**Establishing an immigration market: a radical and fair solution to current immigration policy**

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**Abstract:** Immigration policy needs changing. Current legal restrictions ignore economic insights and are not able to deal with increasing migration flows. I propose a *radical and fair solution* based on Gary Becker’s recommendation of the adoption of price mechanisms. The solution involves creating a market for migration rights, the compensation from non-migrants and the simplification of bureaucratic visa processes. This proposal is consistent with a positive right to migration and open-borders regimes and overall benefits are large enough so as to weaken opposition from closed-borders supporters.

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# Introduction

Migration is a very contentious issue in today’s political agenda. Political figures of various ideological spectra claim that immigration hurts domestic economies and undermine social identity[[1]](#footnote-1). Many others support the adoption of policies that favor skilled migration or political refugees. An expression of the divide is United States Senate Bill 744 (S. 744), which proposes a 13-year citizenship path for illegal immigrants, the creation of new visa categories and a $40 billion spending increase in border control. Under a bipartisan effort, the Bill passed the U.S. Senate in 2013 but it is since then on halt at the House of Representatives[[2]](#footnote-2).

Irrespective of the stand one takes towards immigration, it is clear that changes are necessary. This paper provides advice on how to design more just policies that are supported by political philosophy. I will argue for a new policy framework, which involves the adoption of economic insights, a rebalance of the distribution of the cost of migration and the simplification of its legal statutes.

My claim is that migration is a positive right and governments should act upon it. This argument resonates with that of Joseph Carens in which human beings are entitled to an inherent right to mobility – which is effectively denied in the era of Nation-states. If one accepts this claim, then it follows that States have a duty to perform actions that incentivize (rather than prevent) migration. It is, in essence, an argument for an open-borders regime.

Closed-borders theorists would fiercely object my solution. Sovereign States are entitled to the right to exclude not only in order to preserve cultural identity or economic stability but also if they so please – i.e. under no clear justification. Although I recognize the merits of the closed-borders argument, my counterclaim is that immigration is increasingly recognized as beneficial to all parties involved – sending and receiving countries and their populations. I will refer to economic benefits (and utilitarianism) to support such claim. The closed-borders objections then become weak critiques of the new policy solution I suggest.

The remaining of the paper is structured as follows. Section II proposes a new approach to migration, whereas Section III discusses why it fares well with justice theories under the open-borders argument. Section IV presents the concern of philosophers who defend the right to exclude but also counters them with the economic benefits of migration. Section V concludes.

# A new migration policy framework

## Current policies

Almost all of the current immigration policies place legal restrictions on the movement of people. They are based on the principle that sovereign States have the right to prevent individuals from entry into their territories. This is based on the right to freedom of association, whereby people are free to choose to associate or to reject association with others (Wellman, 2008; White, 1997). Citizens of a State thus have the right to reject an association with aliens. This is the basic justification for restrictions to free movement of people that I will address in Section IV; for now, it is just necessary that we recognize its underlying argument.

The existing policies are just alternative ways to preserve this right to exclude. In the U.S., immigration is governed by the Immigration and Nationality Act (INA) of 1965. It established most of the visa categories existing today, provided a cap on how many visas could be issued per year and removed the national-origins quota in place since the 1920s[[3]](#footnote-3). The Canadian Immigration and Refugee Protection Act (IRPA) of 2001 and the Common Immigration Policy for Europe are similar attempts at providing a framework under which immigration to these regions is restricted.

None of these legal rules places a (direct) monetary cost to migration. The obstacles placed by receiving countries are non-monetary in nature, such as visas administrative processes. Political refugees are only granted entry because they have suffered oppression or violence. Skilled workers underwent extensive training and preparation in their home country. Both face psychological costs of separation from family, adaptation to new cultures and often the perils of the journey itself. Whether the decision to move is voluntary or not, every immigration candidate has overcome one, if not many, non-monetary costs to enter a new country.

## An economist’s radical solution

Some scholars suggest that this is precisely the problem of current migration policies, that they lack economic insights. Becker (2011) argues for a *radical solution*: governments should sell the right to migrate. Except for minimal requirements, such as the reasonable exclusion of criminals, terrorists and terminally ill individuals, everyone who can pay the given price should be allowed entry. He anecdotally suggests an initial price of $50,000 for the U.S.[[4]](#footnote-4)

Becker’s rationale is that, if prices are effective in regulating supply and demand in economic markets, so should they be in immigration. The right to migrate would be similar to a property right that is sold in the market. The government is the “producer” of the right to migrate while migrants are “consumers”. Immigration is thus turned into a source of government revenue that could partially offset its administrative costs.

There are a number of benefits in this proposal: governments would spend much less on processes to award visas; prices are a transparent policy and easily adapt to the number of applicants any country is willing to accept; prices are also effective in selecting good candidates – those for which expected earnings are larger; and, finally, many people who are currently under illegal status would find a clear path for legalization.

Most importantly, a market for the right to migrate would be fair even if prices were high, by means of governments establishing alternative ways for those who cannot immediately afford to purchase migration rights. If immigration policy is acceptable under the closed-borders reasoning, the design of the policy and adoption of price mechanisms[[5]](#footnote-5) such as suggested by Becker (2011) is, in fact, permissible.

The appeal of an immigration right market is extremely high because it is compatible with both closed and open-borders regimes. The more a government charges in immigration rights, the more they move to a *de facto* closed-borders regime. If prices vary with age, skills, primary nationality, and so on, States effectively exert their right to exclude by prioritizing whom they want to admit. At extremely high prices, it is reasonable to assume that no one would migrate. On the other hand, if governments decide to price immigration low, then they are imposing little to no restriction on who should be allowed entry.

Becker’s arguments are certainly valid. There currently exist markets for other rights, such as intellectual property, options[[6]](#footnote-6), and pollution licenses. The transactions in these markets are basically the same: sellers transfer to buyers the right to perform an action. In the radical solution proposed by Becker, the mechanism would be strictly the same, whereby the government (seller) would award rights to migrate to aliens (buyers).

## A radical and fair solution

I take one step further than Becker (2011). My proposal of a *radical and fair solution* takes into account the argument put forward by Becker and expands it by requiring that governments also shift the costs onto non-migrants as well. If my claim that benefits of migration accrue to all parties, it is only fair that the costs are also evenly spread out. Current policies and Becker’s solution are equal in that they place a large share of the costs onto migrants. While the radical solution is particularly interesting as a more efficient alternative, the *radical and fair solution* is also concerned with the distributional aspects of any of these policies.

The first measure in adopting it is requiring compensation from non-migrants. I understand that this would generate their extreme opposing reaction. Their argument is that immigration causes social and economic unrest and so, if anything, they should receive compensation. While I agree that this is a fair point to raise, I argue that it is an argument based on false premises. A better way to analyze this issue is to ask oneself whether immigration truly causes more harm than good. And the answer is no.

According to an increasing body of literature, which analyzes economic and social impacts of migration, it does have net positive gains. U.S. immigrants are no less skilled than natives (Butcher & DiNardo, 2002; Cortes & Pan, 2014); they help increase local productivity by partnering with native workers (Kerr & Lincoln, 2010); they contribute greatly to scientific breakthroughs (Stephan & Levin, 2001); and, despite a widespread belief, they are not more violent than natives (Miles & Cox, 2014)[[7]](#footnote-7). Migrants are also a source of new working age people to countries with decreasing population, which is a characteristic of developed nations, particularly in Europe. They alleviate social welfare pressures because of their contributions to pension funds, public health, and education systems, which are a source of otherwise falling social security revenues.

The justification for the compensation is that migrants generate many benefits to others and not just themselves[[8]](#footnote-8). As a result of the misunderstanding about the net effects of migration, governments design policies that place the largest part of the burden on the people who move. They incur in monetary costs, such as transportation, documentation, time-off labor markets (earning zero wages), but also other non-monetary costs, such as the legal barriers set out in the introduction, separation from family, in most cases discrimination in receiving countries, traumas from adaptation to a new environment, and so on. If they are responsible for many benefits, they should pay less of the costs.

This is not to say that locals do not experience any problem with migrants. For one, there is certainly a negative effect of people coming to work and live in their communities. Housing prices might go up because of a spike in demand. If there are no units available, immigrants might increase cohabitation and homelessness. Grocery shopping, public transportation, and health services can clog up when new users come to town. The effect can be similarly bad for nations who lose people to emigration. They might face shortages in the labor supply and in the contributions to their own social security regimes. Sending communities might also experience what some people call "brain drain”, namely the departure of individuals with large stocks of human capital to countries who value these skills more.

However, most of these negative effects are offset in the medium term by the benefits listed above. Production of goods and services to meet the new demand can lead to higher profit and wages, triggering economic growth. In sending countries, the departure of people is associated with remittances, which are an additional and important source of household income; emigration does not deplete human capital, and it can create positive externalities by making non-migrants work and study harder (Adams & Page, 2005; Clemens, 2011; Dinkelman & Mariotti, forthcoming; Docquier & Rapoport, 2012). This brings me to my second revolutionary idea: compensation should not only come from receiving communities, who reap the largest share of the benefits, but also from sending communities. If we agree that the benefits of migration accrue to source countries, then it follows naturally that they should also share the costs of immigration.

The new framework of immigration policies thus becomes complete and is described in the following three points:

1. The creation of a market for immigration rights;
2. The introduction of compensation from non-migrants;
3. The simplification of any remaining non-monetary barrier to immigration.

The first point is basically Becker’s proposal of introducing price mechanisms into immigration policy. However, I suggest changes to his price structure. Since my claim is that migration is a positive right, as I shall discuss in the following section, and, as so, governments should actively guarantee this right to their citizens, it only makes sense to adopt such a policy if prices of rights are set low enough to satisfy an open-borders regime. What this means is that effectively everyone who wants to migrate is allowed to do so. This does not mean that countries cannot set different prices to attract different pools of applicants. They can command premiums on individual characteristics such as skills and age so as long as they provide alternative mechanisms to pay for the immigration right.

An example might be helpful in understanding this idea. Imagine that two individuals want to come to the U.S.; one is highly skilled and the other is not. Let us say that baseline price of migration is $1,000 and low-skill applicants pay a premium of $1,000. That makes up the following price schedule:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Baseline price** | **Premium** | **Total** |
| **High skill** | $1,000 | $0 | $1,000 |
| **Low skill** | $1,000 | $1,000 | $2,000 |

Under a pure price system, low-skilled people would be prevented from migrating (i) if they do not dispose of $2,000 upfront and (ii) if they do not have any way to finance the purchase of rights. If governments are willing to charge premiums, they can still maintain an open-borders regime by providing ways to cover the price of migration. In this case, States can allow loans or (temporary) surtaxes on immigrants’ income to cover the premium. Under this strategy, individuals are not prevented from migrating based on monetary barriers; their decision is based on their net expected income in the new country. Instead of focusing solely on whether they have the means to purchase rights, applicants will consider what is their likely gain of immigrating and how long they expect to pay back their ticket. Individuals can effectively migrate even if they do not have the money to pay for the right. Thus, governments could set up different price schedules that are consistent with open-borders regimes as long as they also provide alternatives to cover these prices.

In addition to the suggested change in the price scheme, my proposal would also require some compensation from non-migrants. Ideally, this would be a monetary contribution alleviating the costs of migration[[9]](#footnote-9). Non-migrants would contribute through the same price mechanisms as in Becker (2011), such as taxes or (reverse) auctions, and the revenue raised would be used to finance migration. This would be the most transparent policy.

However, I am conscious that this proposal would face strong political opposition. Taxes are not welcomed even when they are just. A second best solution is non-monetary compensation, whereby the native population would contribute to the inflow of newcomers. This could take the form of tax credits for companies active in supporting immigration, employment quotas at public organizations, larger social benefits, and even subsidies in public services (transportation and health are but two examples). There are a number of ways policymakers could be creative and come up with solutions to avoid the monetary contributions in this proposal. I grant that they are acceptable, but also state that they are not the preferred course of action.

Lastly, *a radical and fair solution* would avoid complex legislation determining visa categories and statuses. The existence of overcomplicated rules imposes costs on both sides. Governments spend a lot of time and money to carry out immigration services and to grant visas under a number of different categories. Applicants often face troubles in complying with the law not necessarily because of bad faith, but perhaps for lack of understanding of immigration requirements.

I suggest that the ideal number of visa is three (3): a short-term non-immigrant type, an immigrant, and a special purpose one. The first type would be aimed at short-term visitors, such as tourists and business people. Since these people are not immigrants, they should be charged just the administrative processing fee and zero for immigration rights. The second type is the visa for the right to migrate that I propose in this paper. The one-time payment allows for a limited stay that could then be renewed at the expiry date. States would still have at their discretion the rules and duration of the rights to migrate. The third visa meets international relations commitments, so would be used for diplomatic purposes, asylum and refugee status, and humanitarian aid. The reduction of visa categories to just three would be extremely beneficial for both governments, which would speed up and reduce costs in their administrative processes, and individuals, who would have a much easier way to comply with legislation.

A *radical and fair solution* to immigration would have to adopt these three measures in order to succeed in establishing a more efficient and more just policy. It would be a significant deviation from current policies, which are focused on establishing legal barriers to immigration but greatly overlook economic proposals. Additionally, it would be an extremely transparent and easy policy to follow. The application of price mechanisms finds precedent in various other markets for property rights, such as intellectual property, financial derivatives, and environmental pollution credits, and it is easily understandable. Lastly, the new policy framework aims at rebalancing the distribution of costs and benefits amongst people who stay and who migrate. Since the distribution of benefits is widespread, it is only fair that the costs are too. In the following section, I will discuss how this policy proposal fares well with justice theories of migration.

# Migration as a positive right and open-borders theory

In this section, I will argue that migration should be understood as a basic positive right. The difference of negative and positive duties is particularly important for libertarians, so I will draw from their literature. If I can prove that migration meets the criteria for positive rights according to libertarian principles, then it is straightforward that individuals hold a claim on governments to promote migration policy. This viewpoint is consistent with the open-borders theory.

## What are positive rights?

According to Narveson (1988), positive rights correspond to duties to perform an action to guarantee existence of these rights. In the context of political organizations, it holds governments and States accountable for carrying out actions to promote these rights. Narveson’s example is illustrative: suppose that A possesses right X against B. If X is a positive right, then B has a duty to perform actions Y to enable X for A. In our political environment, it means that governments (B) have to perform actions Y so that individuals (A) exercise right X.

## The right to migrate and consistency with open-borders theories

Carens (1987) is probably one of the most important papers that posit the existence of a right to immigration. He argues that citizenship in Western societies corresponds to the feudal privileges in the Middle Ages. Developed societies experience much better social and economic conditions and, by preventing immigration, they preclude people from accessing a better life. This creates an analogous situation to class privileges in feudal societies, when lower classes were denied upward mobility.

There are two important arguments in Carens (1987). First, and in consonance with more libertarian approaches, Carens claims that the right of migration is not an attribute of citizenship; it is, in fact, an intrinsic right of every human being. He strips down governments from the assumed (implicitly) permission to exclude. Citizens do not hold any additional right to exclude and to authorize their State to exclude free movement because they were not entitled to this right in the first place. No one is. Every individual is placed in an equal moral position, whether they are immigrants or not. His second point in support of the right to migrate is based on Rawls’ principles of justice. Under Rawls’ original position experiment, individuals would have to agree to principles of justice to guide the social organization they were about to establish. Since no individual knows about their own social position, nor do they know about innate skills and abilities, Carens claims that it is reasonable to assume that they would all agree to a “freedom of movement” basic liberty.

His arguments provide two avenues to analyze the right to immigration: as a human right and as a result of the social contract of political organizations. I shall focus on the former but concede the existence of the latter.

Huemer (2010) is a good account in support of the right to immigration. In his illustrative case, Huemer describes a situation where one person (Sam) is directly responsible for someone else’s death (Marvin) by actively preventing the latter from buying bread at a grocery store. Sam’s coercive action imposes harm on Marvin and is a clear violation to Marvin’s right to life[[10]](#footnote-10). In a similar fashion, if a State imposes restrictions to entry on people who would have access to life-saving conditions by accessing the State’s territory, this State is actively violating the right to life of its potential immigrants.

But we need not to restrict ourselves to the single case where Sam actively harms Marvin. Suppose the same conditions described in Huemer (2010) hold, i.e., Marvin has a plan to avoid starvation and Sam anticipates what the plan is. Does Sam have the duty to tell Marvin where the marketplace is? If Marvin does not know where the grocery store is, he will not be able to carry out his plan and will starve to death. This is the classic moral controversy of *doing harm* (effectively preventing Marvin from purchasing food) and *allowing harm* (not telling Marvin where the marketplace is). If one equates allowing to doing harm, then it is clear that Sam has a duty to help Marvin. In this scenario, migrants hold a claim on States to support immigration so as to guarantee individuals’ human rights. It does not matter if migrants are citizens of another State as the right to migration, recognized as a human right, precedes the existence of Nation-states and is binding to all States against every individual.

What if the one believes that allowing harm is less wrong than doing harm? I grant that it becomes unclear whether Sam has a duty to help Marvin with the information provided by Huemer. However, in the concrete case of immigration, an overwhelming amount of evidence provides additional information about Sam and the marketplace. We know that the grocery store will benefit from Marvin’s presence. For starters, the additional bread sale increases the shop’s profit. Marvin is likely to motivate other consumers to make better consumption choices; he does not engage in shoplifting any more than current customers. Sam, whose mission is to promote the interests of the shop, thus has to help Marvin because this is an integral part of his mission. If he refuses to tell Marvin where the shop is, he is effectively going against his own duty to help the marketplace succeed. In our State analogy, if it is clear that (1) the right to migration is a human right and (2) governments ought to act in the best interest of their citizens, and (3) immigration promotes (1) and (2), it is straightforward that individuals hold a claim against States to promote immigration.

An additional support is provided by Oberman (*forthcoming*). Even though he concedes that human rights are not absolute and restrictions are acceptable under severe social costs that cannot be prevented otherwise, his defense of immigration is based on the fact that it is a basic liberty and as such should receive equal treatment to other liberties (to move, to associate, to speak, etc.).

# Weak objections to new migration policies: a closed-borders argument

The main objections to the radical and fair solution to immigration are based on the right to exclude argument, which gives rise to the closed-borders regimes. Here I present the rationale for such regimes based on Wellman (2008), White (1997) and Blake (2001).

## The economic argument for migration policies

Higgins (2008) brain drain – weak; Celia Dugger – weak;

# Conclusion

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1. (N.D., 2015) [↑](#footnote-ref-1)
2. (Parker & Martin, 2013) [↑](#footnote-ref-2)
3. Under the previous Immigration Act of 1924, the U.S. administered a system of national quotas. Foreigners would be allocated an amount of visas equivalent to two percent of their total countrymen population in the U.S. according to the 1910 Census. [↑](#footnote-ref-3)
4. Clearly the $50,000 price is just for the sake of the argument. Governments would have to calculate what is the ideal price of immigration based on how many new migrants they are willing to admit and how much these applicants are willing to pay. Becker makes these concessions in his paper. [↑](#footnote-ref-4)
5. A market of the right to migrate could also be structured in different ways. Governments could place a higher income tax on those who hold immigration status and it could also auction pre-established visa quotas. [↑](#footnote-ref-5)
6. An option is a type of financial contract in which the buyer acquires the right to buy another asset at a future expiry date. When this date comes, they can choose not to buy the underlying asset. [↑](#footnote-ref-6)
7. I focus on the U.S. because it is where there is enough conclusive research on immigration. I can reasonably expect that the effects are the same in similarly developed countries. [↑](#footnote-ref-7)
8. These are elsewhere known as positive externalities. [↑](#footnote-ref-8)
9. My preferences for price mechanisms should be straightforward by now. [↑](#footnote-ref-9)
10. Even if Marvin does not die, Huemer (2010) makes the case that Sam’s action is still a violation of Marvin’s right to life. [↑](#footnote-ref-10)