy. Imagine that Rob owns and lives in an apartment with two bedrooms in an attractive location. This apartment is located in the heart of a large city. Rob's apartment is near shopping centres, bars, universities, and so on. Let's assume that Rob has rightful ownership over his apartment. Many people want to live in an apartment in this location. Rob decides to rent his second bedroom to anyone who can pay \$3500 a month. Rob can permissibly rent out the second bedroom in his apartment. Why? No one is entitled to live in Rob's apartment besides Rob. Rob has a right to control who lives in his home. Rob can permissibly refrain from renting his second bedroom to anyone at all. For instance, it would be permissible for Rob to decide to turn his second bedroom into a study instead of renting it out. So, Rob can permissibly deny the good of living in his second bedroom to other people.

If Rob can deny other people the option of living in his apartment, then it is permissible for Rob to sell this good to other people insofar as they voluntarily consent to this interaction and this transaction avoids violating anyone's entitlements. Maybe it would be wrong for Rob to rent his apartment to a person who lacks the capacity to give voluntary consent, such as a child or a person who is severely mentally disabled. It might also be wrong for Rob to knowingly rent out his apartment to a violent criminal who intends to harm other people in his apartment building. This action would contribute to violating other people's entitlements. But, barring these special circumstances, we should conclude that it is permissible for Rob to rent out (or sell) his second bedroom.

The same logic applies to membership in states. Suppose that Francisco is a wealthy Guatemalan citizen. Francisco wants to be a citizen of the United States. Francisco is willing to pay a large sum of money to acquire citizenship in the United States. Let's assume for the moment that the United States can permissibly deny citizenship to Francisco. If the United States can prohibit Francisco from immigrating and acquiring citizenship, then the United States can permissibly sell citizenship to Francisco. As I noted above, several political theorists believe that states have rights to control immigration. These rights entitle states to exercise discretionary control over immigration. For instance, Walzer says that across 'a considerable range of [immigration] decisions that are made, states are simply free to take in strangers (or not).'¹⁷ In other words, if states have rights to control immigration, then it is generally permissible for states to admit immigrants and permissible for states to exclude them. This account of the right to exclude seems to imply that the United States can permissibly sell citizenship to Francisco. If the United States can exercise discretionary control over admissions, then it seems acceptable for the United States to exercise this discretion by allowing Francisco to buy citizenship.

States' discretion over immigration is limited. Some authors argue that, although states have discretion over immigration, egalitarian norms constrain how states exercise this discretion. In his influential discussion of guest workers, Walzer argued that, while states have moral discretion over admissions, states are morally required to give immigrants access to equal citizenship. On this view, it would be unjust for states to admit foreigners as permanent guest workers because this would violate a principle of political justice. Walzer argues: 'the principle of political justice is this: that the process of self-determination through which a democratic state shapes its internal life, must be open, and equally open, to all those men and women who live within its territory. . . .'¹⁸ But, if the United States sells citizenship to Francisco, it would admit him as an equal citizen with the same status and rights as other citizens. Thus, the sale of citizenship

would avoid violating Walzer's principle of political justice. So, one prominent account of states' rights to control immigration appears to entail that it would be permissible for states to sell citizenship.

Political theorists who believe that people have rights to immigrate should also accept that it is permissible to sell citizenship. Recall that people who believe foreigners have rights to immigrate also think that states can permissibly restrict immigration in order to prevent sufficiently bad outcomes from occurring, such as the collapse of social services and programs, ethnic conflict, and so on. Now, consider the following scenario. Suppose that the United States abolished most of its immigration restrictions. But the government restricts immigration to some minor degree in order to protect public order and avoid the harmful consequences of excessive immigration. Although the United States permits many more foreigners to immigrate in this scenario than in the actual world, the government continues to deny some people the right to immigrate who would like to do so. Let's stipulate that it would be permissible for public officials to deny people the opportunity to immigrate to the United States in order to prevent harmful outcomes *unless* officials have some other way of avoiding these outcomes.

But officials do have another way of avoiding the harmful outcomes of immigration. If the government of the United States sold citizenship to foreigners in the above scenario, the government could use the revenue from selling citizenship to mitigate the costs of immigration. The government could use this revenue to bolster social services and programs, build new infrastructure to accommodate a growing population, compensate disgruntled citizens who bear the costs of expanded immigration, and finance educational programs that help integrate immigrants into their new society. It may be infeasible for a state to reduce all of the costs of immigration by selling citizenship. Suppose that immigration lowers social trust or damages the United States' institutions. It is unclear whether a government could ameliorate these kinds of costs even if it had more financial resources. However, if the United States sold citizenship, they could mitigate at least *some* of the costs of immigration. For example, if expanded immigration caused severe housing shortages or placed enormous strain on public services, then the United States could partially offset these kinds of costs by using the revenue from selling citizenship to build more housing and hire more employees to provide services.

If selling citizenship could help states mitigate the costs of expanded immigration, then an advocate of broadly open borders should concede that it would be permissible to sell citizenship in cases where immigration would otherwise impose excessive costs on recipient societies. By selling citizenship, the government can respect people's moral right to immigrate and prevent their immigration from imposing new harms or costs on citizens. If immigration restrictions are only permissible in order to protect against harmful outcomes, then selling citizenship could conceivably be permissible as a means of preventing these harmful outcomes and permitting more immigration at the same time. So, defenders of broadly open borders should conclude that it is permissible to sell citizenship in certain circumstances. Of course, there may be other ways of reducing the costs of immigration besides selling citizenship. States could perhaps impose steeper taxes on wealthy citizens and use this revenue to offset the costs of immigration. I do not claim that selling citizenship is the only way to reduce the costs of immigration. My view is that selling citizenship is one permissible way of ameliorating these costs.

Let's now turn to the final premise in my argument for Permissible Sale, the premise that some foreigners would voluntarily purchase citizenship in other states if they had the

chance and that these transactions would not violate anyone's entitlements. It is surely the case that some foreigners would voluntarily purchase citizenship if they had the option. It is perhaps less certain whether selling citizenship would violate anyone's entitlements. The sale of citizenship seems to avoid violating the rights of the people who buy citizenship. If states can permissibly deny foreigners access to citizenship in the first place, then it does not seem that states violate foreigners' rights by giving them the additional option of buying citizenship. So, if selling citizenship violates anyone's entitlements, it must be the entitlements of either the citizens of the recipient state or other foreigners.

But it is unclear why selling citizenship would necessarily violate the entitlements of these other groups. Let's suppose that, if the United States sold citizenship to wealthy Guatemalans like Francisco, this would benefit citizens. The government could use the revenue from this sale to finance public goods that make citizens better off. We might even imagine that citizens democratically vote in favour of selling citizenship to Francisco through fair political procedures and a large majority of citizens approves of this plan. Let's also stipulate that Francisco avoids displacing any other potential immigrants. If the government sells citizenship to Francisco, the government will not therefore deny some other poorer foreigner the chance to immigrate. It is hard to see how selling citizenship to Francisco infringes on anyone's rights. Perhaps the sale of citizenship would violate people's entitlements in the actual world. Maybe actual cash-for-citizenship programs would invariably have features that infringe on the rights of others.¹⁹ But, at first glance, the example of Francisco suggests that selling citizenship would not *necessarily* violate anyone's entitlements.

This concludes my presumptive argument for Permissible Sale. This argument gives us reason to believe that there is nothing intrinsically wrong with selling citizenship. The sale of citizenship seems in principle permissible. But perhaps this appearance is mistaken. Maybe there is a good objection to selling citizenship on closer inspection. Or perhaps selling citizenship is almost always in practice wrong, even if it is not inherently wrong. I will now examine some objections to Permissible Sale that aim to show that selling citizenship is either intrinsically impermissible or generally impermissible in practice.²⁰

3. Valuing Citizenship in the Wrong Way

It seems wrong to sell certain goods. Many people think that it is wrong to sell admissions slots at universities, Nobel Prizes, sex, parental rights, or votes. Markets in certain goods seem inherently objectionable, even if they bring about good consequences. One reason is that selling certain goods expresses deplorable attitudes toward these goods or fails to treat these goods with sufficient respect or reverence. For example, Michael Sandel claims that it is wrong for people to buy and sell parental rights because 'a market in children would express and promote the wrong way of valuing them. Children are not properly regarded as consumer goods but as beings worthy of love and care.'²¹ It is impermissible to sell parental rights because this would value children in the wrong way. Selling parental rights would express attitudes toward children that are, in some way, defective.

Maybe selling citizenship is wrong for similar reasons. Perhaps selling citizenship values citizenship in the wrong way. We should treat citizenship with reverence and

respect and commodifying citizenship is incompatible with these attitudes. Ayelet Shachar suggests an argument along these lines. She writes that ‘citizenship both recognizes and preserves for each member something that goes beyond a mere financial worth’ and that the protections of citizenship should be ‘regarded as priceless: they bear a nonmonetary value that justifies placing them above exchange value and safely outside the realm of the market.’²² According to Shachar, selling citizenship would treat this good as a fungible commodity and thereby devalue it. Although Sandel avoids explicitly condemning the sale of citizenship, he also suggests that selling citizenship would allow market norms to encroach on domains where non-market norms are more appropriate.²³

This general objection to selling citizenship goes:

1. Selling citizenship expresses defective attitudes toward the good of citizenship or fails to properly appreciate this good.
2. It is impermissible for states to express defective attitudes toward the good of citizenship or fail to properly appreciate this good.
3. So, selling citizenship is impermissible.²⁴

Call this: *the wrong valuation objection* to Permissible Sale. According to the wrong valuation objection, it is intrinsically wrong to sell citizenship. When states sell citizenship, they necessarily value citizenship in the wrong way.

Proponents of the wrong valuation objection need to show that there is something about the value of citizenship that explains why selling citizenship is wrong. Let’s first consider Shachar’s argument. Shachar indicates that selling citizenship is problematic because citizenship embodies distinctive goods that are incompatible with commodification. She writes that the goods of citizenship include ‘a sense of belonging; freedom from want; inclusion in the franchise; access to whatever public goods, privileges, and benefits attach to the status of membership. . . .’²⁵ She also claims that citizenship is valuable because it involves ‘the equality of sharing in the membership and governance of the commonwealth.’ Following Shachar, it appears that three different kinds of goods go along with citizenship. First, citizenship confers legal rights and entitlements on people. If you have citizenship in a state, you usually gain the right to access welfare benefits and participate in social insurance programs, the right to vote, the right to permanent residency, and other legal entitlements. Second, citizenship is also a public marker or symbol of belonging and membership in a community. If you have citizenship in a state, this signifies that you are a full member of a political community. Third, citizenship embodies relationships of equality. Citizens have equal status and standing relative to one another.

However, it is unclear why these properties of citizenship explain why it is wrong to sell it. To illustrate, consider an analogy. Suppose that a group of golfers has established an exclusive and prestigious golf club. Membership in the golf club has three major benefits. First, members gain new entitlements. For instance, members can now use the golf course that the club owns. Second, membership in the club is a symbol of belonging and community. The members of the club maintain close and friendly relationships with one another and feel a sense of mutual obligation. Members enjoy being part of an exclusive community and their official membership in the club is a public marker of belonging. Third, let’s also suppose that each member has equal status and standing. Members cast equal votes on important decisions and members also have equal rights to use the course and facilities. Finally, assume that some people want to join the club in order to gain

access to these goods. One golfer, Sarah, wants to join. But, like many country clubs, this club sells membership. The members of the club agree to allow Sarah to join on one condition: she needs to pay \$10,000 in order to become a member.²⁶ Sarah pays this sum and she becomes a member of the club.

It seems permissible for the golf club to sell membership to Sarah. But notice that membership in the club has benefits that appear to be analogous to the goods of citizenship. Like citizenship, membership in the club grants entitlements to people that are instrumentally valuable, such as the right to use the golf course. Membership in the club also symbolizes membership in a community and confers equal status. The members of the club prize their membership in a tightly knit community and they value their equal standing and status relative to other members. Membership in a golf club is obviously not entirely analogous to membership in a state. For one thing, citizenship is much more valuable than membership in a golf club. Unlike membership in a golf club, people usually need citizenship in at least one state in order to secure adequate protection of their human rights and basic interests. But, although the benefits of citizenship are greater than the benefits of membership in a golf club, the goods that accompany membership in states do not seem fundamentally different *in kind* from the goods that accompany membership in the golf club. If the club can permissibly sell instrumentally valuable entitlements and symbolic markers of membership and equal status to Sarah, then at first glance it is hard to see why it would be intrinsically wrong for states to sell these goods to foreigners.²⁷

Shachar claims that citizenship should be ‘nonfungible’ because citizenship ‘stands for enabling qualities that . . . are recognized as bound up with defining the self and facilitating well-being.’²⁸ Yet we can permissibly sell other goods that have these properties. Food facilitates wellbeing and we can permissibly sell it. A writer can think that her books help define her personal identity or ‘self’ and sell these books for profit. Debra Satz observes: ‘a market price is rarely the direct expression of our evaluative attitudes toward a good.’²⁹ We can treat a good as sacred, worthy of reverence, or intrinsically valuable and nevertheless sell this good. People can permissibly sell great art and literature, pets, and bibles even though they also believe that these things are intrinsically valuable and warrant reverence and respect. At first glance, the same goes for citizenship. Citizenship may be intrinsically valuable and worthy of respect. This fails to rule out the permissibility of selling it.

But maybe citizenship is different. It is possible that citizenship has distinctive properties that explain why it is wrong to sell it. Sandel argues that citizenship should aim to embody certain republican ideals and values. Sandel endorses a republican conception of citizenship that ‘seeks to cultivate a . . . range of virtues, including a moral bond with the community whose fate is at stake, a sense of obligation for one’s fellow citizens, a willingness to sacrifice individual interests for the sake of the common good, and the ability to deliberate well about common purposes and ends.’³⁰ He invokes this republican conception of citizenship in objecting to commodification. Sandel argues against volunteer armies and selling votes because he holds that citizens should refrain from outsourcing their civic obligations to other people. He writes:

If you are called to jury duty, you may not hire a substitute to take your place. Nor do we allow citizens to sell their votes, even though others might be eager to buy them. Why not? Because we believe that civic duties should not be

regarded as private property but should be viewed instead as public responsibilities. To outsource them is to demean them, to value them in the wrong way.³¹

Commodifying jury duty, votes, and military service ‘allows us to abdicate a civic duty.’³²

Suppose that Sandel’s objection to commodification is sound and that all citizens have obligations to personally contribute to the common good. Nonetheless, this falls short of showing that selling citizenship is wrong. If citizens sell citizenship to foreigners, states can still require citizens to serve on juries, complete military service, or perform other civic obligations. So, selling citizenship to foreigners does not allow citizens to evade their civic obligations. Perhaps it would be wrong for states to require foreigners who bought citizenship to serve in the military and on juries while simultaneously exempting native citizens from these requirements. But this is not an essential feature of policies that allow foreigners to buy citizenship. States can sell citizenship to foreigners and require both native and new citizens to perform their civic duties. Thus, selling citizenship is compatible with the republican conception of citizenship that Sandel endorses.

So far, I have considered the objection that selling citizenship is wrong because it expresses defective attitudes toward citizenship. But there is a related objection to commodifying citizenship. Maybe selling citizenship is wrong because selling citizenship expresses an offensive message to poor members of the political community. Selling citizenship might communicate that the political community values rich people as members more than poor people. This message is insulting to poorer citizens and it is presumptively wrong to insult citizens. So, it is presumptively wrong to sell citizenship. On this objection, the problem is not that selling citizenship expresses defective attitudes toward citizenship *per se*. The problem is that selling citizenship expresses objectionable attitudes toward poor citizens in particular.

Yet this objection proves too much. I argued in Section 2 that we should accept that some immigration restrictions are, in principle, justified. If some restrictions on immigration and naturalization are justified, then states can permissibly deny some foreigners the chance to gain citizenship. But any criterion that a state uses to regulate access to citizenship expresses the message that this state values certain attributes over others. Suppose that the Swedish government wants to invest in nuclear energy and it needs more nuclear physicists to help operate nuclear power plants. So, the Swedish government makes it easier for nuclear physicists to immigrate and gain citizenship in Sweden. This naturalization policy communicates the message that the political community values nuclear physicists as members more than other kinds of people. More precisely, this policy expresses that Sweden has a public interest in encouraging more nuclear physicists to immigrate. But this policy seems permissible.

The same point applies to other criteria for naturalization. It is possible that some Swedish citizens may not speak fluent Swedish and that some Swedish citizens have histories of violent crime. But it seems permissible for Sweden to favour applicants for naturalization if they speak Swedish or lack criminal records. If any regulation of naturalization is justified, then it appears that it is sometimes permissible for states to place greater value on the attributes of some candidates for naturalization. It is difficult to see why the ability to pay for citizenship is inherently different in this regard from any other criteria for naturalization.

Another, more plausible version of the wrong valuation objection to Permissible Sale might be forthcoming. But we should tentatively conclude that the wrong valuation objection is unsound. We lack good reason to believe that selling citizenship is intrinsically wrong because it fails to value citizenship in the right way.

4. Corruption and Civic Norms

There is another objection to selling citizenship that is closely related to the wrong valuation objection. This is the objection that selling citizenship corrupts or degrades the value of citizenship. Putting a price on citizenship would undermine valuable civic norms. Shachar and Hirschl suggest this objection. They write that ‘trading in citizenship “taints,” “degrades,” or outright “corrupts” (in the moral sense) its value as a good’ and that selling citizenship will ‘erode the civic bonds and practices that allow a democratic society not only to survive, but to thrive.’³³

Why would selling citizenship erode civic bonds? Commodification can have corrosive effects on non-market norms. For example, if we pay people to perform certain actions, we might displace altruistic motivations to perform these actions. In a famous study, Richard Titmuss argued that paying people to give blood reduces the supply of blood donors because monetary incentives crowd out altruistic behaviour.³⁴ Once people began to view blood as a commodity, they felt less moral responsibility to donate blood. The commodification of blood eroded their altruistic motivations to donate. Perhaps selling citizenship would crowd out civic virtue as well. People would start to view citizenship as just another commodity that they can buy and sell. They would stop viewing citizenship as a sacred trust or locus of civic obligations. So, selling citizenship would cause people to exercise civic virtue less often and feel less solidarity with their compatriots. This would damage the norms that undergird democratic institutions.

This objection to selling citizenship goes:

1. If states sell citizenship, this will crowd out or erode valuable civic norms that help sustain democratic states.
2. It is presumptively wrong for states to implement policies that crowd out or erode valuable civic norms.
3. So, it is presumptively wrong for states to sell citizenship.

Call this: *the corruption objection* to selling citizenship.

Premise 1 of the corruption objection is an empirical premise. It says that selling citizenship would in fact crowd out civic norms. Yet we are unable to determine whether this claim is true *a priori*. Empirical claims require empirical support. As far as I can tell, defenders of the corruption objection have neglected to provide any evidence to support premise 1.³⁵ To be fair, it is difficult to acquire evidence on the effects of selling citizenship because few states have sold citizenship outright. Nonetheless, we lack sufficient reason to accept premise 1 without empirical evidence.

It would be one thing if markets almost always crowded out other-regarding norms. If they did, then perhaps we would have good reason to adopt the presumption that selling citizenship would erode civic virtue. But markets do not always crowd out other-regarding norms. To illustrate, consider markets in blood again. Titmuss may have been right that markets in blood crowd out altruistic norms in some cases. Yet recent studies

on markets in blood have more mixed results. Some recent studies find that monetary incentives for blood donation increase the supply of blood and avoid crowding out altruistic motivations, at least for certain groups.³⁶ It appears that the effects of monetary incentives on other-regarding norms depend on the institutional and cultural context and how monetary incentives are framed. As a result, the relationship between markets and other-regarding norms is contingent. Sometimes markets don't crowd out morals. If markets sometimes refrain from damaging other-regarding norms, then perhaps markets in citizenship rights would avoid undermining civic norms and virtues as well.

A defender of the corruption objection might argue that we have compelling reasons to predict that selling citizenship would have harmful effects on civic norms, even if we lack conclusive evidence to support this claim. Maybe people who buy citizenship will be less willing to sacrifice their interests for the common good and more likely to immigrate elsewhere in times of crisis. The people who buy citizenship might tend to have less patriotism or civic virtue than other citizens because they would view their citizenship as a commodity that they can dispense with at their convenience. This is surely possible. But it is also possible that the opposite is true. To some extent, this depends on the design of programs that sell citizenship. For instance, cash-for-citizenship schemes might require applicants to invest in the economy of the country that sells them citizenship. People who invest a substantial sum to acquire citizenship in another country could turn out to be *more* disposed to contribute to improving the economic and political institutions of their new country because they want to protect their investments in this country. Again, we are unable to know for sure without actual empirical evidence on the effects of selling citizenship. So, the corruption objection is inconclusive. It might be sound. But I am sceptical that we have sufficient evidence to know one way or the other.

5. Unfairness and Discrimination

Another objection to Permissible Sale holds that selling citizenship is unfair. It is unfair because the sale of citizenship privileges richer foreigners over poorer foreigners in admissions. If states sold citizenship, then rich foreigners would have the option of buying citizenship in other states. Poorer foreigners would lack this option, even though poorer foreigners may benefit from citizenship in other states more than their wealthier compatriots. The European Parliament suggested this objection. The resolution condemning to Malta's proposal to sell citizenship expressed the worry that this program would 'only allow the richest third-country nationals to obtain EU citizenship.'³⁷ This objection to selling citizenship goes:

1. If states sold citizenship, the immigration and naturalization policies of states would favour the interests of rich foreigners over the interests of poor foreigners.
2. It is unfair for states' immigration and naturalization policies to favor the interests of rich foreigners over those of poor foreigners.
3. So, selling citizenship is unfair.

Call this: *the fairness objection* to selling citizenship.

The problem with the fairness objection has to do with premise 2. If immigration restrictions are permissible, this premise is false. To illustrate, let's return to the example of Rob's apartment. To recap, Rob can permissibly prohibit people from living in his

apartment. But Rob decides to allow a person to live in his apartment if this person pays Rob \$3500 a month. Some people lack sufficient funds to pay this rent. These people are unable to rent Rob's apartment. Nonetheless, Rob avoids treating these people unfairly by denying them access to his apartment. The following principle is plausible: if person A lacks a claim to some good G and person B is entitled to control access to G, then person B avoids treating A unfairly if B denies A access to G. Other people lack moral claims to live in Rob's apartment in the first place. Moreover, Rob has an entitlement to control access to his apartment. So, Rob refrains from treating people unfairly by asking more than they can pay in rent. Similarly, if states can permissibly deny foreigners the chance to immigrate and acquire citizenship, then it is not unfair for states to exclude these foreigners by charging them more for citizenship than they can pay.

An objector might argue that states' naturalization policies can treat foreigners in an impermissible way even though states have rights to exclude them altogether. An agent can wrongly discriminate against other people even if this agent has the right to deny everyone access to a good. Rob can permissibly exclude everyone from his apartment, including applicants who are black. Yet it would be wrong for Rob to discriminate against black people in considering whether to rent to someone. Here is another example. It is arguably permissible for an employer to refuse to hire any applicants for a job. But it is impermissible for an employer to refuse to consider employing any qualified women. So, it seems that an agent can wrongfully discriminate against people in distributing some good, despite the fact that this agent has a right to control access to this good. Immigration policies can be wrongfully discriminatory as well. It would be impermissible for a state to only admit foreigners who are white, although it would also be permissible for this state to exclude all foreigners.

Maybe we can construct a similar argument against selling citizenship. Foreigners may lack claims to citizenship in another state. Nonetheless, if states sold citizenship and poor foreigners lacked the means to buy citizenship abroad, then states would discriminate against poor foreigners.³⁸ This objection goes:

1. If states sold citizenship, rich foreigners would be able to buy citizenship abroad, but poor foreigners would lack the means to buy citizenship.
2. Immigration policies that allow rich foreigners to acquire citizenship in other states and (effectively) deny poor foreigners this opportunity are discriminatory against poor people.
3. It is wrong for states to implement discriminatory immigration policies.
4. So, selling citizenship is wrong.

Call this: *the discrimination objection* to selling citizenship.

To evaluate the discrimination objection, we need to clarify what we mean by 'discrimination'. In what sense is selling citizenship discriminatory? It is plausible that selling citizenship is discriminatory in some sense. Let's say that agent A discriminates against person B in a broad sense if A treats B worse than some other person C in virtue of the fact that B has some property P that C lacks.³⁹ If states sold citizenship and only rich foreigners could afford to buy it, then states would discriminate against poor foreigners in this sense. States would treat poor foreigners worse than rich foreigners in virtue of the fact that they lack the funds to purchase citizenship.

Yet the fact that selling citizenship is discriminatory in this broad sense falls short of showing that selling citizenship is morally problematic. A judge who convicts the guilty

and releases the innocent discriminates in this broad sense, although this judge acts permissibly.⁴⁰ When people sell luxury cars, mansions, or expensive antique furniture, they discriminate against poor people. These people in effect treat poor people worse than rich people by selling products that only rich people can afford. Nonetheless, it appears permissible to sell luxury goods to rich people. It does not even seem presumptively wrong to discriminate against people in this broad sense. If selling citizenship is only discriminatory in this broad sense, then selling citizenship can still be permissible.

Of course, some kinds of discrimination are wrong. For example, some philosophers argue that racial discrimination or discrimination against sexual minorities is wrong because it expresses insulting or stigmatizing messages toward the victim, such as the message that blacks are inferior to whites.⁴¹ It seems impermissible to express stigmatizing messages toward people. But notice that merely selling a good that another person is unable to afford falls short of expressing any stigmatizing messages. If you sell your house for more than I can afford, you don't necessarily demean or stigmatize me. Maybe we can also wrongfully discriminate against other people even if we refrain from expressing a stigmatizing message toward them. Regardless, it seems clear that selling a good that some people are unable to afford does not necessarily constitute wrongful discrimination. If so, then it is possible for states to sell citizenship without impermissibly discriminating against poor foreigners.

6. Conclusion

In this article, I have argued that the sale of citizenship is in principle morally permissible. But, although my argument shows that there is nothing intrinsically wrong with selling citizenship, my argument fails to establish that states can permissibly implement cash-for-citizenship programs in the real world. I contend that, if states can permissibly restrict immigration, then states can permissibly sell citizenship. The antecedent of this claim may rarely be satisfied in practice. If actual immigration restrictions are unjust, then selling citizenship may also be unjust. So, whether states can permissibly sell citizenship or not depends on our assessment of the permissibility of their immigration restrictions. If selling citizenship is wrong, this is not because there is anything inherently objectionable about selling citizenship rights. Rather, selling citizenship may be impermissible in practice because it is wrong for states to sell what they should give away for free.⁴²

Javier Hidalgo, Jepson School of Leadership Studies, University of Richmond, 28 Westhampton Way, Richmond, VA 23173, USA. hidalgoj@gmail.com

NOTES

1. Viviane Reding, 'Citizenship must not be for sale,' European Commission Speech 14/18, available at: http://europa.eu/rapid/press-release_SPEECH-14-18_en.htm.
2. European Parliament, *Resolution on EU Citizenship for Sale* (2013), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2014-0015+0+DOC+XML+V0//EN>.
3. Ayelet Shachar & Ran Hirschl, 'On citizenship, states, and markets,' *Journal of Political Philosophy* 22,2 (2014): 231–257, at p. 250.

4. Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Cambridge, MA: Harvard University Press, 2009), pp. 54–61.
5. Shachar & Hirschl op. cit., p. 248.
6. See the contributions in: Ayelet Shachar & Rainer Bauböck (eds), *Should Citizenship Be for Sale?* (Florence: European University Institute, 2014), available at: <http://cadmus.eui.eu/handle/1814/29318>
7. Several economists also defend selling citizenship. But these economists rarely articulate the moral premises that underlie their arguments. Furthermore, economists usually do not claim that selling citizenship is morally permissible. They instead argue that the sale of citizenship is a mutually beneficial improvement over current immigration laws. My aim in this article is to articulate the moral premises that justify markets in citizenship rights and to explain why selling citizenship is morally permissible, not merely an improvement over the status quo. For pragmatic defences of selling citizenship, see: Gary Becker, *The Economics of Life* (New York: McGraw-Hill, 1998), pp. 58–59; Julian Simon, *The Economic Consequences of Immigration* (Cambridge, MA: Blackwell Publishers, 1990), pp. 329–335; Shaheen Borna & James M. Stearns, 'The ethics and efficacy of selling national citizenship,' *Journal of Business Ethics* 37,2 (2002): 193–207.
8. Simon op. cit., p. 333.
9. Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 2000) pp.124–126; David Miller, 'Immigration: The case for limits,' in Andrew Altman & Christopher Wellman (eds) *Contemporary Debates in Applied Ethics* (Malden, MA: Wiley-Blackwell, 2013), pp. 363–75.
10. Christopher Heath Wellman & Phillip Cole, *Debating the Ethics of Immigration: Is There a Right to Exclude?* (New York: Oxford University Press, 2011), pp. 13–56; Michael Walzer, *Spheres Of Justice* (New York: Basic Books, 1984), pp. 31–62.
11. Ryan Pevnick, *Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty* (New York: Cambridge University Press, 2014).
12. Michael Blake, 'Immigration, Jurisdiction, and Exclusion,' *Philosophy & Public Affairs* 41, 2 (2013): 103–30; Stephen Macedo, 'The moral dilemma of U.S. immigration policy: Open borders versus social justice?' in Carol Swain (ed.) *Debating Immigration* (New York: Cambridge University Press, 2007), pp. 63–81.
13. Joseph Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013); Michael Huemer, 'Is there a right to immigrate?', *Social Theory and Practice* 36,3 (2010): 429–61; Chandran Kukathas, 'The case for open immigration,' in *Contemporary Debates in Applied Ethics* op. cit., pp. 207–20.
14. Brian Barry, 'The quest for consistency: A sceptical view,' in B. and R. Goodin (eds) *Free Movement: Ethical Issues in the Transnational Migration of People and of Money* (University Park, PA: Pennsylvania State University Press, 1992), pp. 213–31.
15. Joseph H. Carens, 'Aliens and citizens: The case for open borders,' *The Review of Politics* 49,2 (1987): 251–73.
16. Huemer op. cit., p. 454.
17. Walzer op cit. p., 61.
18. Ibid., p. 60.
19. An objector might argue that, in practice, selling citizenship would displace other migrants. States may only be willing to admit a limited number of immigrants. If states sold citizenship, then states would admit more wealthy foreigners. To make room for these foreigners, states would start denying admission to other migrants, such as refugees. So, selling citizenship to wealthy foreigners would unfairly displace migrants who in fact have stronger moral claims to admission. But I am unsure whether selling citizenship would have this effect. Admission policies need not be zero-sum. Consider the following simplified example. Imagine that a state admits one million immigrants. Some of these people are refugees, some are admitted under family reunification laws, and so on. But this government is willing to admit more immigrants if doing so significantly benefits native citizens. Imagine that, if this government sold citizenship to foreigners, this would benefit native citizens on net. So, the government decides to increase the number of immigrants it admits to 1,100,000 by selling citizenship to 100,000 foreigners. Thus, this state's policy of selling citizenship avoids displacing other migrants. While this is only a hypothetical example, it does not strike me as fanciful. There may be realistic scenarios where selling citizenship would induce states to increase the total number of immigrants they admit. In the absence of more empirical evidence about the actual effects of selling citizenship, it is hard to say for sure whether selling citizenship would unfairly displace deserving applicants or not. I want to thank an anonymous referee for raising this objection.
20. I have focused on defending the view that governments can permissibly sell citizenship to foreigners. But we can also imagine a more radical policy that permits individual citizens to sell their citizenship to foreigners.

Under this policy, citizens would have the legal discretion to transfer their citizenship rights to a foreigner in return for money. Let's call this: *the individualist policy*. Do my arguments for the view that governments can permissibly sell citizenship also support the individualist policy? I think so, but there are distinct complications with the individualist policy. States would probably need to enforce restrictions on the individualist policy that prevent statelessness (states plausibly have compelling interests in discouraging the creation of a class of stateless individuals within their borders). So, a defensible individualist policy would only permit a person to sell her citizenship to a foreigner if this person will acquire citizenship in another country after selling her citizenship rights. For example, suppose that the United States implements the individualist policy and one citizen, Susan, wants to sell her citizenship rights in the United States. To prevent Susan from becoming stateless, this policy should only allow Susan to sell her citizenship if she can acquire citizenship in another state. I have not focused on the individualist policy in this article because, to my knowledge, no government has ever considered implementing it. But it does seem that, if it is permissible for states to sell citizenship, then it is permissible for states to allow their citizens to sell their citizenship rights as well. I am grateful to an anonymous referee for raising this issue.

21. Michael J. Sandel, *What Money Can't Buy: The Moral Limits of Markets* (New York: Farrar, Straus and Giroux, 2012), p. 10. For a similar objection to markets in certain goods, see: Elizabeth Anderson, *Value in Ethics and Economics* (Cambridge, MA: Harvard University Press, 1993), chapters 7 and 8.
22. Shachar 2009 op. cit., p. 57.
23. Sandel 2012 op. cit., pp. 61–65.
24. I owe this formulation of the wrong valuation objection in part to Jason Brennan & Peter Jaworski, 'Markets without symbolic limits,' *Ethics* (forthcoming).
25. Shachar 2009 op. cit., p. 58.
26. According to some reports, it costs about \$10,000 to \$30,000 to join the prestigious Augusta National Golf Club. Ron Dicker, 'How much does it cost to join elite Augusta golf club?' *The Huffington Post*, available at: http://www.huffingtonpost.com/2012/04/04/masters-tournament-2012-augusta-cost_n_1402990.html?ref=business.
27. Someone might raise the following objection to the analogy between membership in the golf club and citizenship. Citizenship is far more important to the protection of people's rights and interests than membership in a golf club. Given the much greater importance of citizenship, it may be a grave wrong for states to deny people access to citizenship. If it is unjust to deny people access to citizenship, then it is impermissible for states to sell citizenship because states should give people access to citizenship for free. In contrast, it is not usually wrong to exclude people from membership in a golf club and, so, golf clubs can permissibly make membership conditional on the ability to pay. It may therefore be permissible to sell membership in golf clubs, but wrong to sell membership in states. Thus, the analogy between membership in the golf club and citizenship seems flawed. In response to this objection, recall that I am defending the conditional claim that, *if* it is permissible for a state to deny foreigners access to citizenship, then it is permissible for this state to sell citizenship. As I note in Section 6, it may turn out that few restrictions on access to citizenship are justified. If so, then I would agree that it is wrong for states to sell citizenship. But this concession does not undermine the above conditional claim. If states and golf clubs can permissibly restrict access to membership, then it is permissible to sell membership in these associations. So, for my purposes here, membership in the golf club and citizenship are actually analogous in relevant respects.
28. Shachar 2009 op. cit., p. 58.
29. Debra Satz, *Why Some Things Should Not Be for Sale: The Moral Limits of Markets* (New York: Oxford University Press, 2012), p. 82.
30. Michael Sandel, *What Money Can't Buy: The Tanner Lectures on Human Values* (Salt Lake City, UT: University of Utah Press), p. 108.
31. Sandel 2012 op. cit., p. 10.
32. Michael J. Sandel, *Justice: What's the Right Thing to Do?* (New York: Farrar, Straus and Giroux, 2010), p. 86.
33. Shachar and Hirschl op. cit., p. 248.
34. Robert Titmuss, *The Gift Relationship: From Human Blood to Social Policy* (New York: Pantheon Books, 1971).
35. For instance, Shachar and Hirschl cite no empirical evidence to support their claim that selling citizenship would have this corrosive effect on civic norms.
36. Carl Mellström & Magnus Johannesson, 'Crowding out in blood donation: Was Titmuss right?,' *Journal of the European Economic Association* 6,4 (2008): 845–63; Nicola Lacetera, Mario Macis & Robert Slonim, 'Economic rewards to motivate blood donations,' *Science* 340 (2013): 927–28.

37. European Parliament op cit.
38. Arash Abizadeh suggests that it might be wrong for states to adopt immigration policies that discriminate against poor foreigners. Abizadeh, 'Review of *The Ethics of Immigration*,' *Notre Dame Philosophical Reviews* 28 April (2014).
39. I have adapted this definition of broad discrimination from Kasper Lippert-Rasmussen, *Born Free and Equal?: A Philosophical Inquiry into the Nature of Discrimination* (New York: Oxford University Press, 2013), p.15.
40. Lippert-Rasmussen op cit., p. 15.
41. Deborah Hellman, *When Is Discrimination Wrong?* (Cambridge, MA: Harvard University Press, 2011).
42. I am grateful to Jessica Flanigan, Ryan Davis, two anonymous referees, and the editors of this journal for their helpful advice and feedback on this article.