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## The Debate of Immigration: Democracy, Autonomy, and Coercion

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## INTRODUCTION

For centuries, persons migrated from one region to another. There were no political borders or states. People freely moved from one area to another to find resources and fertile land. However, the modern world consists of political states with political borders. These borders restrict movement. Many agree that defining borders is necessary; states exercise coercive power over their citizens, and it is important for the region of the state's power to be specified. As a result, border regulation infringes on persons' mobility, and it restricts the communities to which persons may attain membership. However, border restrictions are controversial, and theorists have debated the ethics of immigration on numerous grounds.

For example, Christopher Heath Wellman argues that political states have the unilateral right to impose border controls, and such a right is derivative of a state's right to self-determination. He believes that self-determination is not possible if a state cannot freely determine who to include and who to exclude. A right of association is not possible without the right to exclude, because we must be able to choose to associate with some and not with others. A legitimate state can permissibly accept and deny potential immigrants according to the policies it has created. Wellman says that the right of association is presumptive; it could be overridden in some circumstances.<sup>1</sup>

By contrast, David Miller defends a right to limit immigration by focusing on the importance of cultural values and concepts. He focuses on the importance of preserving distinctive cultures. Miller says: "the public culture of their country is something that people have an interest in controlling: they want to be able to shape the way that their nation develops, including the values that are contained in the public culture."<sup>2</sup> Although he acknowledges that individuals may not succeed in

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1 Wellman, Christopher Heath, "In the Defense of the Right to Exclude," in *Debating the Ethics of Immigration*, edited by Christopher Heath Wellman and Phillip Cole (Oxford: University Press, 2011), p. 36.

2 Wellman, Christopher Heath. "Immigration." *Stanford University*. Stanford University, 10 May

maintaining their public culture, they are justified in trying to do so.

Some theorists like Chandran Kukathas argue for open borders on moral grounds. Some such theorists claim moral considerations require states to open their borders because the restriction on immigration perpetuates unjust inequalities among individuals living in different regions and creates class divisions between political states. Today immigrants not only seek mobility for resources alone but also, to escape poverty, political abuse, and pursue religious freedom. Kukathas argues that the principle of humanity requires open borders to allow persons the freedom to move to the countries they choose in pursuit of better lives, and the objection against open borders are not sufficient to restrict the freedom of movement.<sup>3</sup>

In this essay, I focus on the implications of autonomy and democratic theory for the ethics of immigration. I will discuss border control through the discourse about coercion between Arash Abizadeh and David Miller. Abizadeh claims that the democratic theory of popular sovereignty requires that border control be democratically justified to all who are subject to coercion, including foreigners. Central to Abizadeh's argument is the claim that coercion always invades autonomy.<sup>4</sup> Miller thinks that Abizadeh's view is problematic and makes important challenges to his view. In my thesis, I will discuss and analyze Miller's challenges to Abizadeh.

First, I summarize Abizadeh's argument that border control of any bounded state subjects both nonmembers and members to the state's exercise of coercive power (Border Coercion, 38). Thus, given the theory of democratic popular sovereignty, border control must be democratically justified to members and nonmembers. Democratic justification requires that those who are subject to coercive power are involved in the deliberation of the regulation imposed upon them.

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3 Kukathas, Chandran. "The Case for Open Immigration." *Contemporary Debates in Applied Ethics*. Malden, MA: Blackwell Pub., 2005. 210. Print. Cohen and Christopher Wellman (Malden, MA: Blackwell, 2005), p. 210.

4 Abizadeh, A. "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders." *Political Theory* 36.1 (2008): 37-65. Print.

Second, I present Miller's response to Abizadeh. Miller disagrees with Abizadeh's conclusion that potential immigrants are entitled to democratic justification since closed border regulation subjects foreigner to coercion.<sup>5</sup> While they agree on the conditions necessary for autonomy, Miller argues that border controls are not coercive. He distinguishes between coercion and prevention and argues that prevention does not necessarily invade autonomy. Miller claims that closed borders are a form of prevention, not coercion, and, thus, border control does not give rise to democratic entitlements.

Third, I will present Abizadeh's response to Miller's reply through the discussion of democratic legitimacy, state coercion, and autonomy; he says "my argument is that anyone who accepts this democratic Principle—even should they reject the Coercion Principle or Autonomy Principle—is thereby committed to my thesis about borders".<sup>6</sup> I think the disagreements between Miller and Abizadeh do not determine whether Abizadeh's claim that border control requires democratic justification is valid or not. Then, I will defend Abizadeh's claim but on the ground that border control invades freedom of mobility without the discussion of coercion. Last, I propose open borders as an alternative to democratic justification, and I present the positives effects of open borders.

### **Arash Abizadeh: No Right to Unilaterally Control Your Border**

In short, Abizadeh argues that any committed democrat must reject the unilateral right to closed borders and could only permit closed borders if such a policy had been successfully democratically justified to members and nonmember of the state.<sup>7</sup> Such a justification is required by the autonomy

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5 Miller, D. "Why Immigration Controls Are Not Coercive: A Reply to Arash Abizadeh." *Political Theory* 38.1 (2009): 111-20. Print.

6 Abizadeh, A. "Democratic Legitimacy and State Coercion: A Reply to David Miller." *Political Theory* 38.1 (2009): 122. Print.

7 Abizadeh, A. "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders." *Political Theory* 36.1 (2008): 37-65. Print.

principle and democratic legitimacy. Abizadeh states, “the Principle of Democratic Legitimacy is true (in part) because of the truth of the Autonomy Claim, that is, those subject to the state’s laws have a right of democratic participation because such laws (presumptively) invade their autonomy (by virtue of subjecting them to coercion)” (Abizadeh, *State Coercion*, 121). Abizadeh claims that coercion always invades autonomy, and border controls are coercive. Border controls subject both members and nonmembers to coercion. Thus, regulation regarding border controls must be democratically justified to foreigners and members. As I will explain, Abizadeh supports his claims through his discussion of coercion and autonomy, of the boundary and externality problem, and of the principle of self-determination.

Abizadeh begins from the assumption that personal autonomy is the core value of liberalism and democracy (Abizadeh, *Border Coercion*, 39). He explains that freedom is a value in the theory and practice of democracy because it serves personal autonomy (Abizadeh, *Border Coercion*, 40). Personal autonomy is important for the success of democratic states because it allows individuals to freely and independently pursue their interests and control their destiny. Thus, any violation of autonomy, according to the democratic principle, requires justification. Democratic states are desirable because citizens recognize that the laws and regulations are the result of the people's collective will. The recognition of the democratic idea of personal autonomy marked the historical transformation of persons from subjects to citizens. Citizenship requires that states give justification for the infringement of freedom and autonomy.

While democratic states require personal autonomy, Abizadeh points out that their laws are ultimately backed by coercion, “It is clear that the state’s exercise of political power is ultimately backed by coercion” (*Border Coercion*, 39). However, Abizadeh claims that coercion always invades autonomy. Abizadeh discusses two means by which political power subjects individuals to coercion: coercive acts and coercive threats (*Border Coercion*, 40). Through physical force, the former directly

eliminates the options that agents would have otherwise had. For example, if one decides to carry weapons through an elementary school, agents of the state, police officers, would physically restrain one's body to stop the act. It is clear that the person's autonomy is invaded, but it is justifiable.

The latter merely communicates the intention to take certain actions to prevent an individual from choosing an action he otherwise would have chosen. For example, if one commits murder, he or she will be prosecuted. Prosecution is the threat intended to stop a person who anticipates committing murder and other crimes.

Abizadeh's argument centrally relies on his view of personal autonomy. He accepts Joseph Raz's three conditions for autonomy: certain mental capacities, adequate valuable options, and independence.<sup>8</sup> He argues coercion does not always violate the first and second requirements, but it always violates the third condition, which is independence. The first condition of autonomy requires that a person must have the mental capacities to make rational decisions. The second condition requires that one enjoys an adequate range of alternatives. Abizadeh agrees that it does not require the maximization of options, but only that those options are adequate. His conclusion stems from his interpretation of independence to be freedom from the subjection to the will of another. He claims, "Independence is always invaded by the subjection to coercion because it subjects one agent to the will of another" (Abizadeh, *Border Coercion*, 40). Thus, he claims coercion always invades autonomy for it always invades independence.

To reconcile the value of personal autonomy and the importance of democratic order, the autonomy principle holds that acts that subject individuals to coercion must be eliminated or receive democratic justification (Abizadeh, *Border Coercion*, 41). Liberals and those who accept the democratic theory of popular sovereignty have different views of democratic justification; liberals do

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8 Blake, Michael. "Distributive Justice, State Coercion, and Autonomy," *Philosophy and Public Affairs* 30.3 (2002): 257-96, 268-70.

not require active participation. Abizadeh accepts the former version that holds “the exercise of political power is legitimate only insofar as it is actually justified by and to the very people over whom it is exercised, in the manner consistent with the view that everyone is equal and autonomous” (Abizadeh, *Border Control*, 41). Thus, those who are subject to state coercion must have actual participation in the political process that determines how power is exercised in ways that are consistent with their freedom and equality.

Abizadeh argues that states' borders subject foreigners to coercion: “the regime of border control of a bounded political community subjects both members and nonmembers to the state’s coercive exercise of power” (Abizadeh, *Border Coercion*, 45). Democratic theory is inherently bounded; it requires boundaries and the distinction of members from nonmembers, those who belong to a specific demo and those who do not. The act of placing boundaries itself subjects nonmembers to coercion. “Civic boundaries, which by definition distinguish between members and non-members, are always instances of power exercised over both members and nonmembers” (Abizadeh, *Border Coercion*, 46). Some theorist such as Christopher Wellman and Timothy Whelan defend the claim that states have a unilateral right to control their borders due to the democratic principle of self-determination. Whelan claims: “the operation of democratic institutions should amount to ‘self-determination,’ or control by the people over all matters that affect their common interests.” If, as seems true, the “admission of new members into the democratic group” counts as “such a matter” affecting “the quality of their public life and the character of their community,” “then it would appear that the principle of self-determination requires the right to control borders and membership unilaterally”(Abizadeh, *Border Coercion*, 44). To be self- determining states need the unilateral right to control borders and membership. For such power enables states to regulate internal affairs in order to dictate the vision and culture of their community. A state's distinctive culture helps unite the community and contribute to the overall longevity of the society. The inflow of foreigners could

change the culture and lead to undesirable consequences, and, thus, states have the right to regulate who will be part of the community.

In response to this kind of argument, Abizadeh claims that whether democratic theory presupposes unilateral domestic control or joint control by members and nonmembers depends on the matter of to whom democratic justification is owed. He believes it is owed to members and nonmembers of the state, all individuals who are subject to the border control regime; he says: “the democratic justification for a regime of border control is ultimately owed to both members and nonmembers” (Abizadeh, *Border Coercion*, 44). This argument is supported by the following premises: first, the democratic theory of popular sovereignty requires that any coercive political action must be democratically justified to all who are subject to coercion; second, border control by states subjects both nonmembers and members to the state's exercise of coercive power.

In defending his second premise, Abizadeh argues that the view that the demos is inherently bounded is incoherent. The incoherence stems from two problems within democratic theory: the boundary problem and the externality problem (Abizadeh, *Border Coercion*, 45). He claims that democratic theory is incapable of legitimating the particular boundaries it presupposes: “the boundary problem consists in the fact that democratic theory is unable to specify, in terms consistent with its own theory of political legitimacy, the boundaries of the people that form its constituency” (Abizadeh, *Border Coercion*, 46). He labels this the unbounded thesis.

The boundary problem is caused by the inconsistency between democratic theory and its own ideal of democratic legitimacy. Democratic theory requires that the exercise of power must be in correspondence to the will of the people. But it cannot be determined whose participation is necessary for legitimacy in the case of political boundaries, and the question of membership, cannot be answered by the principle of participation for we must ask for whose participation is necessary for the



establishment of memberships. Whelan argues, “The boundary problem is one matter of collective decision that cannot be decided democratically. We would need to make a prior decision regarding who is entitled to participate in arriving at a solution. Democracy cannot be brought to bear on the logically prior matter of the constitution of the group itself, the existence of which it presupposes” (Abizadeh, *Border Coercion*, 46).

The externality problem arises from the conceptual feature of civic borders. Democracy requires a democratic principle of legitimation for borders, and any civic boundaries, by definition, distinguish between members and non-members. Boundaries are always an exercise of power over both insiders and outsiders; Abizadeh says that a border “disenfranchises the outsiders over whom power is exercised” (Abizadeh, *Border Coercion*, 45).

The assumption that the demos is inherently bounded thus leads to a logically incoherent theory of political legitimacy because the boundary problem requires the acceptance of the contradicting proposition. The exercise of political power is only legitimated by corresponding to the will of the people (Abizadeh 47). In contrast, the political determination of the boundaries constituting the people is legitimate even though those boundaries could not be determined to be the product of the people’s will. The second incoherence results from the externality problem. The democratic theory of political legitimacy requires justifying the exercise of power to those over whom power is exercised, but the assumption that the demos is inherently bounded makes fulfilling this criterion impossible conceptually speaking (Abizadeh 47). Abizadeh claims, “by virtue of what a (civic) border is conceptually, constituting it is always an exercise of power over persons who, in the very act of constituting the border, are excluded from the membership to whom power is justified”(Border Coercion, 47).

In conclusion, the unilateral right to control borders is inconsistent with the principle of the

democratic theory. Border controls are coercive, and coercion always invades the third condition of autonomy, independence. Any border control regime must give democratic justification to members and non-members. Democratic justification requires the actual participation in the institutionalized practices of those whom it subjects. Political self-determination fails to give support to a state having a unilateral right because it presupposes a bounded demos. However, the question of members cannot be determined and, thus, cannot be legitimized. As a consequence, democratic theory must either reject the unilateral right of border control or permit such right only if it allows foreigners to be active participants in the process of establishing border control regulations.

### **David Miller's Reply: Why Immigration Controls Are Not Coercive**

Against Abizadeh, Miller argues that border controls do not need to be democratically justified to foreigners. He focuses on Abizadeh's claim that "excluding immigrants is coercive, and that, as a result, they are entitled to be given a democratic justification for their exclusion" (Miller 112); Miller disagrees. First, Miller criticizes Abizadeh's definition of coercion and argues that his definition fails to show coercion always invades autonomy. Second, Miller distinguishes coercion from prevention. Prevention may restrict one's freedom to act, but it does not necessarily invade autonomy. He argues that an action such as a state denying would-be immigrants entry is a kind of prevention and is not coercion. And, as a result, it does not require democratic justification.

Recall that Abizadeh adopted Raz's definition of autonomy. Miller argues that coercion does not always invade the conditions of this understanding of autonomy. Miller gives several examples in which the actions involved in border control may be coercive. For example, he says that sometimes people are handcuffed, forced on a plane or small boats, or they are shipped back to their countries. Such actions are coercive, but Miller claims that border control itself is not. Miller describes border control as a form of prevention, "the act of preventing somebody from entering a

specific territory without authorisation” (Miller 112). To distinguish coercive acts that could be involved in border control and the prevention of border control itself, Miller describes a state that conducts a physical border around its territory that is uncrossable without the authorization of officials. He asks, “Is this also coercive of the people who arrive at the barrier and find their path blocked?” (112).

To support his thesis, Miller believes it is necessary to identify and clarify the concept of coercion. Abizadeh, like Raz, believes coercion always invade autonomy for it always compromises the third condition, independence, and/or the second condition, adequate alternatives. Miller says “a person who is subject to coercion will either no longer have an adequate range of options to choose from or will be unable to make an independent choice between them, or perhaps both” (Miller 112). Miller explains that, according to this idea, coercion takes place when “P communicates to Q that if Q does A (which he would otherwise do), P will bring about consequences that are seriously bad for Q; as a result Q does not do A” (Miller 112). Coercion in this sense is the successful issuing of threat to stop an agent from performing a specific action he or she would otherwise perform (Miller 112). It successfully rules out an option that would otherwise be available and, thus, violates the second condition, adequate alternatives. Also, Raz claims that independence is always violated when a person becomes subject to the will of another. However, Miller believes it is not clear if independence is violated when a particular course of action is ruled out. If a person is still left with an adequate range of options after a particular option is ruled out, Miller argues that it does not seem that independence is violated.

To make his point, Miller offers a situation where a particular option is ruled out, but the agent's independence is not compromised. He asks us to consider the following case. Peter wants to have dinner with Jane and asks her to have dinner with him at a Thai restaurant. Jane counters with a sufficient threat; she will have dinner with him if he chooses to go to a restaurant that is not Thai.

Although the option of Thai is ruled out, Peter still has a wide variety of other restaurants from which to choose. It does not seem as if his independence is compromised. Also, a wide range of alternatives is available to Peter.

Miller also thinks it is important to distinguish between coercion and prevention; he adopts what he takes to be a common and familiar notion of coercion: “P forces Q to undertake some relatively specific course of action by communicating an intention to cause bad consequences if that action is not performed” (Miller 114). For example, a mugger coerces a victim to give him all of her cash. He threatens her that if she does not do as she is told, he will stick a knife into her body (Miller 114). It is clear that this account of coercion violates the second and third conditions of autonomy. The victim does not have adequate alternatives and to comply with the demand the victim clearly becomes subject to the will of the mugger (Miller 114).

The distinction between coercion and prevention is that the former involves forcing a person to perform a specific action and the latter involves forcing a person to abstain from performing a specific option leaving open other alternatives (Miller 114). In the Peter and Jane case, coercion would occur if Jane forced Peter to dine at a specific restaurant; if Jane merely prevents Peter from eating Thai, then she does not coerce him. Miller notes that prevention comes closer to coercion when more alternatives are ruled out.

Also, prevention may take the form of coercion when an agent takes the action deterred (114). For example, a person attempts to prevent his neighbor from entering his house by keeping the door shut. It is clear such an act is a form of prevention. The person is merely ruling out a specific action. The homeowner issues the threat that if the neighbor persists, then he will call reinforcement from police officers. If the threat did not stop the obnoxious neighbor, from entering the premise, the police will arrive and remove the neighbor from the premises. This form of prevention includes an act of coercion, but Miller argues that the homeowner did not coerce his neighbor; “None of this means that I

was coercing my neighbour by refusing to let him enter my house without my permission. Every other option but this one remained open to him” (Miller 114). Prevention requires justification because it infringes on freedom to act, but it does not violate autonomy in the same sense as coercion. Thus, prevention does not require democratic justification, “the person who is being prevented does not necessarily have a right to be included in the institution or practice from which the prevention emerges” (Miller 115).

Miller claims that Abizadeh conflates being subject to coercion and hypothetical coercion. Miller notes that it is important to realize that not all attempts of coercion are successful. A person may be subject to coercion but not coerced. Abizadeh claims when a person is subject to coercion her autonomy is always invaded; “such a threat invades a person’s autonomy, regardless of whether she has any interest in carrying out the proscribed action A, and regardless of whether she is left with an otherwise adequate range of valuable options, because such a threat invades her independence” (Abizadeh 58). In the mugger example, it is clear the victim is subject to the will of another. However, if the victim does not comply with the demand of the mugger, he is still subject to coercion but is not coerced. She chooses a different action from the one the mugger commands. It does not seem her autonomy is compromised for she chooses an option she would have chosen otherwise. Hypothetical coercion is “where a person would expose themselves to coercion if they were to decide to pursue a particular course of action” (Miller 115). Hypothetical coercion does not have to invade autonomy for it sometimes involves action people would not contemplate doing. Miller claims “coercion that is purely hypothetical is not destructive of autonomy” (115).

In conclusion, Miller claims the distinctions he has made illustrate that the state's border control is a form of prevention, and not coercion. Would-be immigrants are prevented from pursuing specific options, not coerced to undertake a particular alternative. It may be that the alternative ruled out is most appealing. However, it does not follow that such prevention is a form of coercion. Would-be

immigrants could still lead autonomous lives if they are prevented from entering into particular countries. Prevention requires justification for it infringes upon individuals' freedom to act, but it does not violate autonomy in the same manner that coercion does. Thus, the unilateral control of borders does not require democratic justification as Abizadeh claims. Miller realizes that physical force may be enforced when immigrants attempt entry, and the physical force is coercive. However, border control itself is not.

### **Abizadeh's Reply**

Abizadeh understands Miller's concerns to fundamentally involve the nature of state coercion, autonomy and democratic legitimacy. With respect to the nature of state coercion, Abizadeh argues against Miller, that preventative laws are coercive. With respect to Miller's claims about autonomy, Abizadeh challenges the examples that Miller uses in order to support his argument that when one course of action is ruled out personal autonomy is not invaded. With respect to Miller's claims about democratic legitimacy, Abizadeh claims the “obnoxious neighbor” Miller uses “to resist the conclusion that persons subject to laws authorizing or threatening the deployment of force are owed a democratic justification” is inadequate. Abizadeh claims that Miller fails to recognize that democratic legitimacy does requires individuals to “democratically justify” themselves to others (127).

#### **A. State Coercion**

Consider Abizadeh's response to Miller's claims about the nature of state coercion. Abizadeh claims that Miller fails to show that preventative laws are not coercive. Recall that Miller argues that not all state laws are coercive and, thus, do not subject individuals to coercion. The argument is one that is also made by Fredrich Hayek. Hayek distinguishes among the deployment of physical force, the actual deployment of force, and the threat of harm, a bi-conditional threat. He makes

the claim that only the latter, threat to harm, can be coercive, and the physical deployment of force is not (123). However, he thinks that if such threats of harm are “(a) *general*, (b) *impartially* applied laws whose violation is (c) *avoidable* and whose threatened sanctions are known and so roughly (d) *predictable*, they do not in fact subject persons to coercion” (124).

On Hayek's view, the issue of unavoidability determines whether threats are preventable or compel specific action. If threats are avoidable, Hayek and Miller do not think they are coercive, since persons could choose an alternative that would prevent them from the punishment, actual deployment of force. Miller uses this distinction to argue that preventative laws are not coercive insofar as, e.g., the law against murder is preventative and one can avoid punishment by not killing. Thus, such laws do not subject persons to coercion and, thus, do not compromise personal autonomy.

Abizadeh claims that this analysis conflates (a) the coerciveness of the threat itself (communicative coercion) with (b) the direct deployment of force that the state may use in carrying out its threat (non-communicative coercion) (State Coercion, 124). Abizadeh argues, “to avoid the (direct, non communicative) coercion involved in carrying out the threat is not to avoid the (communicative) coercion involved in being threatened” (State Coercion, 125). One can succumb to the bi-conditional, hypothetical threat, and avoid the consequence of the direct deployment of physical force, but he is still subject to the coercion of the communicative threat.

I think Abizadeh is correct in his analysis. A threat can subject a person to both forms of coercion, communicative and non-communicative. It is clear that the physical force of restraining or punishing a person involved in non-communicative coercion is coercive in that it inflicts harm or uses the person's body in ways he would not desire. Communicative threats can subject individuals to coercion by invading personal independence or by eliminating adequate alternatives. Recall that in Miller's reply to Abizadeh, Miller argues that Abizadeh conflates being subject to coercion with hypothetical coercion. Miller believes that an individual is only subject to hypothetical coercion if he

decides to pursue a particular action like “the noxious neighbour who persists in his attempts to enter my house uninvited” (Miller 115). Miller claims that hypothetical coercion does not violate autonomy (Miller 115).

Ultimately, Miller wants to argue that since the threat of harm can be avoided for there are other options that individuals may choose, it is not coercive in the autonomy invading sense. I think that avoidable, hypothetical coercion is coercion. I think this claim holds because the rule of law, or hypothetical coercion, typically takes the form: if you do X, Y will happen to you.’ X is the action that is meant to be deterred. It seems that even though I can avoid Y by not doing X, I am still subjected to coercion. Similarly, traffic laws can be seen as a form of hypothetical coercion. If you run a stop light, you will be fined. A person can know the law and avoid the punishment. However, there are cases where hypothetical coercion subjects a person to coercion but in which it is not coercive. For example, a robber tells me to give him my money, and I don't. In this case, I am subjected to coercion but I am not coerced. It seems the consequence of hypothetical coercion and coercion is sometimes identical. Such consequences determine what agents may or may not do. It takes away a part of control or autonomy that they would otherwise have. Thus, it seems that the consequence of either an act of prevention or coercion can have the same effect on autonomy, or invades autonomy in the same way.

Furthermore, Miller's view has a very strange consequence. He claims individuals are exposed to coercion only if they choose certain options, and he thinks that when we do not contemplate undertaking certain options, we are not subject to coercion. He says “since almost all of these involve doing things we would never contemplate doing and have probably never given a moment's thought to, they have no bearing on our autonomy” (Miller 115).

What does this view mean for border control? A state with restrictive border controls is not coercing foreigners if no one wants to enter the state. However, states with the same restrictive border controls that foreigners want to enter are coercing foreigners. Both states have the same policy with



respect to border control. I think that if both states have the same policy and neither policy is democratically justified to foreigners, then both states have coercive border controls.

## **B. Autonomy**

In Abizadeh's discussion of Miller's claims about autonomy, he agrees with Miller's idea that "how we define the concept for philosophical purposes partly depends on what normative work we expect it to do" (Abizadeh, *State Coercion*, 125). And, he admits that, as he uses the term, "the normative significance of state coercion is that it (presumptively) invades autonomy and hence triggers a demand for democratic justification to the very people subject to it" (Abizadeh, *State Coercion*, 125). Abizadeh points out that, even if Miller accepts that legal preventions are coercive in some manners, only those that either leave inadequate options or compel specific actions are coercive in the "autonomy-invading" ways that require democratic justification. Abizadeh points out that such an idea would lead to the problematic implication that many current laws that impose negative rather than positive obligations are exempt from the demand of democratic justification, which Abizadeh claims "strikes me as a straightforward abandonment of democratic theory" (Abizadeh, *State Coercion*, 125).

Miller disagrees with Abizadeh's claim that preventative threats can violate independence. Unlike Miller, Abizadeh claims that even preventative threats that leave an adequate range of options may still be coercive on the ground that they invade independence (Abizadeh, *State Coercion*, 125). Miller denies the presented claim using the Peter-Jane example. Abizadeh agrees with Miller that Jane's threat neither invades Peter's autonomy nor subjects him to coercion. Personal autonomy is not compromised just because one course of action is ruled out. However, Abizadeh claims that the example is inadequate to speak to the disagreements for it "abstracts away completely from why we care specifically about state coercion, which involves, for example, the threat of overwhelming

physical force”, and it fails to meet the requirement of inadequate options and threat of force (State Coercion, 126). Abizadeh proposes an example that meets the condition of threat of force that leaves adequate options. If Jane credibly threatens to kill or incarcerate Peter if he chooses to go to a Thai restaurant, then on Miller's account, such a threat would not be coercive. Abizadeh believes such would certainly be for “credible threats of physical force compromise the coercee’s independence because they threaten to use her body for purposes that are not her own” (State Coercion, 126).

Another example Abizadeh gives is of the happy servant and master. The happy servant is one “whose enlightened master has left her an adequate range of valuable options, whose protection she does not wish to leave, but who is nonetheless under threat of corporal punishment should she try” (State Coercion, 126). Again, Abizadeh proposes that the threat invades the slave's independence and subjects her to coercion. Miller's example that meets the same requirement is that of the remote island landowner. He threatens to shoot anyone trying to step on his property. This example contrasts from the killer-Jane example for many whom are threatened by the landowner have no interest in the action mentioned. Miller uses this example to show that a preventive threat cannot subject individuals to coercion who have no interest in the proscribed actions (Abizadeh, State Coercion, 126).

Abizadeh believes this idea to be mistaken, for people may develop interests in many proscribed actions. A slave girl may have no interest in escaping at a certain time, but she may develop that interest later. Her independence is not a matter of simply her current preferences. This criticism of adaptive preferences is also supported by Isaiah Berlin. Berlin says, “an account according to which one’s freedom is compromised by obstacles to only what one actually prefers perversely implies that one’s freedom could be increased simply by adapting one’s preferences. So too with independence.”<sup>9</sup>

Miller's example also aims to show “that when the possibility of the threat actually being carried out is so remote— because it is unlikely that one would, in the normal manipulated course of

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9      Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), xxxviii.

events, ever develop an interest in the proscribed action—then independence is not compromised” (Abizadeh, *State Coercion*, 127). However, Abizadeh claims that such idea is also problematic for he believes “developing an interest in landing on the Scottish island is no more remote a possibility than me (developing an interest in) murdering” (*State Coercion*, 127). Abizadeh has argued that any threat against one's body invades independence and, thus, subjects a person to coercion and requires democratic justification. And, so the landowner's threat “which is why uttering threats of violence is properly a matter for (democratically justified) legal regulation” is also coercion (*State Coercion*, 127).

I agree with Miller that one course of action being ruled out usually does not invade autonomy. A person could still freely decide on her course of action if one action is ruled out, given that she is left with adequate options. Not being able to choose Thai on a particular day as an alternative for dining does not invade a person's autonomy because the option being ruled out leaves the agent with other adequate alternatives and does not compromise his independence. He is independent in that he is able to choose for himself amongst adequate alternatives.

Nonetheless, Abizadeh is right to emphasize that Miller fails to appreciate what is important with respect to independence and coercion given the threat of the state's coercive power in border control. The option of moving to a desired country that may offer better life chances could not be compared to the option of going to a desired restaurant. Each of these alternatives is one alternative to a contemplated decision, but it is clear that the importance of one far outweighs the other. One threat is conditioning the choice of restaurant in one's dining, but the threat that border control holds interferes with and conditions the decisions that influences one's welfare. It seems clear that the result or influence of a threat condition would greatly determine if one's independence is compromised. It is not a matter of adequate options, but the weight of certain kinds of decisions and its consequences.

Furthermore, the threat given in the Jane-Peter example does not include the threat of force

that border control includes. The consequence of Peter going to a Thai restaurant is that Jane will not be accompanying him. However, in the circumstance of entering a country that is permitted is far more severe for it includes physical force and imprisonment. The severity of the consequence of the threat demarcates the two circumstances. These cases need to be analyzed on their own terms for they could have different implications as to whether independence is compromised or not. It is not problematic that one's freedom can change with the change of personal desires and preferences, for the laws are impartial that all citizens must abide by. The subjective freedom of the self does not mitigate the equality of the laws.

Personal autonomy extends to different things for different people. Two people can live in the same location and be subject to identical laws but have differences of freedom or autonomy. Autonomy depends on adequate alternatives, but what is adequate for one individual's life is different for another. Thus, it is possible that one's autonomy can increase or decrease with what a person desires.

### **C. Democratic Legitimacy**

In the discussion regarding democratic legitimacy, Miller invokes a third example, the obnoxious neighbor persisting to enter another's home, to resist the conclusion that persons subject to laws authorizing or threatening the deployment of force are owed a democratic justification. The neighbor is forcibly prevented from entering a person's home by the homeowner, and eventually, the police. Miller points out that neither the homeowner nor the police need to “democratically justify” themselves to the neighbor. Abizadeh agrees that direct justification is not owed for such action; the action is warranted by the law that allows the homeowners to use force under the circumstances. Democratic legitimacy does not require individuals to “democratically justify” their actions to others but, rather, requires “that the formulation of laws result from democratic processes of justification involving those subject to the laws” (127).

I think that Abizadeh did not adequately address Miller's point. Miller uses the neighbor example to show that laws aiming at prevention do not require democratic justification, because prevention does not undermine autonomy in the same manner as coercion (Miller 115). A sufficient justification of prevention in this particular case is privacy or protection. Miller seems to suggest that similar to border control, prevention does not require democratic justification. However, Abizadeh did not reply with the discussion on prevention and democratic justification; instead, he discusses the lack of direct justification.

It seems the fundamental disagreement between Abizadeh and Miller is their concept of independence and how they understand prevention or coercion to affect independence. Miller is concerned that Abizadeh thinks coercion and prevention always have the same consequence on a person's autonomy, as Abizadeh believes both forms violate independence. Miller clearly differentiates between coercion and prevention and how they relate to independence, which on his view has to do with both avoidability and compelling a specific action versus the prevention of a specific action. Abizadeh does not directly reply to Miller's point.

Miller is correct to point out that coercion is distinct from prevention. There are laws that are preventative and, thus, not all restrictions are coercive. Abizadeh did not include such a distinction within his argument. But it seems that this distinction does not defeat Abizadeh's thesis that border control requires democratic justification to foreigners, and not only members. Prevention is not coercion. A law may be preventative in that it only prevents action but does not compel specific action. However, preventative law can invade autonomy without being coercive if it does not leave persons with adequate options or compromises independence.

Neither theorist explicitly defines independence, but from this term they expound their argument. They seem to agree with Joseph Raz that independence is to be "free from the subjection of

the will of another through coercion or manipulation.”<sup>10</sup> But, as Raz’s usage implies, he takes independence to be the freedom from conditions by others on an agent’s choices and decisions. So, any credible threat would invade independence because it conditions or changes an agent’s alternatives that would be available to him. Since any threat invades independence, which is the third condition of autonomy, all threats require democratic justification.

Is border control preventative law? It seems the preventative laws against murder do not invade autonomy because not murdering is hardly the last adequate option. However, preventing persons from entering a particular country, which could allow them a great difference of life opportunities, could be counted as invading autonomy. Each specific preventative law or case seems to have differences in the extent to which it comes closer to autonomy invasion because each prevention affects independence and outcomes differently. This seems to be a point that Abizadeh mentions in his critique in section B, but he could have further expounded this view to make a stronger reply to Miller.

The listed conditions of autonomy also include adequate options. This surely does not mean the maximization of options. Nonetheless, Abizadeh does not explain what adequate options are. The extent or parameter of options that meets the threshold of counting as “adequate” would also determine if one’s autonomy is compromised or not. Adequate options would surely be context sensitive. But Abizadeh’s does not give any guidance on what adequate options would be when it comes to border control.

It should be noted that Abizadeh’s conclusion only follows if we accept his democratic theory of popular sovereignty (Border Control, 38). The narrow appeal of the thesis is one of its limitations. Furthermore, Abizadeh’s theory seems nearly impossible to apply. Abizadeh does not believe that border control should be democratically justified to all, but only those who are subject to it,

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10 Blake, Michael. "Distributive Justice, State Coercion, and Autonomy," 268-70.

which includes nonmembers. Let's grant Abizadeh's argument is true. How would a state determine those to whom border control needs to be democratically justified? They must first identify those who are subject to coercion and then allow them to have equal consideration into the deliberation of the regulation. In addition, how would the democratic justification go? How is it possible to allow everyone, including nonmembers, equal consideration when it comes to border regulation? Abizadeh admits that he does not advocate for any particular process of democratic justification, only that it is necessary in the case of border control.

The distinction between coercion and prevention is central to the disagreement between Miller and Abizadeh. Abizadeh believes in the affirmative case that border control subjects persons to coercion, and coercion always invades autonomy. However, I think the most significant factor for border control and autonomy is whether border controls leave adequate alternatives.

Prevention could invade autonomy if there is the lack of adequate options. Consider that Peter is prohibited from taking medication, but he is ill. Only medication can cure him, and if left untreated by medication, he will die very soon. He is only prevented from not taking medication. However, it is clear that his autonomy is invaded. He is not left with adequate options even though he is not forced to take any particular course of action. In such scenario the prevention does invade autonomy, thus, the distinction between coercion and prevention should not decide whether a law, specifically border control, invades autonomy or not.

## **Defense**

I will defend Abizadeh's claim that border control invades personal autonomy, and, as a result, it gives potential immigrants democratic entitlements. Abizadeh is correct to emphasize that personal autonomy is central to democratic theory; he says, "I assume the core value of both liberalism and democratic theory is personal autonomy, and that freedom is valuable precisely insofar it serves

autonomy” (Abizadeh, *Border Coercion*, 39). However, personal freedom and political power sometimes come into conflict, so there must be a method of adjudication to reconcile political power and the vision of human beings as autonomous agents. As Charles Beitz says, “a vision of human beings as inherently free and equal” is needed.<sup>11</sup> This reconciliation gives rise to the necessity of democratic justification when personal autonomy is invaded by political power. Abizadeh agrees with Raz's understanding of autonomy. Abizadeh states, “the vision of people controlling, to some degree, their own destiny such that they are able to set and pursue their own projects and see themselves as part creator of their own moral world, and not simply the subject of the will of another” (Abizadeh 39).

Autonomy is understood by philosophers in numerous ways. One view of autonomy is the ability to “to be one's own person, to be directed by considerations, desires, conditions, and characteristics that are not simply imposed externally upon one, but are part of what can somehow be considered one's authentic self.”<sup>12</sup> This sense of autonomy and Raz's include self-determination, that is, the ability to be able to guide one's own life through decisions that are one's own. Importantly, self-determination is central to democratic theory: “especially since its opposite — being guided by forces external to the self and which one cannot authentically embrace — seems to mark the height of oppression.”<sup>13</sup> Thus, any democrat must accept that any law that violates autonomy must be democratically justified.

It is important to note two distinctions one might make with respect to autonomy.

First, there is a distinction between basic and ideal autonomy. Basic autonomy refers to “the minimal status of being responsible, independent and able to speak for oneself,” and ideal autonomy refers to “an achievement that serves as a goal to which we might aspire and according to which a person is

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11 Beitz, Charles. *Political Equality* (Princeton, NJ: Princeton University Press, 1989), pp. 16-17.

12 Christman, John. "Autonomy in Moral and Political Philosophy." *Stanford University*. Stanford University, n.d. Web. 27 Apr. 2014. <<http://plato.stanford.edu/archives/spr2011/entries/autonomy-moral/>>.

13 Christman, “Autonomy in Moral and Political Philosophy.”



maximally authentic and free of manipulative, self-distorting influences” (Christman 2003). Here, in my discussion of autonomy within the debate of border control, I am using the concept of ideal autonomy, for democratic theory understands persons as autonomous in the ideal sense. Democratic theory treats and asks for the participation of individuals as if they are authentic and free of manipulation.

Another distinction concerns the difference between freedom and autonomy. Not all violations of freedom are a violation of autonomy. In the *Stanford Encyclopedia of Philosophy* article on “Autonomy in Moral and Political Philosophy,” Christman states the following: “Generally, one can distinguish autonomy from freedom in that the latter concerns the ability to act, without external or internal constraints and also (on some conceptions) with sufficient resources and power to make one's desires effective (Berlin 1969, Crocker 1980, MacCallum 1967). Autonomy concerns the independence and authenticity of the desires (values, emotions, etc.) that move one to act in the first place” (Christman 2003).

Certain freedoms are more important than others. As Abizadeh notes:

“I take it in neither case if freedom, defined as the absence of external constraints, the ultimate value of concern. If some such *freedoms* (such as the freedom of conscience) are more valuable than others (such as the freedom from traffic signals), then it follows that the value of such freedoms depends on how they serve some other value(s). For the purpose of this article, I assume the core value of both liberalism and democratic theory is personal autonomy” (Abizadeh, *Border Control*, 39).

Reflectively, it is important to note the kinds of freedom that are most important for autonomy, and when such freedom are compromised, personal autonomy is compromised to the extent that it requires democratic justification.

It is important to ask what kinds of freedom are necessary for people to be autonomous,

given the assumption that personal autonomy is a core value and importance. I believe individuals would choose to have liberties that are most important to preserve personal autonomy. I would ask what basic freedoms people would prioritize if they are ignorant of their race, nationality, gender, and location. I think it is reasonable that people would prioritize freedom of mobility to preserve their personal autonomy to be self-governed and self-determined and to live life authentically. Of course, there will also be other prioritized freedom, but it is hard to deny that people would not count freedom of mobility as being amongst the priorities.

In accordance with the idea that freedom is valuable in that it serves personal autonomy, freedom of mobility is not valuable in itself, but it is important in that it greatly affects and provides for autonomy. Especially in the world today where capitalistic competition and oppressive regimes exist, freedom of mobility has become essential to life opportunities. Life opportunities enable individuals to self-determine and pursue the kind of life they wish to live, and thus, allows them to live authentically that is, in accordance with their desires and intentions. Freedom of mobility is necessary for self-determination.

Freedom of mobility is considered a negative liberty. Negative liberty does not require actions or obligations from external agents. Rather, a negative liberty is “a mere *absence* of something (i.e. of obstacles, barriers, constraints or interference from others).”<sup>14</sup> It is freedom from interference. Freedom of mobility does not obligate others' actions. It requires the opposite, the absence of action, or interference. It requires that others must not interfere with one's mobility. For example, freedom of mobility in the case of open borders does not require action from any individual. It does not require that nations aid foreigners. It only requires that states not interfere with those who want to enter.

My view of border control is similar to Arash Abizadeh; I argue that in accepting the

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14 Carter, Ian. "Positive and Negative Liberty." *Stanford University*. Stanford University, 27 Feb. 2003. Web. 21 Apr. 2014. <<http://plato.stanford.edu/entries/liberty-positive-negative/>>.

democratic theory of popular sovereignty, one must reject the unilateral right to border control or allow such control only if it has been successfully and democratically justified to foreigners whom it subjects. My premises are as follow: 1) border control infringes on freedom of mobility, 2) for freedom of mobility in the case of potential immigration greatly affects an individual's life and their ability to live authentically and self-determined, 3) freedom of mobility in modern society is necessary for personal autonomy, and, thus, 4) invasion of freedom of mobility compromises autonomy.

Border control infringes on freedom of mobility. I think this is an acceptable premise for many. A person may wish and attempt to move to a specific place, but his physical action is interfered with by other agents. There is an invasion upon freedom of mobility, and U.S. border patrol is a paradigm case. *The Washington Post* reports that in 2013 U.S. patrols caught 356,000 foreigners who were returned to their countries.<sup>15</sup> It is clear that foreigners' freedom of mobility was invaded for they could not move to where they chose. Although this premise is acceptable, people will note that many things infringe upon freedom of mobility. But, this specific infringement of mobility requires important notice or justification. For example, I cannot barge into my neighbor's home or into a restaurant during closing hours. In these cases, my freedom of mobility is, indeed, compromised. However, there is a stark contrast between these scenarios and the case of border control. Unlike border control, which restricts entry into a massive territory, the listed area is private property. It is not my own mobility that is restricted, but all individuals who are not the owner of the property. It is not the case that my freedom is compromised, but rather, the area is not free to roam. In contrast, border control denies access to a space that is not entirely owned. In this case, the freedom of mobility is unrightfully and discriminately violated.

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Brad Plumer, "Who's Crossing the Mexico Border? A New Survey Tries to Find Out," *Washington Post*. June 2, 2013. Accessed on the web Apr. 16, 2014: <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/06/02/whos-crossing-the-mexico-border-a-new-survey-tries-to-find-out/>.

Some, like Wellman, object to this notion that whole nations are unowned land. Wellman claims that citizens form collective ownership of states, much like a membership within a golf course. The collective has the right of self-determination, and such right allows the refusal of outsiders.<sup>16</sup> However, I disagree. Individuals within a state may have ownership to certain parts or areas of property; they are singular owners of particular areas. However, the individuals together cannot have ownership of the whole nation by virtue of the collective. The group or states are made up of individuals' property, but the group itself is not an agent with desires, property, or preferences.

Freedom of mobility is greatly affected by the ability to self-determine and live authentically. To live authentically is to act and live in accordance with one's intentions and desires. Human beings have similar basic needs, and this gives them a number of the same desires. Individuals generally desire to live with enough resources to sustain themselves and their family members. They wish not to be oppressed and follow the freedom they choose and abstain from pain, just to name a few.

Freedom of mobility has become necessary for personal autonomy. In modern society, the opportunity to fulfill basic desires cannot be satisfied if individuals reside in particular areas of the world. Many individuals live in poverty, and immigration provides an opportunity to escape or improve their condition. They are oppressed. They cannot follow the religion they wish, afford enough resources for sustenance, or be with their loved ones. With limitations present, they cannot live autonomously. To have opportunities, they have to seek another location. Freedom of mobility between states offers an opportunity to attain an autonomous life. Freedom of mobility is important in that it serves personal autonomy, and in the case of immigration, it is necessary for autonomy. Thus, the invasion of freedom of mobility in the case of immigration invades autonomy. States must democratically justify border regulations to nonmembers.

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16 Wellman, "In the Defense of the Right to Exclude," pp. 33-40.

## **Conclusion**

I ultimately support Abizadeh's conclusion that border control requires democratic justification to members and non-members. However, I do not argue that coercion always invades autonomy. Instead, I argue, specifically, that border control violates autonomy for it invades the freedom of mobility that is necessary for personal autonomy.

I will address two specific limitations of my argument. First, I understand that my argument is limited in that it requires a specific conception of autonomy that includes authenticity and self-determination, since autonomy can contain many ideas and implications. I do not believe that the sense of autonomy I choose will be satisfying in all regards. However, this concept of autonomy seems to be what democratic theory aspires to ensure. Democratic states allow individuals to vote and presuppose that the process of equally counting each person's vote is important for respecting each person.

Second, I realized that the process of democratic justification is impractical. Abizadeh only argues for its necessity in the case of border control, but he does not contribute or argue for a specific practice. How should we identify to whom states owe justification? The category includes members and non-members, but this information is not enough to determine the specific persons or specific process to attain successful democratic justification. Arguably, it seems that Abizadeh's argument for democratic justification is just the argument for open borders.

## **Final Proposal**

I support Abizadeh's conclusion that states do not have the unilateral right to border control and must democratically justify it, but I propose a different argument for this conclusion. And, because of the problems of democratic justification on this issue, I propose open borders. I propose

that individuals should have the right to freely immigrate to any state of their choice, if they can fulfill the same obligations as those citizens.

This stand is better than the alternative of allowing all those subjects to border control equal consideration in the process of creating the regulation. Open borders to those who will accept and abide by the existing laws will not infringe on states' right to determine its structure or its future. And open borders do not infringe on freedom of mobility. Those who are capable of abiding by the laws of the states are no different from current citizens. To deny these individuals citizenship is to unfairly discriminate. One cannot dictate the location she or he is born in. Thus, it is wrong to use this factor to restrict where he or she can live.

My proposal can fulfill moral principles of humanity and equality. It also supports the continuity of modern states. Individuals will possess the power to choose the states they wish to immigrate too. They can choose to abide by a state, and be accepted. Their action alone determines the outcome. This returns freedom to potential immigrants. This proposal allows states to fairly pursue the vision for their society.

Citizens may be concerned that new immigrants may bring with them different beliefs, values, and traditions that can change a nation's public culture. This common culture defense is misinformed because it presumes that a nation is culturally homogenous, and there are specific defining characteristics of the culture that citizens have agreed upon.<sup>17</sup> Large nations such as the United States or China contain diversified groups and cultures. Public culture is not homogenous within nation and it is not static. Public culture changes constantly. The differences among groups in a state are as great as the differences between citizens and foreigners.

Open borders would not only allow more freedom for all individuals. Everyone could freely enter in contracts and business with anyone they choose. Open borders will not infringe on potential

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<sup>17</sup> Wellman, "Immigration."

immigrants' freedom and also allows more freedom for existing citizens. More importantly, open borders will liberate the many limits placed upon numerous citizens of the world to pursue better lives for themselves, and aid in the further progression of societies.

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