

Infeasibility as a normative argument-stopper: the case of open borders

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Of things past there is no deliberation,  
because manifestly impossible to be  
changed; nor of things known to be  
impossible, or thought so, because men  
know or think such deliberation vain.  
– Hobbes (1651, ch. 6)

Mankind always takes up only such  
problems as it can solve. – Marx  
(1859/1904, p. 12)

Of all the ambitious ideas associated with progressive politics, none perhaps is more likely to be dismissed as utterly fanciful than the idea of open borders. Shortly before a 2001 meeting of the Free Trade Agreement of the Americas in Quebec City, for example, *The Global and Mail* published an opinion piece describing the “free movement of labour across borders” as “a utopian madhouse, even crazier in concept than communism” (Macarthur, 2001). A recent article in *Vox* refers to the “pie-in-the-sky utopian vision of a world of unlimited free movement in which to move from Haiti or Havana to Houston would be about as easy as moving from San Antonio to San Francisco” (Yglesias, 2018). Similar statements abound.

Of course, there are serious *normative arguments* against open borders as well. Opponents insist that embracing open borders would undermine freedom of association, self-determination, security, prosperity, democracy, and so on (see Walzer, 1983; Miller, 1995; 2008; Wellman, 2008; 2015; Pevnick, 2011; Blake, 2012; Song, 2018). On the normative field of battle, however,

decisive outcomes prove elusive. Rights of freedom of association of those who want to join clash with rights to freedom of association of those who want them not to join. The individual rights of self-determination of aspiring entrants clash with collective rights of self-determination of existing communities wanting to keep them out. The welfare and security interests of the one group clash with the self-same interests of the other. All those value conflicts, and more, stand in the way of resolving the open-borders debate by appeal to considerations of value or principle (see Abizadeh, 2008; Carens, 2013; Fine, 2013; Oberman, 2016).

What is appealing about shifting the focus to the manifest *infeasibility* of open borders is that it promises to neatly circumvent such intractable normative arguments. The charge of infeasibility is commonly taken to be what we shall call a *normative argument-stopper*. If a proposed policy makes infeasible demands, then the merits or demerits of that policy are of no practical consequence. It is irrelevant how desirable or undesirable it would be to successfully realize the policy – it simply *cannot* be the case that we ought, practically speaking, to bring it about. The infeasibility of bringing about open borders therefore pre-empts, and removes the need for any discussion of, what values a policy of open borders might or might not manifest.

It is hardly surprising that anti-progressives (and even moderate progressives seeking to distance themselves from their more extreme, utopian counterparts) should be tempted to deploy the charge of infeasibility as a normative argument-stopper in this context. More interestingly, at least some of those who think that open borders are profoundly morally important appear grudgingly to concede the charge as well. Joseph Carens, for example,

has influentially argued that open borders are a necessary condition for achieving *justice* and, hence, that all actual states (which obviously fail to embrace open borders) are *ipso facto* unjust. Still, Carens frankly admits that the idea of open borders is “far removed from anything feasible in the foreseeable future” and, explicitly invoking the idea that “ought” implies “can,” he concedes that it therefore is not the case that we ought, practically speaking, to bring them about (Carens, 2013, p. x).<sup>a</sup>

Our aim in what follows is to consider whether this dismissal of the open borders view on grounds of infeasibility is warranted. To foreshadow, we shall argue that it is thoroughly *unwarranted*. It is simply not true that bringing about open borders is infeasible in a way that would entitle us to treat the charge as a normative argument-stopper.<sup>ab</sup> Our argument will proceed as follows: After addressing some important preliminaries (Section 1), we shall argue that bringing about open borders is *perfectly feasible* on what we take to be the most plausible account of feasibility, one that can plausibly vindicate the normative argument-stopping role that the charge of infeasibility is supposed to be playing (Section 2). We then consider and argue against what we take to be the only three credible ways to resuscitate the charge of infeasibility: by proposing an alternative account of feasibility (Section 3); by proposing an alternative, more circumscribed interpretation of the subject-matter of claims about what is infeasible (Section 4); and by proposing a more expansive account of the addressees of the demand for open borders beyond a narrow focus on states (Section 5). None of these strategies is successful. The problem with the first is that it can vindicate the claim that open borders are infeasible only at the cost of failing to vindicate the claim that infeasibility is a normative argument-stopper. The problem

with the second is that, upon closer inspection, it does not provide an argument against open borders at all. The problem with the third is that it underestimates the power of at least some non-state actors. We conclude by considering where this leaves us with regard to the idea of open borders and what lessons might be learnt for the use of feasibility in debates about public policy and institutional design more generally (Section 6).

## 1. Preliminaries

Our topic is the charge that the open borders view can be dismissed on the grounds that it makes demands that are infeasible in a way that can act as a normative argument-stopper. But this remains unclear in two important respects. Before we are in a position to evaluate the charge, we need to say more about (a) the open borders view that is the target of the charge and (b) the idea that infeasibility is supposed to be a normative argument-stopper. We take each of these in turn.

### A. The open borders view

Let us begin with the open borders view. Just what talk of a state with “open borders” is supposed to amount to is, of course, a notoriously difficult question.<sup>iv</sup> But the basic idea, we take it, is such a state would refrain from imposing and enforcing certain familiar restrictions that all actual states currently impose on the flow of immigration: labour restrictions (restrictions based on whether the would-be immigrants have certain special vocational skills or expertise); linguistic restrictions (restrictions based on whether the

would-be immigrants are proficient in the prevailing language(s) of the receiving state); cultural restrictions (restrictions based on the likelihood that would-be immigrants will successfully integrate into the society of the receiving state); and so on.<sup>v</sup> Open borders may be compatible with the state continuing to impose and enforce *some* restrictions: say, certain public health restrictions (restrictions on would-be immigrants with contagious diseases); and perhaps certain public order restrictions (restrictions on would-be immigrants who have committed serious criminal offences).<sup>vi</sup> However, we shall assume that for an actual state to bring about open borders would be for it to abolish restrictions on immigration beyond those that comprise some such ultra-minimal set.<sup>vii</sup>

Next, there are various different versions or interpretations of the open borders view depending on what we mean by saying that states “ought” to bring about open borders. We are interested in versions of the open borders view for which the “ought” in question is a *practical* ought, one that aspires to offer practical *guidance*. Practical ought claims are supposed to be fit to be used within our practices of deliberation to settle the question of what to do and/or within our practices of offering advice to help others settle the question of what to do (see Southwood, 2016a). There are other ought claims, by contrast, that clearly do not aspire to offer concrete guidance: claims, for example, that it *ought to be the case* that states bring about open borders; or that it is a necessary condition for *perfect justice to obtain* that states bring about open borders; or perhaps that states are *morally criticisable* in some way insofar as they fail to bring about open borders.<sup>viii</sup> We restrict our focus to practical ought claims due to the fact that the charge of infeasibility is uniquely (or at

least most obviously) applicable in the case of claims involving what we practically ought to do.

Putting these two ideas together, then, the open borders view that is our focus is the following:

(OB) At least some (particularly wealthy western) states practically ought now or within the foreseeable future to abolish all restrictions on immigration apart from those that comprise an ultra-minimal set.

### B. Infeasibility as a normative argument-stopper

Next, we need to say more about the key idea that the charge of infeasibility is supposed to be a normative argument-stopper. The rough idea, as we noted above, is that claims that bringing about a particular outcome is infeasible are supposed to be capable of establishing that bringing about the relevant outcome is not even a candidate for what we ought to do, thereby cutting through potentially intractable disagreements about relevant matters of value and making further discussion of it moot.

This suggests that there are two important aspects to the idea of a normative argument-stopper. First, it means that the charge of infeasibility is supposed to be *peremptory* with regard to questions of value such that, no matter how desirable it would be for us to bring about the outcome in question, it cannot be the case that we ought to do so (Southwood, 2016a). This might put us in mind of the suggestion that is sometimes made about moral rights to the effect that they are supposed to be “trumps” (Dworkin, 1984). However, we take it that infeasibility is supposed to be peremptory in a quite different way. Presumably even the most uncompromising deontologist

does not think that that having a moral right against the performance of an action necessarily entails that the action ought not to be performed. Rather, at most, it entails that it is not the case that the action ought to be performed unless there is some sufficiently weighty countervailing consideration: say, that many innocent people will die unless the right is violated. In contrast, if it is infeasible for us to do something, then this is supposed to entail that it is not the case that we ought to do it. For example, the fact that it is infeasible for us to run 100 metres in less than 10 seconds entails that it is not the case that we ought to do so – even if 10 billion innocent people will die unless one succeeds in running 100 metres in less than 10 seconds. Perhaps we ought to try, but it cannot be the case that we ought to succeed.

Second, to say that the charge of infeasibility is supposed to be a normative argument-stopper means that it is supposed to be relevantly *neutral* with regard to questions of value (see Southwood, ms). For any outcome that it is infeasible to bring about, it must be possible, at least in principle, for those who disagree (even intractably) about relevant matters of value to recognise and reach agreement that it is not the case that bringing about the relevant outcome ought to be done because it is infeasible. For this to be so, both infeasibility claims themselves and the principle that “ought” implies “can” must not be, or depend upon, controversial normative claims. Again, it is worth mentioning the contrast with rights. While claims about rights are also supposed to be preemptory (albeit in an importantly different way, as we saw), clearly both claims about rights and claims about what follows from such claims are straightforwardly normative claims. Thus, in a context where there is disagreement about relevant matters of value (say, whether we have some particular right or how normatively weighty it is), it is

clear that appealing to the right has no prospect of resolving the question of what we ought to do. In contrast, intractable disagreements about relevant matters of value pose no in-principle obstacle to dismissing a particular action on grounds of infeasibility. For example, suppose that a student who borrowed your signed first edition of *Middlemarch* has accidentally destroyed it. In cases of this sort, you and the student can always, at least in principle, agree that it is not the case that he ought, practically speaking, to return the book to you. That is so even if you have intractable disagreements about the normative significance of property and ownership, and even if there are other questions (such as what kind of compensation, if any, you are owed) for which that is not so.

## 2. An argument for the feasibility of open borders

We are now in a position to argue that dismissing the open borders view on account of its making infeasible demands fails at the first hurdle. The charge that bringing about open borders is infeasible in each and every case involves a straightforward mistake. It is, in fact, perfectly feasible for at least some states to open their borders.<sup>ix</sup>

Here is our argument:

- (1) For any state *s*, if (i) *s* would be reasonably likely to succeed in abolishing all restrictions on immigration beyond the ultra-minimal set if it were to try and (ii) it is not the case that *s* is robustly disposed not to try to abolish all such restrictions, then it is feasible for *s* to bring about open borders.
- (2) There are at least some wealthy western states that are such that (i) they would be reasonably likely to succeed in abolishing all restrictions on



immigration beyond the ultra-minimal set if they were to try and (ii) it is not the case that they are robustly disposed not to try to abolish such restrictions.

Therefore,

(3) There are at least some wealthy western states that are such that it is feasible for those states to bring about open borders.

The argument is valid. Are the premises true?

#### A. In defence of premise (1)

Premise (1) follows straightforwardly from the aforementioned account of open borders plus a certain account of feasibility, namely the following *dispositional* account:

(D) For any agent  $a$ , it is feasible for  $a$  to achieve an outcome  $O$  if and only if (i)  $a$  would be reasonably likely to succeed in achieving  $O$  if  $a$  were to try; and (ii) it is not the case that  $a$  is robustly disposed not to try to achieve  $O$  (cf. Southwood, 2016a; Stemplowska, 2016).

Notice that (D) postulates two (individually necessary and jointly sufficient) conditions in order for it to be feasible for an agent to do something. Condition (i) holds that it must be the case that the agent would be reasonably likely to succeed in doing it if they were to try. So, for example, in order for it to be feasible for a father to attend his daughter's soccer game on the weekend, it must be the case that he would be reasonably likely to succeed in attending the game if he were to try (Brennan and Southwood, 2007). This is, of course, quite different from saying that it must be the case

that he is reasonably likely to attend the game. The latter need *not* be true in order for it to be feasible for him to attend the game. It might be perfect feasible for him to attend the game even though he is virtually certain *not* to do so since he is lazy and selfish and is virtually certain not to make any attempt to do so. What matters instead is whether he would be reasonably likely to succeed if he were to try. Thus, if he is stuck on a yacht in the middle of the Pacific Ocean such that, try as he might, there is no prospect of him attending the game, (D) says that it is not feasible for him to do so.

A number of philosophers have argued that satisfying condition (i) is sufficient as well as necessary in order for it to be feasible for an agent to do something (see Brennan and Southwood, 2007; Gilabert and Lawford-Smith, 2012; cf. Estlund, 2011). In contrast, (D) also postulates a second necessary condition: condition (ii). Condition (ii) holds that it must also be the case that the agent is not robustly disposed not to try to do the thing in question. Following Stemplowska (2016; forthcoming), we shall assume that to be robustly disposed not to try to do something involves being such that one would continue not to try to do it even in the face of certain enticements or threats. Take Alarice, a world-class concert pianist, who regularly performs the most difficult pieces with consummate ease but never plays *Chopsticks* because she has a pathological aversion to *Chopsticks* in particular (cf. Lehrer, 1968; Wolf, 1990, p. 99). Suppose that it is associated in her mind with some unspeakable incident that happened to her as a child. Suppose that her aversion is such that she would not succeed in trying even if we were to offer her a substantial reward if she plays *Chopsticks* (say, to give her Steinway Alma Tadema) and even if we were to threaten her with a substantial

punishment if she doesn't (say, to burn her current Steinway while she's out of town). (D) implies that it is infeasible for Alarice to play Chopsticks.

Now compare Alarice to Bancroft. Like Alarice, Bancroft never plays *Chopsticks*, but simply because he strongly dislikes it and finds it intensely dull. Thus, while he is disposed not to try to play *Chopsticks*, he is not *robustly* disposed not to try to play *Chopsticks*. Suppose we were to offer him a sufficiently attractive reward (say, to give him Steinway Alma Tadema) if he were to play *Chopsticks* and/or threaten him with some sufficiently unpleasant punishment (say, burning his current Steinway while he is out of town) if he were not to play *Chopsticks*. Under these circumstances, it would presumably not be the case that he would continue to refrain from trying to do so.

Why should we accept the dispositional account of feasibility? For one, because it has intuitively plausible substantive implications.<sup>5</sup> For another, and more importantly for our purposes, because it also seems to be well placed to vindicate the idea that the charge of infeasibility is a normative argument-stopper. As we saw above, the idea that infeasibility is a normative argument-stopper has two aspects. First, it means that the charge of infeasibility is preemptory in the sense that, no matter how desirable it would be for us to do the thing in question, it cannot be the case that we ought to do it. The dispositional account of infeasibility can plausibly explain why this should be so. There are two ways in which actions may count as infeasible according to that account. First, consider cases where the agent violates condition (i), such as the case of the father who is virtually certainly not to attend his daughter's soccer game because he is stuck on a yacht in the middle of the Pacific Ocean. It seems clearly false that the father ought to

attend the game: in deliberating about how to spend Saturday morning he would be clearly mistaken to conclude that he ought to attend the game. Moreover, this remains so, irrespective of how important it is for him to be there: say, even if this is the only way to prevent his daughter from committing suicide. Second, consider cases where the agent violates condition (ii) such as the case of Alarice. Again, it seems clearly false that Alarice ought to play *Chopsticks*: we would be clearly mistaken in advising Alarice that she ought to play *Chopsticks*. Moreover, this remains so even if her playing *Chopsticks* is of vital importance: say, that it is the only way to avert a deadly terrorist attack. In both cases, then, interpreting the charge of infeasibility in light of the dispositional account seems to accord with its special peremptory force.

The other thing that is meant by saying that infeasibility is a normative argument-stopper is that it is evaluatively neutral in a way that means that it can cut through intractable normative disagreement. That is, it is always possible, at least in principle, for individuals who disagree intractably about relevant matters of value to come to recognise that it is not the case that agents ought to perform the actions in question because it is infeasible to do so. Again, interpreting infeasibility in light of the dispositional account can readily accommodate this. Claims that conditions (i) or (ii) are not satisfied do not themselves seem to be or depend upon claims about matters of value. Thus, for example, even if the yacht-sailing father and his soccer-playing daughter disagree intractably about how important it is for him to be at the game, this is no obstacle to their reaching agreement that he would be virtually certain not to attend the game even if he were to try. Perhaps a Stoic who believes in the great value of fruitless struggle might say that the yacht-

sailing father ought to make some kind of *attempt* to attend his daughter's soccer game. But, in spite of this, surely even the Stoic will concede that it is not the case that he ought actually to attend the game.

### B. In defence of premise (2)

So much for premise (1). How about premise (2)? Premise (2) has two parts:

- (2i) There are at least some wealthy western states that would be reasonably likely to succeed in abolishing all restrictions on immigration beyond the ultra-minimal set if they were to try; and
- (2ii) The states in question would also not be robustly disposed not to try to abolish all restrictions on immigration beyond the ultra-minimal set.

Let us consider each of these in turn.

#### i. In defence of (2i)

Take (2i), which says that at least some wealthy western states would be reasonably likely to succeed in abolishing all non-ultra-minimal restrictions on immigration if they were to try. That is *not*, of course, to say that any actual state is likely to do so. The latter is plainly false. Actual states are not remotely likely to abolish all non-ultra-minimal restrictions (at least any time soon) because they are unwilling to make any attempt to do so. This unwillingness might be the product of *principle* or *pragmatics* or *politics*. Whatever the reason, at least as things stand, all actual states clearly lack the requisite political will to pursue an agenda of open borders.<sup>xi</sup>

Suppose, however, that a wealthy western state (such as Australia) *were* to try to abolish all non-ultra-minimal restrictions on immigration. As we have just said, this would be to envisage a situation in which the state had acquired the political will that it actually lacks: that is, a situation in which the recalcitrant core constituents of the state in question had somehow overcome their (principled or pragmatic or political) compunctions and unified in actively embracing, and acting in the coordinated pursuit of, an agenda of abolishing the relevant restrictions.<sup>xi</sup> In order to evaluate (2i), the crucial question is: In a situation of just this kind, should we expect the state in question to succeed (or at least to be reasonably likely to succeed) in abolishing the restrictions?

On the face of it, the answer would seem to be a resounding affirmative. Here is roughly how the scenario would play out. The state in question would avail itself of the appropriate legislative mechanisms for changing the relevant parts of the law (e.g. immigration law and labour law) in the relevant respects (e.g. to remove any nationality- or skill-based restrictions on immigration). Since the situation we are envisaging is one where the state's core constituents are unified in actively embracing, and acting in the coordinated pursuit of, the relevant agenda, it is hard to see how the legislative reforms could fail to be successfully enacted and, hence, the restrictions fail to be successfully abolished. Premise (2i) thus seems to be obviously true.

The only way to resist this claim would be to point to some relatively insurmountable impediment to the state's successfully enacting its legislative agenda. There are five main such impediments to agents successfully doing what they are trying to do: the intrinsic difficulty of the task (think of trying

to play Ravel's notoriously challenging *Gaspard de la nuit*, flawlessly and at the correct tempo (Southwood, 2016b)); unfavourable external circumstances (think of trying to ski down a moderate slope in a severe snowstorm); a lack of competence on the part of the agent (think of a young child trying to tie her shoelaces); ignorance about some relevant matter of fact (think of trying to return a borrowed book to its owner when you have forgotten from whom you borrowed it); and interference by other agents (think of trying to contact a friend whose rather unhinged partner burns their letters and deletes their emails). Might some such impediment apply in our case?

We can safely set aside the first four kinds of impediments. There is nothing very intrinsically difficult about a state's legislating to remove certain obstacles to immigration. If anything, the removal of these obstacles is going to be easier than maintenance and enforcement both of which tend to be relatively costly and onerous (see Kukathas, 2021). How about if the restrictions are written into the constitution and the constitution (like Australia's) is notoriously difficult to amend? We can avoid this complication by restricting our focus to i) states in which there are no such restrictions written into the constitution (after all, very few constitutions contain anti-immigration clauses) and ii) states where there is no such extraordinary effort required to change the law in this way (for example, the UK's can be amended by a simple majority vote in Parliament). We can also ignore the possibility of sufficiently adverse external circumstances (such as war or severe natural disaster) by simply restricting our attention to cases of states that are *not* facing circumstances of this sort (surely the majority of cases, given how rare such events tend to be). Nor is there any reason to think that abolishing the relevant immigration restrictions will be beyond a state's

competence or knowledge. Enacting legislation is very part of a state's core business, and the particular legislation in question doesn't seem to require any extraordinary proficiency or expertise.

How about interference by other agents? One possibility would be interference by another state. Perhaps there are special cases where this is so, but in general it does not strike us very plausible.<sup>44</sup> Short of military occupation, it is hard to see how any such interference would suffice to render the initial state that is committed to trying to eradicate its own immigration restrictions unlikely to succeed. Moreover, we assume that it is very unlikely that other states would be willing to invade a country to stop it removing restrictions on immigration.

A more interesting possibility is interference by the citizens or powerful groups (banks, churches, the military). It might be argued that, even if a state were to try to dispense with all non-ultra minimal restrictions on immigration, it would be virtually certain to fail because the state's constituents would be virtually certain to do everything within their power to prevent it happening – by for example throwing the government out of office and replacing it with one that would retain or reinstate the restrictions.

Whether or not the citizenry of any given country would do that is an empirical question. But let us grant that in some states they would. Then in those states open borders would be infeasible, and advocacy of it seemingly pointless. To refute premise (2i), however, it is not enough that that would happen in some states – it has to be the case that it would happen in all states of the relevant sort. To claim that is to draw a much longer bow. There would seem to be no reason to grant that, even just for the sake of argument.



In sum, none of the impediments to agents successfully doing what they are trying to do that would suffice to refute (2i) seem to apply.

ii. In defence of (2ii)

Next, let us turn to (2ii), which says that (in addition to being reasonably likely to succeed in abolishing all non-ultra-minimal restrictions on immigration if they were to try) at least some wealthy western states are also *not robustly disposed not to try* to abolish the restrictions. We have already acknowledged that that it's unlikely that any actual state *will* try to abolish the restrictions given the unwillingness of their core constituents. So (2ii) says, in effect, that this unwillingness is not robust. While the core constituents are currently unwilling, they are not robustly unwilling.

To test (2ii), we must imagine non-actual situations in which a state's core constituents are promised something highly valuable if the state succeeds in abolishing the relevant restrictions or threatened with something highly disvaluable if the state fails to abolish the relevant restrictions. And we must ascertain whether, in such situations, the core constituents would overcome their unwillingness.<sup>xiv</sup>

Call a core constituent for whom there is some sufficiently valuable enticement or some sufficiently disvaluable threat that would make them overcome their unwillingness *enticement-or-threat-sensitive* and a core constituent for whom there is no such enticement or threat *enticement-or-threat-insensitive*. Premise (2ii) will be true if, but only if, all (or at least enough) of a state's recalcitrant core constituents are enticement-or-threat-

sensitive. If enough of the state's core constituents are enticement-or-threat-insensitive, then (2ii) will be false.<sup>xv</sup> Which is it?

In answering this question, it will be helpful to consider separately the three different kinds of recalcitrant constituents that we encountered above: constituents whose unwillingness is based on pragmatism, politics, and principle, respectively.

First, consider purely pragmatic recalcitrants. We take it that purely pragmatic recalcitrants are going to be straightforwardly enticement-or-threat-sensitive. Since their unwillingness to embrace open borders is based on the fact that it is disadvantageous to them, presumably the unwillingness could be dissolved simply by *changing* what is advantageous; and that's exactly what enticements or threats in the relevant currency do. For example, suppose that a politician's unwillingness to pursue open borders is due to her justifiable fear that doing so would make her lose her job. It seems clear that she would not remain unwilling if embracing open borders were the only way to avoid losing her job, or if failing to embrace open borders would result in her losing, not only her job, but also her pension, or reputation, or whatever. How exactly it might happen that the incentives to her might come to shift in those ways can be left open for present purposes. All that matters for our argument here is that *if* the incentives change in such ways, then her unwillingness to lift immigration restrictions would change in response. And for merely pragmatic recalcitrants, it is true by definition if the change in incentives is sufficiently large that will inevitably be the case. That shows that the pragmatic recalcitrant is not robustly disposed to oppose the lifting of restrictions, and premise (2ii) is satisfied.

Next, consider political recalcitrants. Those are recalcitrants who are unwilling to coordinate or cooperate with other core constituents in the ways that would be required to eradicate the relevant restrictions on immigration. Unlike purely pragmatic recalcitrants, we can certainly imagine cases of political recalcitrants who are enticement-or-threat-insensitive. Imagine recalcitrants come from different social groups that have done such unspeakable things to one another that they are incapable of engaging in any kind of productive interaction with one another at all. Under these circumstances, it may be that their unwillingness to coordinate and cooperate would persist no matter how valuable the enticement and how disvaluable the threat. Suffice it to say that such cases are extremely rare in the real world. To be sure, real-world states contain many deep divisions and much deep distrust. But the idea that these regularly rise to the level of literal enticement-or-threat-insensitivity seems hard to maintain. Two bitter enemies may detest one another with such vengeance that they are ordinarily unwilling to coordinate or cooperate. But if there is a sufficiently handsome reward for each in prospect, they can usually (and remember, all we need here is "sometimes") be induced to reach an agreement.

Finally, consider principled recalcitrants, recalcitrants whose unwillingness is based on values or normative principles they hold dear.<sup>xvi</sup> Principled recalcitrants might seem to pose a hard case for (2ii). Those with a principled unwillingness to do things might seem to be insensitive to enticements and threats. For example, a parent who is unwilling to sacrifice the life of his child might very well remain unwilling to do so irrespective of enticements or threats.<sup>xvii</sup> Similarly, it might seem that principled recalcitrants,

unlike pragmatic recalcitrants and political recalcitrants, are likely to be enticement-or-threat-insensitive.

Some may be, but many (and surely enough for our purposes) will not be. A principled unwillingness to do something as such hardly guarantees enticement-or-threat-insensitivity. There are plenty of cases where those with a principled unwillingness to do something are perfectly sensitive to enticements and threats. For example, many of us who are ordinarily very unwilling to break important promises would presumably do so were breaking an important promise the only way to avoid quadriplegia. What is needed for enticement-or-threat-insensitivity is not merely a principled unwillingness to do something but, rather, an unwillingness to do the thing that is based on a disposition to regard oneself as subject to some kind of *prohibition that cannot be outweighed*.

The question, then, is whether we have reason to believe that principled recalcitrants typically accept prohibitions of this sort.<sup>viii</sup> *Maybe* this is plausible in the case of *some* principled recalcitrants, say, certain die-hard nationalists. But the vast majority of principled recalcitrants (even those with nationalistic leanings) are surely not of this kind. They would be prepared to countenance a departure from the valued status quo in which immigration restrictions are maintained, if only because there are possible situations where doing so is necessary to secure other values they hold equally or more dear.

Thus, at least the vast majority of the recalcitrant core constituents of at least some wealthy western states are going to be enticement-or-threat-sensitive. While they are presently unwilling to see immigration restrictions abolished, their unwillingness is not *robust*. Hence, while no actual state is

remotely likely to try to abolish the restrictions, at least some wealthy western states are not robustly disposed not to try, so, (2ii) is vindicated.

Since premise (2) is simply the amalgam of (2i) and (2ii), and we have seen that we have good reason to accept (2i) and (2ii), it would seem that we have good reason to accept premise (2). Recall that premise (1) follows straightforwardly from the dispositional account of feasibility and the definition of open borders. Thus, we conclude that it is perfectly feasible for at least some wealthy western states to achieve open borders.

### 3. Beyond the dispositional account of feasibility

We are now going to consider what we take to be the only three credible ways of trying to save the charge that it is infeasible to bring about open borders.

The first involves rejecting our interpretation of what it means to say that it is *feasible* or *infeasible* for states to bring about open borders (i.e. the dispositional account of feasibility). The second involves rejecting our interpretation of what it means to say that it is feasible or infeasible for states *to bring about open borders* (i.e. our permissive characterisation of the subject-matter of feasibility claims). The third involves rejecting our interpretation of what it means to say that it is feasible or infeasible to bring about open borders exclusively in terms of what is feasible for *states* to do (i.e. our narrowly state-focused interpretation of the addressees of the open borders view). Let us consider each of these in turn.

Recall that the dispositional account of feasibility (D) holds that

- (D) For any agent  $a$ , it is feasible for  $a$  to achieve an outcome  $O$  if and only if (i)  $a$  would be reasonably likely to succeed in achieving  $O$  if  $a$  were to try; and (ii) it is not the case that  $a$  is robustly disposed not to try to achieve  $O$ .

Our argument for the feasibility of achieving open borders assumed the truth of (D). But perhaps (D) is the wrong account of feasibility: either not the correct account, or at least not the account that critics of open borders had in mind. If (D) is not the correct account of feasibility, then our argument for the feasibility of open borders is unsound. If (D) is not the account of feasibility that critics of open borders had in mind, then our argument is guilty of begging the question, or at least of missing the target.

Of course, if the dispositional account is the wrong account of feasibility, then this naturally invites the question of what is supposed to be the *right* account. We shall consider what we take to be the two most promising alternatives: the *cost-based account* and the *simple probability-based account*. While there are other important accounts, these two seem to us to be best placed to vindicate the key claim that bringing about open borders is genuinely infeasible.<sup>33</sup>

#### A. The cost-based account

Perhaps the most natural approach would be to reject the dispositional account in favour of the *cost-based account* of feasibility. The cost-based account holds that

(C) For any agent  $a$ , it is feasible for  $a$  to achieve an outcome  $O$  iff  $a$ 's achieving  $O$  is achievable without unacceptable costs (Raikka, 1998; Buchanan, 2004; Miller, 2013).

The cost-based account might seem to provide the critic of open borders with just what she needs.<sup>35</sup> It provides her with a principled rationale for rejecting our argument for the feasibility of open borders – in particular for rejecting premise (1). Recall that premise (1) holds that

(1) For any state  $s$ , if (i)  $s$  would be reasonably likely to succeed in abolishing all restrictions on immigration beyond the ultra-minimal set if it were to try and (ii) it is not the case that  $s$  is robustly disposed not to try to abolish all such restrictions, then it is feasible for  $s$  to bring about open borders.

If the cost-based account is the correct account of feasibility, then it follows that (1) is obviously mistaken. That's because it could well be the case that conditions (i) and (ii) are satisfied and yet the state's bringing about open borders would be unacceptably costly, which according to (C) suffices to make it infeasible.

The cost-based account provides not merely a principled rationale for rejecting our argument for the feasibility of open borders but also a positive argument for the *infeasibility* of open borders. Suppose that wealthy western states were to dispense with all restrictions on immigration beyond the ultra-minimal set. And suppose that, in consequence, tens of thousands of economic migrants start pouring in every day, leading to rising social discord and unrest as the newcomers monopolize all the country's unskilled employment opportunities. It might seem hard to deny that for many of us

this would constitute an unacceptable – indeed intolerable – state of affairs. If claims about feasibility just are claims about what is achievable without unacceptable costs, then it follows straightforwardly it is infeasible for such states to bring about open borders. Hence, it might seem that the cost-based account provides the critic with a basis for dismissing open borders as infeasible.

But this would be a mistake. The problem is that if we interpret the charge of infeasibility in terms of the cost-based account of feasibility, then it obviously cannot be a normative argument-stopper. Let us grant for the sake of argument that claims to the effect that certain outcomes are unachievable without unacceptable costs are *peremptory* with regard to relevant matters of value. (“Ought” implies “achievable without unacceptable costs.”) Nonetheless, such claims are hardly *neutral* with regard to relevant matters of value. On the contrary, they are straightforwardly value-based claims about what costs are and are not “unacceptable.” It is clearly not possible, even in principle, to use such claims in order to circumvent intractable disagreement about relevant matters of value. Someone who regards open borders as sufficiently morally important to make it the case that states ought to bring them about is clearly committed to denying the claim that the costs that bringing about open borders would entail are “unacceptable.”<sup>xxi</sup> Thus, interpreting the charge of infeasibility in light of the cost-based account implies that the charge of infeasibility is impotent in the face of intractable disagreement about relevant matters of value. Instead of being a normative argument-stopper, infeasibility understood in cost-based terms just shifts the normative argument into the characterization of feasibility itself.



It might be objected that we are being a trifle picky. Even if the claim that bringing about open borders is unachievable without unacceptable costs is a value-based claim and, hence, cannot be a normative argument-stopper *strictly speaking* (since it is not completely evaluatively neutral), it might still be capable of being a *sort* of normative argument-stopper, so long as there is sufficient *agreement* about the relevant matters of value. Moreover, it might be thought that there is indeed sufficient agreement of the requisite sort within contemporary liberal democratic states. That is because the particular values that are being appealed to in order to establish that bringing about open borders is unachievable without unacceptable costs – social cohesion, economic prosperity, and so on<sup>xiii</sup> – are values that one might well recognize even if one is skeptical about other more substantive values such as a state’s right to self-determination or citizens’ right to freedom of association. The point is that they are relatively *uncontroversial* values that might well be seen as important even by someone of a cosmopolitan persuasion.

Nonetheless, this move strikes us as questionable on multiple fronts. For one, while there is indeed widespread agreement that considerations such as social cohesion and prosperity are important values, this is not enough in order for there to be agreement that bringing about open borders is unachievable within unacceptable costs. In addition, what would be needed is that there is comparable agreement regarding the relative *weight* of the values in question: that is to say, agreement that such values suffice to eclipse all the other values on the other side. It is far less clear that this is so. Even if cosmopolitans can agree that cohesion and prosperity are important values, it is far less clear that they will agree that such values have the requisite weight to eclipse the other values that lead them to want open borders.<sup>xiii</sup>

For another, even if there *is* widespread agreement that values such as social cohesion and prosperity have the requisite weight to eclipse those other values, it does not follow that such values *in fact* have the requisite weight. Moreover, given that maintaining closed borders is rather convenient for those of us who are fortunate enough to inhabit wealthy western liberal democracies, there is a significant risk of overestimating the weight of those values that justify the preservation of the status quo. We might think, therefore, that there is reason to be at least somewhat cautious about taking widespread agreement about relevant matters of value to be good evidence of the truth of such claims in the context of debates about open borders.

Alternatively, it might be objected that we are guilty of *mischaracterising* the cost-based account. Here we are assuming an *objective* interpretation of what is “achievable without unacceptable costs” such that it means “achievable without costs that would, as a matter of fact, be disproportionate or unacceptably high (regardless of whether agents would regard them as such).” But there is also an alternative, *subjective* interpretation where what it means is something like “achievable without effects that would be generally *regarded* as unacceptably costly given our (core) values and convictions.” This subjective interpretation may be what David Miller has in mind when he describes the “limits of political possibility” as being “set not just by physical and sociological laws, but by *implicit assumptions* about what, for us, would count as a tolerable or intolerable outcome” (Miller, 2013, pp. 32-33: italics added).

How might this help? The idea is presumably that, even if we are right that claims about what is achievable without acceptable costs cannot be evaluatively neutral when interpreted in light of the objective interpretation,

such claims are perfectly evaluatively neutral when interpreted in light of the subjective interpretation. Take a radical nationalist and a radical cosmopolitan. Even if there is no prospect of their reaching agreement about whether bringing about open borders is achievable without costs that are in fact unacceptably high, there is presumably no in-principle impediment to their reaching agreement about whether doing so is achievable without effects that would be generally *regarded* within their community as unacceptably costly. The latter is a straightforward empirical question that does not seem to depend on any controversial claims about matters of value.

Let us simply grant that interpreting the cost-based account in this subjective way succeeds in vindicating the idea that the charge of infeasibility is indeed neutral with regard to relevant matters of value. The problem, of course, is that it does so at the cost of making it incapable of vindicating the idea that the charge of infeasibility is also supposed to be *peremptory* with regard to relevant matters of value. Imagine a virulently racist and completely closed society in which the idea of allowing any immigration is regarded as unacceptably costly on the grounds that letting in any foreigners would compromise the racial purity of the nation. Does it follow that it is not the case that the society ought to allow any immigration? Surely not. There is no reason to think that considerations of what costs people are actually willing to pay should preempt any discussion of what costs they morally they ought to be willing to pay.

In sum, the cost-based account cannot vindicate the idea that infeasibility is a normative argument-stopper. If we interpret the cost-based account objectively, then it cannot vindicate the idea that claims about feasibility are supposed to be evaluatively neutral. If we interpret it

subjectively, then it cannot vindicate the idea that claims about feasibility are supposed to be peremptory. Either way, rejecting the dispositional account in favour of the cost-base account fails to save the charge that the open borders view can be dismissed on account of making infeasible demands.

### B. The simple probability-based account

Another way of trying to save the charge that bringing about open borders is infeasible is by interpreting it in light of the *simple probability-based account* of feasibility. The simple probability-based account holds that

(SP) For any agent  $a$ , it is feasible for  $a$  to achieve an outcome  $O$  if and only if  $a$  is sufficiently likely to achieve  $O$  (Carens 2013).

Like the cost-based account, the simple probabilistic account appears to provide the critic of open borders with both a straightforward riposte to our argument for the feasibility of open borders and, more positively, a straightforward argument for the infeasibility of open borders. The objection to our argument for the feasibility of open borders is that premise (1) is false because it could be the case that, even though that premise's conditions are satisfied, the state's bringing about open borders is nevertheless not feasible – on (SP), because the state is virtually certain not to make any attempt to do so or, if it does make any attempt, to give up before it succeeds. The positive argument for the infeasibility of open borders is as follows. First, if a state is virtually certain not to abolish all restrictions on immigration beyond an ultra-minimal set, then it is infeasible for the state to bring about open borders. Second, it is virtually certain that no wealthy western state will

abolish all restrictions on immigration beyond an ultra-minimal set at least within the foreseeable future since, as we noted above, it seems virtually certain that no wealthy western states will make any *attempt* to do so within the foreseeable future. Things might change, of course. Who knows what the future will hold? But the chance that any wealthy western state will make any attempt to do so any time soon is surely close to zero. Thus, it is on (SP) infeasible for any wealthy western state to bring about open borders at least within the foreseeable future. Joseph Carens (2013, p. x) seems to have precisely this argument in mind when he suggests that bringing about open borders is “far removed from anything feasible in the foreseeable future.” That is because, as he puts it, “courses of actions that we ‘can’ adopt in the relevant sense are ones that *have some chance of being adopted*” (Carens, 2013, p. 304: italics added).<sup>xiv</sup>

The crucial question, once again, is whether interpreting the charge that bringing about open borders is infeasible in light of the simple probability-based account can vindicate the idea that infeasibility is a normative argument-stopper. Claims about what we are or are not likely to do seem to enjoy the requisite evaluative neutrality; they do not seem to be or depend on any contentious normative claims.

But are they also peremptory? On the face of it, the answer seems to be, “clearly not.” There are many things that we ought to do in spite of the fact that we are virtually certain not to do them. Donald Trump ought to treat women with much more respect. Australia ought immediately cease detaining asylum-seekers offshore. Most of us ought to eat much less sugar. It does not follow from the fact that we are unlikely to do something that it is not the case that we ought to do so it.<sup>xv</sup> “Ought” does not imply “likely”

(Estlund, 2000, pp. 26-9). Thus, interpreting the charge that it is infeasible for wealthy western states to bring about open borders in light of the simple probability-based account means that it is plainly illegitimate to dismiss the claim that such states ought to bring about open borders on that basis.

However, it is worth briefly considering an interesting line of response that is hinted at in several places by Joseph Carens. For example, in an unpublished discussion of the relation between his views and the views of David Miller, Carens writes: "If one is interested in influencing public policy, it certainly makes sense to focus on the policies that are on the table (or at least on the side cupboard), not on ones that have no chance of adoption (regardless of why they are not feasible)" (Carens, ms). Moreover, Carens sometimes seeks to distance himself from the idea of open borders as "a concrete recommendation for current policies or one in a foreseeable future ... [or] advice to presidents and prime ministers or to administrators and legislators" (Carens 2000, p. 643). Or again, in the important methodological postscript to *The Ethics of Immigration*, Carens seeks to justify his use of the principle that "ought" implies "can" interpreted in light of the simple probability-based account of feasibility by suggesting that "[f]easibility becomes a major consideration because we want to be effective, not utopian" (Carens, 2013, p. 304).

Carens' idea seems to be that "ought" implies "likely," while not true of ought claims in general, nonetheless *is* true of *practical* ought claims, understood as ought claims that are supposed to be fit to be used as recommendations or advice to others as to what they are to do. This is because there is necessarily something wrong with recommending or advising others to do things that they are virtually certain not to do. That

might be doing so because is taken to be pointless. More plausibly, recommending the sufficiently unlikely, even if it is sometimes worth doing, might seem to be contrary to the constitutive aim of recommendation: namely, to get the agent to do as we are recommending by following our recommendation (see Southwood, 2016a, p. 22). Given an account of this sort, there might seem to be necessarily something wrong with recommendations *qua* recommendations to do what is sufficiently unlikely. If this is right, then it would suffice to establish the charge of infeasibility, interpreted in terms of the simple probability-based account, is indeed preemptory.

However, we doubt that it is quite right. Rather, we would suggest that, at the very most, there is necessarily something wrong with recommending or advising others to do things that they are virtually certain not to do without *also* supplementing them with additional conditional recommendations – recommendations to do things that they are *not* virtually certain not to do, if they do not do the first things. Suppose, for example, that one were to advise Professor Procrastinate as follows: “Listen, Procrastinate, you really ought to write the damned review. But, if you are not going to do that, then at least tell the Editor so that she can find an alternative referee for the paper” (cf. Jackson and Pargetter, 1986). So far as we can tell, there is absolutely nothing wrong with such advice even though it involves advising the agent to do (among other things) something that he is virtually certain not to do.

Thus, we conclude that shifting to the simple probability-based account of feasibility fails to save the charge that the open borders view may be dismissed on account of making infeasible demands. Even if it can vindicate the claim that bringing about open borders may in some sense be infeasible, it cannot vindicate the claim that bringing about open borders is infeasible in

the preemptory way that is required in order to be a normative argument-stopper.

#### 4. Building more into the subject-matter of feasibility claims

In section 3 we considered and rejected one way of rescuing the charge of infeasibility: by insisting on an alternative account of feasibility (and, hence, what it means for it to be *feasible* to bring about open borders). Another way of doing so is to insist that our argument presupposes the wrong account of what it means for it to be feasible to *bring about open borders*. That is to say that it employs the wrong account of the *subject-matter* of the feasibility claim, of what it is that is supposed to be feasible.

To get a favour of the kind of strategy we have in mind, it may be helpful to provide an illustration of how it might arise elsewhere. Consider the following case:

*The Storm:* While sailing on the sea, a ship encounters a violent storm. As the waves begin to grow larger, the ship's captain realizes that the vessel is too heavy and will flood and capsize unless he makes it lighter, and that the only way to lighten the vessel is to have the ship's passengers thrown overboard (Lindauer and Southwood, ms).<sup>xxxx</sup>

Is it feasible for the captain to save the ship? Many of us will be inclined to say "no." But now suppose that a critic were to opine as follows: "You're completely wrong that it's infeasible for the captain to save the ship. On the contrary, it's perfectly feasible. All he needs to do is have the passengers thrown overboard." A natural response, we take it, would be to accuse the critic of an objectionably permissive account of what it means to say that it is



feasible (or infeasible) to save the ship. The critic seems to be assuming that whether or not it is feasible for the captain to save the ship simply turns on whether or not there is *any feasible way* to prevent the vessel from sinking.<sup>xxvii</sup> That might seem to be a mistake. Rather, when we interrogate the question of whether it is feasible for the captain to save the ship, we are only interested in *permissible ways* of preventing the vessel from sinking. We are implicitly ruling out certain other impermissible ways, such as throwing the passengers overboard. In other words, the relevant interpretation of the claim that it is infeasible for the captain to save the ship is one according to which it is infeasible for the captain to prevent the vessel from sinking without impermissibly throwing the passengers overboard.

Maybe in arguing for the feasibility of open borders, we were guilty of making exactly the same kind of mistake that the aforementioned critic is making with regard to the feasibility of saving the ship. We were assuming that whether or not it is feasible for states to bring about open borders simply turns on whether or not it is feasible for states to abolish all restrictions on immigration beyond an ultra-minimal set. But maybe that is to adopt an objectionably *permissive* interpretation of feasibility claims. Maybe the question of whether or not it is feasible for states to bring about open borders, properly understood, turns on whether or not it is feasible for states to abolish the relevant restrictions *in certain ways*.

A strategy along these lines has considerable promise. The crucial question, however, is what exactly the less permissive and appropriately circumscribed interpretation of the claim that it is feasible (or infeasible) to bring about open borders is supposed to look like. In other words, what are the relevant ways of abolishing immigration restrictions that are supposed to

be required in order to bring about open borders and which are supposed to be infeasible for (at least some) wealthy western states to do? We shall consider two possibilities and conclude that neither succeeds in saving the charge that open borders are infeasible in a way that can act as a normative argument-stopper.

#### A. Abolishing immigration restrictions without certain effects

Milton Friedman (1997) famously proclaimed, "It's just obvious that you can't have free immigration and a welfare state." Analogously to the "save the ship at all costs" response in *The Storm*, one might imagine a single-minded advocate of open borders replying, "Fine, then, eliminate the welfare state!" But Friedman clearly meant to be offering a *reductio*, not an option. He meant to say that "you cannot have free immigration *because* that would destroy the welfare state" – not that "you cannot have free immigration *unless* you eliminate the welfare state."

That example highlights the first way of circumscribing what it means for states to bring about open borders. On this first account, what is supposed to be infeasible is for states to abolish immigration restrictions without this having certain *effects*, such as destroying the welfare state. In other words, it is supposed to be infeasible for states to bring about the following *conjunctive* state of affairs: one in which (a) all restrictions on immigration beyond the ultra-minimal set are abolished and (b) the relevant effect does not obtain (i.e. the welfare state is not destroyed, or whatever). This claim is by no means obviously true. But it is also not obviously false. Certainly, our argument for the feasibility of open borders does not come

close to establishing that it is false. So, let us suppose for the sake of argument that it is true and consider what follows from it.

Even if we make this concession, it is not enough to save the charge that the open borders view can be dismissed on account of making infeasible demands. Indeed, at least on the face of it, we no longer have a valid argument against the open borders view at all. Recall that the open borders view holds that

(OB) At least some (presumably wealthy western) states practically ought now or within the foreseeable future to abolish all restrictions on immigration apart from those that comprise an ultra-minimal set.

The problem is that the claim that it is infeasible for wealthy western states to bring about the conjunctive state of affairs, together with the principle that “ought” implies “can,” do not entail that (OB) is false. Rather, they entail that the following claim is false:

(OB\*) At least some (presumably wealthy western) states practically ought now or within the foreseeable future to bring it about that (a) all restrictions on immigration beyond the ultra-minimal set are abolished and (b) the relevant effect does not obtain (i.e. the welfare state is destroyed, or whatever).

So, at most, we have an objection against (OB\*), rather than against the open borders view.

Perhaps it will be said that we do have a valid argument against the open borders view, since the open borders view should be construed as (OB\*)

rather than as (OB). The idea would be that claims about whether we *ought* to bring about open borders are just like claims about whether it is *feasible* for states to bring about open borders, in that they also must be interpreted in light of a circumscribed rather than a permissive account of what it means to bring about open borders.

However, we have good reasons to reject this suggestion. For one, it is simply implausible. Take someone who endorses (OB) – precisely because they regard abolishing restrictions on immigration as sufficiently important to be worth doing even if it is infeasible to do so without incurring the relevant compromising effects. It would be very strange to deny that such a person counts as a proponent of the open borders view. Surely endorsing (OB) is at least *sufficient* for being a proponent of the open borders view.

For another, the suggestion is poorly motivated. It's just not true that claims about what we ought to do should be interpreted in light of a circumscribed rather than a permissive account of what it means to bring about the outcomes in question. Return again to the case of *The Storm*. Most of us will say that the captain ought not to save the ship. Now imagine that the critic objects: "You're completely wrong that the captain ought not to save the ship. On the contrary, he ought to save the ship by having the passengers thrown overboard." The critic is making a mistake. But the mistake is *not* in assuming that whether or not the captain ought to save the ship turns on whether or not there is *any way* of preventing the vessel from capsizing such that the captain ought to prevent the vessel from capsizing in that way: the critic is absolutely *right* about that. In other words, while the critic is wrong that the captain ought to prevent the vessel from capsizing by having the passengers thrown overboard, he is right to interpret the question of whether

the captain ought to save the ship in a permissive way. Rather, what would be wrong would be to interpret the question in a more circumscribed way as the question of whether the captain ought to prevent the vessel from capsizing without having the passengers thrown overboard.

For a valid argument against the open borders view, characterised as (OB) rather than as (OB\*), on the grounds that it is infeasible for states to bring about the conjunctive state of affairs, the following claim needs to be true:

- (4) For any state *s*, *s* practically ought now or within the foreseeable future to abolish all restrictions on immigration apart from those that comprise an ultra-minimal set only if it is feasible now or within the foreseeable future for *s* to bring it about that (a) all restrictions on immigration beyond the ultra-minimal set are abolished and (b) certain effects do not obtain (e.g. destroying the welfare state, or whatever).

However, once again, interpreting the charge of infeasibility in this way means giving up on the idea that it can act as a normative argument-stopper. This might easily be missed because (4) might appear to be an instance of the idea that “ought” implies “can” (or at least some idea that is closely related to it). But this is an illusion.<sup>xxviii</sup> Whereas “ought” implies “can” – interpreted as a claim about what we ought, practically speaking, to do – appears to be a candidate conceptual truth (or at least deep *a priori* truth) about the nature of the relevant oughts, (4) is a straightforward normative claim. Its plausibility turns crucially on the plausibility of the claim that the *value* of abolishing the relevant restrictions on immigration is less than that of avoiding the relevant effects. This is not obviously mistaken. But it is a contentious normative claim.

It will clearly be rejected by someone who thinks that abolishing the relevant restrictions on immigration is sufficiently important to be worth doing in spite of its being guaranteed to have those deeply regrettable consequences.

B. Abolishing immigration restrictions without employing certain means

The other possibility is that what is supposed to be infeasible is abolishing the relevant restrictions on immigration without employing certain means: say, without violating certain important procedural rules.

There are various reasons for which this might be thought to be so. The most straightforward is that the relevant restrictions on immigration might themselves have been written into the constitution of the state in question. Then it would be infeasible (indeed conceptually impossible) for the state to abolish the restrictions without acting unconstitutionally. (One can all too easily imagine such a constitutional amendment being enacted through a Swiss referendum, for example.)

However, clearly this does not yet show that there is anything wrong with the open borders view as such. At the very most, it might seem to refute the much more limited claim that those states in which restrictions on immigration have been written into the constitution ought to abolish the restrictions. It does not refute the claim that there are at least some (wealthy western) states that ought to abolish the restriction. It would only do so if the restrictions have been written into the constitution in all such states.

Indeed, even the much more limited claim is not right since it is sometimes feasible for states to bring about constitutional change, perhaps

not immediately but at least some time within the foreseeable future.<sup>xxx</sup> Thus, the fact (where it is a fact) that it is infeasible for a state to abolish relevant immigration restrictions without acting unconstitutionally right now can be perfectly compatible with it being feasible for the state to make it feasible, as it were, to abolish the restrictions without acting constitutionally.<sup>xxx</sup> To be sure, we can imagine circumstances in which the citizens' opposition to open borders is sufficiently recalcitrant that this is *not* feasible (at least in the foreseeable future). Let us grant, then, that it is appropriate, under these very special circumstances, to dismiss the idea of open borders with respect to any state of which that is true. Suffice it to say, however, that this hardly licenses us to dismiss the open borders view as such.

Another possibility is that there are procedural rules that are constitutionally entrenched such that abolishing immigration restrictions would require violating these rules. Consider, in particular, rules of democratic decision-making. Suppose that, however hard we try to reconcile the electorate to open borders, there will remain, at least for the foreseeable future, a significant majority who will oppose the idea. Under these circumstances, any attempt to dispense with restrictions on immigration would be fundamentally undemocratic. Thus, it is infeasible for democratic states to abolish relevant restrictions on immigration without acting undemocratically and, insofar as it is constitutionally required that such decisions be made democratically, hence *ultra vires*.

However, that "insofar as" clause radically underestimates the extent to which the constitutionally entrenched rules of democratic decision-making that exist within actual states afford those states latitude for making unpopular decisions. There are no states in which there is a constitutionally

entrenched rule that forbids them from implementing policies that are contrary to the stated views of a substantial majority of the citizenry.<sup>xxx</sup> Rather, states are permitted to implement whatever policies they regard as best via the intermediary of governments that are democratically elected and that may be thrown out again.

Of course, we can imagine states where the rules of democratic decision-making are much stricter on this score. The constitution might specify that referenda outcomes take precedence over ordinary legislation; so a successful referendum prohibiting any change to existing immigration restrictions would constitutionally preclude the government from legislating to change them. Or the constitution might stipulate that political representatives are delegates bound by imperative mandates from their constituents; then if the constituents instruct their representatives not to vote to abolish immigration restrictions, once again decision-makers legally lack the power to do so. While this raises a number of thorny questions, let us grant that it might indeed be appropriate to dismiss as infeasible the idea of open borders in the case of a state of just this sort at least any time soon.

Still, this plainly does not mean that we have license to dismiss the open borders view itself. Rather, it simply means that the proponent of the open borders view must once again be careful to restrict the application of the view to states that (like at least most actual democratic states) afford governments more latitude in making unpopular decisions.

## 5. The Feasibility of Successfully Advocating Open Borders



This brings us to the third and final way of resisting our argument. So far we have been treating the "open borders view" as being exclusively addressed to, and making demands of, *states*. But some people (perhaps including Joseph Carens in the passages we quoted at the beginning of the paper) may take a broader view of the addressees of the "open borders view" as also encompassing citizens, political parties and social movements. After all, the thought may go, states will not open currently closed borders unless someone successfully advocates for them to do so, where "successfully advocating" is understood as bringing it about that the state opens its borders. On this broader account, open borders would be infeasible if it is infeasible either (a) for states to open their borders or (b) for anyone to advocate successfully for them to do so. Even if (a) is feasible, as we have argued it is, (b) might not be – in which case open borders would still be infeasible, in this broader sense.<sup>xxxxi</sup>

Notice, however, that all that (b) requires is that there be *some* agent for whom it is feasible to advocate successfully for open borders. That is to say, there must be some agent *a* such that (i) *a* would be reasonably likely to succeed in advocating open borders if *a* were to try, and (ii) *a* is not robustly disposed not to try. Earlier we argued that infeasibility can serve as a normative argument-stopper against the open borders view only if open borders are infeasible for all states, not merely for some of them. So, too, here. The infeasibility of successful advocacy of open borders can serve as a normative argument-stopper only if it is infeasible for *all* agents, not merely for some of them.

"Agents" range from natural individuals to formally organized groups, such as political parties, for example. Feasibility's criterion of "reasonably likely to succeed if they try" criterion will probably be met by such groups

more often than natural individuals, and more often by certain sorts of groups than others. Even so, there may well be some natural individuals who are sufficiently rich and influential within their political communities that they might satisfy that criterion all on their own. Furthermore, there may well be some reasonably likely sets of circumstances which would serve to align the actions of enough individuals, even without formal organization, that they would be "reasonably likely to succeed if they try" to advocate open borders (Trumbull, 2012).

Now, remember what it means for open borders to be feasible for a state. That state must be reasonably likely to succeed in opening its borders if it tried, and not be robustly disposed not to try. In any state meeting those criteria, there is highly likely to be at least some agents who are reasonably likely to succeed in advocating open borders if they tried (the state is not robustly disposed not to try, after all), and who are not themselves robustly disposed not to try to advocate for those changes to state policy. Again, remember, we do not need for the agents to be currently disposed to try – merely that they not be robustly disposed not to do so – in order to block allegations of the infeasibility of successful open border advocacy from serving as a normative argument-stopper against the open borders view.

It might be objected that agents will be robustly disposed not to try to advocate for open borders because they cannot be sufficiently certain that their advocacy will succeed if they try. After all, life is short, good causes abound, and (as we have conceded) no state is remotely likely to adopt open borders anytime soon. In such circumstances, social reformers may be naturally inclined to devote their efforts to other equally worthy causes where they are more likely to succeed. And of course, if no one tries to advocate

open borders, no one will succeed in bringing about open borders. So the argument might go.

To that argument, we offer two replies. The first is that that argument speaks, not to the infeasibility of successful advocacy of open borders, but instead to its *improbability*. Those are importantly different, as we have already shown in our earlier discussion of the simple probability-based account of feasibility.

Our second reply is that there are all sorts of reasons for people to engage in open border advocacy, even if they do not have any great confidence that they will succeed in obtaining open borders. It is important to hold rulers to account for failing to do what they can and should do, and to proclaim your support for the right and good, even if you do not expect those actions to make any material difference. And if enough people do so, then their combined efforts might just end up making a material difference and succeed in opening borders, after all.

## 6. Implications

We have argued that an apparently widely accepted and *prima facie* plausible charge against the idea of open borders – that bringing it about is infeasible in a way that can act as a normative argument-stopper – is fundamentally misguided. There is no defensible interpretation of the claim that bringing about open borders is infeasible that is both plausibly true and that we are plausibly entitled to treat as a normative argument-stopper. It is simply an error to think that the open borders view can be successfully dismissed, no

matter how desirable or undesirable the idea of open borders is supposed to be, on the grounds that it makes infeasible demands. We want to conclude by briefly mentioning some of the potentially significant implications of our argument for the open borders debate and beyond.

First, and most obviously, our argument has potentially significant implications concerning the case for and against open borders. If we are right, then this means that the open borders view should not be rejected out of hand as "infeasible." Opposition to the open borders view is not well motivated insofar as it turns on the charge of infeasibility.<sup>xxxxiii</sup> How significant is this conclusion? It depends upon the extent to which the case against open borders in fact turns on the charge of infeasibility. Were there some decisive or at least highly compelling *normative argument* against the open borders view, the answer would be "not very significant at all." However, as noted at the outset, it is at least not obvious that this is so. There are strong normative arguments both ways. Using the alleged infeasibility of open borders as a normative argument-stopper seemed to be potent precisely because it promised to cut through those intractable uncertainties and disagreements over normative values and principles. It cannot, as we have shown. Our argument implies that an opponent of open borders should abandon her opposition in favour of ambivalence or agnosticism. So too should a hesitant proponent of open borders whose hesitation is based solely on worries about its infeasibility. (Joseph Carens, for one such example, thinks that the principled case for open borders would be compelling except for the unfortunate matter of its manifest infeasibility.)

Second, our argument has potentially significant implications that go well beyond the debate about open borders. While we have been focusing on

the open borders views here, it is hardly unique in being dismissed as farcical pie-in-the-skyism. On the contrary, numerous other ambitious political ideas and policy suggestions are frequently dismissed on precisely the same basis. These include global democracy, the elimination (or drastic reduction) of global poverty, an enforceable scheme of fair trade, a basic income, a carbon-neutral economy, the elimination of misogyny, to mention just a few. While we cannot argue for it here, we think that it is plausible to suppose that dismissing these other ideas often goes wrong in exactly the same way. That is, the key claim that bringing about the relevant institutional change is infeasible is only plausible insofar as infeasibility is interpreted in a way that does not license us to treat it as a normative argument-stopper. Take the idea of a carbon-neutral economy. If we assume something like the dispositional account of feasibility, then it seems perfectly feasible for at least many states to bring it about that their economy is carbon-neutral. The only plausible ways of denying this claim would be either (a) to interpret the claim in light of some other account of feasibility such as the cost-based account or the simple probability-based account, neither of which warrants treating infeasibility thus understood as a normative argument-stopper; or (b) to interpret the claim in a circumscribed way that encounters the other difficulties we have described.

Third, if we are right, our argument has potentially significant methodological implications, as it were, concerning the role of claims about feasibility within debates about important matters of public policy and institutional design. At the very least, it suggests that we should treat attempts – either our own or those of others – to dismiss ambitious ideas as infeasible with a certain suspicion. How should we proceed instead? One

possibility is that we should downgrade our expectations about the role that claims about feasibility are capable of playing in normative debates about politics. Perhaps we should even to stop using the charge of infeasibility as a normative argument-stopper altogether.<sup>xxiv</sup> The other possibility is that we should continue to treat the charge of infeasibility as a normative argument-stopper but simply tread more carefully, making and using claims about feasibility with greater care and sensitivity to what is being assumed about what it means to say that bringing about an outcome is infeasible. We confess to a preference for the second view, but a proper investigation of these difficult methodological matters remains a task for another occasion.

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- <sup>2</sup> Later in his book Carens (2013, p. 304) writes, "If we adopt the real world [perspective] ... the idea that 'ought implies can' will act as a much more serious constraint on our inquiry. ... Feasibility becomes a major consideration because we want to be effective, not utopian. This approach situates our inquiry in a context where we must take into account many of the factors that we excluded with the just world [perspective]: particular histories, established institutions, the distribution of power, conventional moral norms, the unwillingness of agents to act justly, and so on. All of these factors affect the feasibility of alternative courses of action." Perhaps Carens sees these as constraints on what activists ought to demand as well as on what states ought to do; we address the former issue in Section 5.
- <sup>3</sup> That is to say, allegations of infeasibility should not stop normative enquiry into the open borders position *tout court*, because there is no reason to believe it will be infeasible to implement that scheme in all relevant countries in all periods. We do of course concede that it may be infeasible to implement such a scheme in particular places and at particular times.
- <sup>4</sup> For discussion, see e.g. Carens, 2013, ch. 11; Oberman, 2016.
- <sup>5</sup> Notice that we are here going to be discussing whether it is feasible for any *given* state to open its borders in this way. From an open-borders perspective, it might be better if all states did so; but that is not the target of our discussion here.
- <sup>6</sup> That would simply be to exclude immigrants for the same reasons we confine fellow citizens in quarantine or in jail.
- <sup>7</sup> Notice that we are assuming that open borders can be achieved for one state by its opening its own borders, even if others do not open theirs. In other words, we are considering open borders as a policy choice for countries one-by-one, not as a world system as a whole. Part of what this means is that the 'open borders' ideal can be realized to a greater or lesser extent; each country should open its borders; and it's a better state of the world from the open borders perspective the more countries that do so.
- <sup>8</sup> As Joseph Carens (2000, p. 643) nicely puts it, versions such as these appear to take the idea of open borders to "serve a heuristic function, revealing to us something about the

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- specific character of the moral flaws of the world in which we live, the institutions we inhabit, and the social situation of those who dwell in rich industrial states.”
- This is, of course, consistent with allowing that it might be infeasible for *other* states to implement such a scheme in particular places and at particular times, and that localized infeasibility may be a normative argument-stopper in those times and places.
  - For example, it implies that it is feasible for the lazy and selfish father to attend his daughter’s soccer game but infeasible for the yacht-sailing father to do so. It implies that it is feasible for Bancroft to play *Chopsticks* but infeasible for Alarice to do so. These are the intuitively correct verdicts.
  - “The modal opinion towards new immigration” in the twenty European countries that Sides and Citrin (2007, p. 500) studied is “we’ll take some, but not too many.”
  - Note that in these circumstances it would also be perfectly possible for activists to bring about open borders through their successful advocacy of it, to anticipate our discussion in Section 5.
  - For example, we might point to the 2015 refugee crisis in Europe, in which other states further west put great pressure on states further east to close their borders to Syrian refugees. Even here, however, it is not clear that this is really a case where the eastern states were unlikely to succeed in opening their borders insofar as they tried (as opposed to a case where the pressure made it less likely that they would try). By stipulation we’re here considering cases where the state tries.
  - For a very partial example, a 2020 YouGov poll found that “54 per cent of people [in the UK] would support looser immigration controls for workers who could fill ‘essential’ roles during the [novel coronavirus] pandemic” (Chakelian, 2020).
  - Evidence suggests that, if anything, people’s attitudes are relatively threat-insensitive in the opposite direction – that is, in *support* of immigration (stopping short of open borders of course). European Social Surveys show support for immigration remaining remarkably robust across earlier recessions, for example (Kessler and Freeman, 2005; Hatton, 2016).
  - European Social Surveys show that opposition to immigration is associated more strongly with symbolic interests surrounding cultural and national identity than with pragmatic material interests (Sides and Citrin, 2007).
  - Though consider the appalling situation in which the parent is threatened (à la Sophie’s choice) with the prospect of all of his children being murdered unless he sacrifices the child. It might be the case that he would sacrifice the child in this appalling situation. That would cast doubt on the idea that principled unwillingness to do things is insensitive to enticements and rewards in even in the most extreme cases.
  - Akin to Hare’s (1963, ch. 9) “fanatics.”
  - For example, David Wiens (2015) has suggested understanding feasibility in terms of what he calls “circumstantial” possibility where a state’s achieving an outcome is supposed to be circumstantially possible just in case achieving it is accessible for us given “our current stock of all-purpose resources” (Wiens, 2015, p. 455). All-purpose resources are understood expansively to include, not merely resources of an economic kind, but also, as Wiens puts it, “the technological, institutional, motivational (and so on) means we have on hand” (Wiens, 2015, p. 453). Wiens models possibility as a binary accessibility relation among possible worlds. So, his proposal amounts to the following: “realizing a state is feasible only if there is at least one world at which the state is realized that is circumstantially accessible from the actual world; realizing the state is otherwise infeasible” (Wiens, 2015, p. 458). It seems pretty clear that, like our own preferred dispositional account, such an account does not give us any reason to think that a state’s bringing about open borders should be infeasible. That’s because, as Wiens happily acknowledges, the requirement that a state’s doing something be compatible with the state’s current stock of all-purpose resources is an undemanding one. It could be satisfied even if abolishing all restrictions on immigration beyond the ultra-minimal set resulted in a radical diminution in the stock of all-purpose resources: say, if resources needed to taken away from many other valuable projects and policies to deal with the likely effects of dispensing with the restrictions.

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- <sup>xxx</sup> The cost-based account also has considerable *prima facie* appeal. In particular, it does an admirable job of capturing much of our ordinary talk and thought about what is feasible. For discussion, see Southwood, 2018.
- <sup>xxxi</sup> This is true even when the costs come in the currency of the same value. The German Interior Minister responded to the 2016 influx of Syrian refugees by saying "freedom of movement in the [European free-movement] Schengen area can only exist if the external borders are protected" (Seehofer, 2016). But even if the same value ("free movement") is at stake on both sides of the equation, it remains a value *whose* free movement matters more, Europeans' or Syrians'.
- <sup>xxxii</sup> For example, Donald Trump (2019) argues for his draconian anti-immigration policies saying, "Our scarce resources are in danger of being rapidly depleted to the point that we will be unable to effectively care for our own citizens."
- <sup>xxxiii</sup> Of course, there would also have to be agreement on the empirics (whether immigration really does reduce cohesion and prosperity, and if so by how much), and there might be considerable disagreement here too. Nonetheless, we take it that this disagreement is not in principle intractable (unless it is really normative disagreement in disguise).
- <sup>xxxiv</sup> When he speaks of "some chance of being adopted," we shall assume that Carens means some *reasonable* chance of adoption. Otherwise he would have to say that it is feasible for us to hope for a phone call from Donald Trump asking us to help him design a progressive welfare program for the United States. That's because the chance that we will receive such a phone call from Donald Trump is not zero. It is merely very close to zero.
- <sup>xxxv</sup> As Goodin (2012, p. 18) says, "No one can be excused from doing what he ought to do merely because he is unwilling to do it. 'I don't want to' is simply no kind of excuse for failure to do what one ought to do."
- <sup>xxxvi</sup> The case is adapted from Phillips and Knobe, 2009.
- <sup>xxxvii</sup> By a "way" of doing something we have in mind either a) doing the thing with (or without) this having certain effects; or b) doing the thing by deploying (or without deploying) certain means.
- <sup>xxxviii</sup> Notice that (4) is not an *instance* of "ought" implies "can" since the latter holds that we ought to bring about an outcome *O* only if it is feasible to bring about *O*, whereas (4) is an instance of the quite different claim that we ought to bring about one outcome *O* only if it is feasible to bring about a conjunctive outcome *O\** (that comprises *O* plus some other outcome).
- <sup>xxxix</sup> Virtually no constitution declares itself unamendable. The only example of which we are aware is clause 120 of the "Fundamental Constitution of Carolina" drafted by Locke (1669).
- <sup>xl</sup> As Grotius (1625, bk 2, ch 13, ¶¶ VIII-X) says, "It is to no Purpose to say any Thing at all of what can never be performed. For it is evident enough, that no Body can be obliged to a Thing absolutely impossible. .... As for what is impossible indeed for the present only... he who swore upon such a Supposition is obliged to take all the Care he can to render that, which he has promised upon Oath, to become possible."
- <sup>xli</sup> Under that description anyway; but see the next paragraph.
- <sup>xlii</sup> We are very grateful to a referee for raising this issue.
- <sup>xliii</sup> We have not argued *for* the open borders view, or indeed presented any reason at all in favor of states bringing about open borders. Even if we are right that it is feasible to bring about open borders, the fact that it is feasible to bring about an outcome is not a reason to do so (still less a decisive reason) but, rather, something like a precondition for bringing about the outcome even to be a *candidate* for what we ought or have reason to do.
- <sup>xliiii</sup> As Bentham (1827, vol. 7, p. 285) urges, saying: "The plea of impossibility offers itself at every step, in justification of injustice in all its forms."