


# Voluntary and Involuntary Migrants: On Migration, Safe Third Countries, and the Collective Unfreedom of the Proletariat

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Whether a particular act of migration is voluntary or involuntary—that is, migration involving “force, compulsion, or coercion”<sup>2</sup>—seems to make a significant moral difference in much public discourse about migration. The involuntary migrant—her migration compelled by intolerable antecedent circumstances—is often taken to have stronger moral claims to be provided with some form of refuge.<sup>3</sup> Public opinion polls show a greater willingness to admit the migrant fleeing the intolerable than the migrant simply seeking greener pastures.<sup>4</sup> Even once admitted, the involuntary migrant might be thought to have greater rights of immunity against the expectation of cultural and social assimilation.<sup>5</sup> Philosophers have not always agreed with the thought that there is an easy cut between the voluntary migrant and her involuntary counterpart—or with the moral weight placed upon that cut.<sup>6</sup> It is, however, difficult to dispel the hold that the concept of voluntariness has upon our ordinary moral intuitions. One who harms another involuntarily, after all, is often taken to be immune from the usual moral consequences of doing harm to another; if we are subject to that involuntary harm, we do not resent the agent bringing it into the world—or, at least, we think we *should not* resent her—and we take the involuntariness of her act as a reason to refrain from retribution.

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Several philosophical questions emerge from these considerations. The first is, what, exactly, makes a particular act of migration voluntary? Philosophers—and others—are likely to disagree both about what is meant by voluntary choice, in contrast with a choice made under (say) force or duress and, equally, about the precise applicability of any given conception of voluntarism to a particular decision to migrate. The second question, of course, is, what *changes* when a determination is made about that conception's applicability? What, exactly, does it matter, morally speaking, that a given act of migration is undertaken freely? Given the difficulties here—both of empirical fact and of philosophical theory—why should we care about the voluntary nature of some migratory act?

This article is not intended to directly answer these questions. It is, instead, intended to examine the role played by the concept of voluntarism within the public moral discourse about migration, and to argue that the implications of that concept are somewhat more complex than that discourse tends to assume. I will not present an independent account of what makes a given migratory act a voluntary one; I will, instead, rely upon an account of voluntarism recently given by Valeria Ottonelli and Tiziana Torresi, who provide what I take to be a plausible vision of that concept—although I will have occasion, at the end of this article, to disagree with the political conclusions they derive from that concept. I will, instead, argue that much moral and political discourse about voluntarism and migration has failed to adequately reflect the complex nature of the decision to migrate. I want to make the case that, first, we must separately evaluate the voluntariness behind both the decision to emigrate and the decision to settle, and, second, that the agents making decisions about migration are often collective instead of individual. We are often mistaken, I argue, about the *where* and the *who* of decision-making about migration. A failure to understand these complexities, I believe, introduces a tendency toward moral error; if we are more precise not simply about what is voluntary migration but also about the multiple sites at which we might apply such a term, we will arrive at a more accurate and robust account of the morality of migration.

Before I make that argument, however, I will defend my argument against two objections that my argument might be unnecessary. In the first section of this article, I defend the relevance of my inquiry into the voluntarism of the migratory decision. The positive case for my inquiry will proceed in the next two sections, each of which focuses on a particular decision for which the notion of the “voluntary” might make a moral difference.<sup>7</sup> The first of these deals with the multiple

decisions made by the migrant about how to move through geographic space. Her decision to begin moving, I will argue, is rightly disentangled from her decision to cease moving. The second aspect concerns the identity of the agent properly understood as making the decisions about migration; here, I suggest that the isolated individual assumed by most public discussions of migration is better understood through a collective account, on which decisions about migration are sometimes forced at the familial level even if they are freely made by any particular member of that family. These two issues can concern, roughly, the *where* and the *who* of migration. Before exploring these issues, however, I must argue why such inquiry is not doomed from the outset.

## MIGRATION THEORY AND INTERNATIONAL LAW

As I have noted, I will not present a novel account of what would make the decision to migrate voluntary; I will, instead, rely upon the account given by Ottonelli and Torresi. On their account, four aspects of the migratory decision affect whether or not it can be seen as voluntary. These aspects are drawn from familiar domestic contexts in which voluntariness matters, such as banking, or family law; the conclusions drawn here are, for Ottonelli and Torresi, not intended to be surprising, so much as checks against applying more stringent rules abroad than we would accept at home. The first of these aspects is “noncoercion”: the migrant’s decision to leave cannot be prompted by physical violence or the “use of threats, intimidations, or deceptions.”<sup>8</sup> The second is “sufficiency of antecedent circumstances.” People whose only alternatives to migration involve “starvation, destitution, bodily injury or incapacitating poverty” cannot be said to be migrating voluntarily.<sup>9</sup> The third condition looks to the nature of the site in which refuge is sought, and argues that there must be “exit options” from that location; there must be, note Ottonelli and Torresi, “permanent exit options” from that refuge—otherwise, even the decision to accept terms amounting to slavery or indentured servitude would (wrongly) count as a voluntary one.<sup>10</sup> The final condition deals with “adequacy of information”: for us to voluntarily choose an act of migration, that act must be done with adequate information about what we are choosing; the decision to migrate can be rendered involuntary, argue Ottonelli and Torresi, when that decision is made against either significant informational deficits or deliberate forms of deception.<sup>11</sup> Ottonelli and Torresi do not argue that the only significant moral question about a given migratory act is whether it is

voluntary, but their argument assumes that the distinction between voluntary and involuntary migration is “essential to any liberal theory of migration,” and must therefore be drawn with appropriate care.<sup>12</sup>

It is, of course, open to others to assert that there is no need to distinguish between voluntary and involuntary acts of migration; and there are at least two ways in which such an assertion might be made. Some, following the lead of modern migratory theory, might assert that any binary opposition between the voluntary and the involuntary is a distortion of the complex facts on the ground—and therefore unneeded in the moral analysis of those facts. Others, beginning with international humanitarian law, might think that the distinction between the voluntary and the involuntary ought to be abandoned in favor of the distinction between asylum seekers and (mere) economic migrants. We can look at these objections in turn.

The first objection notes that modern migration theory has largely abandoned the conceptual framework used in developing an account of voluntary migration. Instead of focusing primarily on the circumstances in the country of origin, for instance, migration theory focuses on a variety of explanatory variables that cannot be easily reduced to those pushing the migrant to leave or those pulling her to a new site of residence.<sup>13</sup> The analytic approach developed by Nicholas Van Hear and his coauthors, for instance, identifies a number of “drivers” of migration, which can be categorized as predisposing, proximate, precipitating, and mediating; they include such central factors as linguistic similarity to a country of refuge, transportation networks between that country and the country of origin, and any number of other factors not easily accounted for in the simple framework of voluntary vs. involuntary. These explanatory frameworks lead migration theorists to conclude that much migration is “mixed migration”—that is, migration solely understood neither as a simple response to intolerable circumstances nor as a desire to improve already adequate circumstances.<sup>14</sup> If this is true, however, then there may be little to be gained from analyzing the voluntarism of the decision to migrate. That is, if the act of migration is always explained by a complex mix of decisions, facts, and circumstances, then why should we care to analyze that act with reference to the simple concepts of being voluntary and being involuntary?<sup>15</sup>

The answer, I believe, lies in the distinct tasks given to the migration theorist and to the political philosopher of migration. The former seeks to explain when and why migrant flows emerge—and perhaps to predict such flows in the future.

That theorist's task, in short, is explanatory. Etienne Piguet notes this explicitly; he refers to recent migration theory as entailing a "progressive enlargement of the spectrum of explanation mechanisms," which allows us to understand migration as a phenomenon within a shared social world.<sup>16</sup> The task of the philosopher, however, is not to predict what migratory acts will take place, but to understand the moral responses we ought to have to such acts. The two tasks are related; we cannot adequately evaluate the morality of a given act if we do not understand it. They are not, however, the same; and the sorts of understandings that are appropriate for one given task might be unnecessary—or even deceptive—for another.

We can see this with other sociological phenomena, such as marriage. Empirical social science might help us understand who is likely to get married, at what age, how prevalent marriage will be in a given society, and so on; it will likely do this, if it does it well, by making use of a variety of complex drivers, including gender norms, social meanings, attitudes toward waged labor, and so on.<sup>17</sup> This approach to marriage, however, does not compete with a moral and philosophical account of marriage—an account that, I imagine, might continue to ask about whether or not a given marriage is consented to, and whether or not that consent is genuine and voluntary.<sup>18</sup> The economic account of marriage is complex and many-faceted; the fact of its complexity, however, does not make it impossible or unnecessary for the philosopher to ask the (theoretically) simpler questions about voluntarism and agency that are appropriate to the task of moral evaluation. Even if it is true that most migration is the result of multiple drivers, and that most marriages are explained by similarly diverse facts, we cannot avoid asking about consent in understanding the moral basis of a given marriage—and the same is true, I believe, of migration. Migration theory has increased our understanding of the phenomenon of migration in the world; that theory's success, however, has not reduced the salience of the philosophical questions about agency that occupy me here.

These thoughts can be supplemented by noting the simple fact that even if migration theory involves complex explanations of migrant flows, public discourse often does not—and such public discourse might sometimes be usefully addressed on its own terms. Those who engage in that public discourse, after all, need not be migration theorists in order to form and hold views about the political morality of migration; and we have reason to ask about the concepts that hold sway within public political discourse. Public opinion about migration, as we shall see, often responds to the distinction between the voluntary and the involuntary, and public agents such as politicians often invoke such a distinction as well. See, on this, the

words of the home secretary of Great Britain, Sajid Javid, in discussing migrants—many of them Syrian—seeking to leave through the French port of Calais to enter the United Kingdom back in 2019:

A question has to be asked: if you are a genuine asylum seeker why have you not sought asylum in the first safe country you arrived in? Because France is not a country where anyone would argue it is not safe in any way whatsoever, and if you are genuine then why not seek asylum in your first safe country? Also, if you do somehow make it to the UK, we will do everything we can to make sure that you are often not successful because we have to break that link, and to break that link means we can save more lives.<sup>19</sup>

Javid's comments may or may not be morally defensible—I will argue shortly that they likely are not, at least in the context in which they were spoken—but they might be comprehensible as an account of voluntarism in migration; the one who is genuinely fleeing intolerable circumstances, for Javid, would have sought refuge in the first developed country rather than continuing to the United Kingdom. Those who continue to the United Kingdom, instead, are presumed to be merely seeking economic advantage—and, therefore, are presumed to be voluntary migrants with correspondingly limited claims.

This analysis, however, leads to the second reason we might dispense with the inquiry into voluntarism: Javid invokes the concept of the asylum seeker, and implicitly contrasts this category with that of the economic migrant. We might think that all we need, morally speaking, can be given to us by these categories; why should we not rely upon them, in short, rather than inquire into the voluntary nature of the decision to migrate?<sup>20</sup>

The answer here, I think, relies upon the simple fact that such concepts as “refugee” and “asylum seeker” are ultimately legal categories, responsive to the particularities of legal and political history; as such, their sufficiency for moral analysis must be established rather than assumed.<sup>21</sup> The canonical definition of the “refugee” was developed in response to the particular atrocities of the Holocaust in Europe; the definition has tended to focus upon active forms of persecution rather than upon other evils such as famine, randomized violence, and the breakdown of civil order.<sup>22</sup> Later definitions—including that provided by the Organisation of African Unity—include other factors such as foreign occupation, natural disasters, and grave events. Even here, however, those seeking escape from grinding forms of poverty are excluded.<sup>23</sup> That politicians such as Javid speak in terms of refuge and asylum speaks to the power such terms have in public discourse; it is not clear,

however, that his use of these terms is best understood with reference to their (contested) meanings in international law. Instead, I would argue that arguments such as Javid's make the most sense when viewed as appeals to the perceived moral distinction between those who choose to migrate voluntarily and those whose migration is involuntary. We would do more justice to such arguments—as well as to their rejoinders—by focusing on the independent moral appeal of these concepts within public discourse. These thoughts are supported, finally, by the simple fact that these concepts are salient within public political discourse. A recent study found that the public attitudes of Dutch citizens toward newly arrived migrants varied dramatically when those migrants were described as having come voluntarily to the Netherlands in comparison to being described as having been compelled to migrate.<sup>24</sup> Dutch attitudes were changed, in short, on the basis of the voluntariness of migration—rather than on the technical status of being considered a refugee under international law. As such, we have reason to examine voluntariness in migration on its own terms, rather than subsume it under some alternative methodological framework.

### THE *WHERE* OF MIGRATION: ON DEPARTURES AND ARRIVALS

Migration does not involve a single act; it is, instead, a rather complex set of acts and practices by which an individual leaves one political and geographic space and enters another. This complex set might be understood to involve any number of decisions, but for our purposes we need only distinguish two: the decision to begin the journey of migration and the decision to *stop* that journey, starting the process through which a new life might be built in the country in which a new residence is sought. An involuntary decision to leave one's country of origin, that is, does not impugn the voluntariness of a decision about where to resettle. Contrary to the assertions of Javid, then, we do not impugn the involuntariness of our exit by virtue of our continued capacity to make decisions about where to resettle. One can be compelled by hunger to eat, after all, without thereby being compelled to choose any particular item from the menu.

These facts might seem relatively obvious; they are, however, often ignored in international political practice. It is commonly thought that any admixture of voluntary choice in the process of migration renders the entire chain voluntary. This mistake, I think, informs both Javid's words and some legal documents. The European Union developed the Dublin Regulation—on which a migrant must

seek refuge in the first European state she enters—specifically to prevent migrants from being able to choose which state will adjudicate their claims for asylum.<sup>25</sup> The Dublin Regulation is still in force, despite being placed under enormous stress during the Syrian Civil War; in 2015 alone, over four million refugees fled Syrian territory, over one million of whom fled to Europe. These refugees were a source of political contestation for the states of Italy and Greece, which were the countries of first admission for many refugees. Many of these refugees, moreover, desired to reside in—and to have their claims adjudicated by—Germany, both because of Germany’s perceived attractiveness as a new home and because of low rates of asylum approval in states such as Greece.<sup>26</sup> According to the terms of the Dublin Regulation, those migrants who traveled from Greece to Germany had no legal right to be present in German territory, nor any right to a hearing by German institutions.<sup>27</sup> According to a memorandum from the European Commission, those who engaged in the “secondary movement” between Greece and Germany were engaging in “asylum shopping,” which was an “abuse” of the system set up for the protection of refugees.<sup>28</sup>

Similar considerations seem present in the use of “safe third country” agreements, such as that made in 2019 between Guatemala and the United States. Under the terms of this agreement, Guatemala is deemed by U.S. law to be safe; as a result, any migrant who passes through Guatemalan territory on her way to the United States is deemed to be a voluntary migrant rather than an involuntarily one fleeing her country of origin. Attorney General William Barr defended this policy, in terms similar to those given by Javid:

This Rule will decrease forum shopping by economic migrants and those who seek to exploit our asylum system to obtain entry to the United States—while ensuring that no one is removed from the United States who is more likely than not to be tortured or persecuted on account of a protected ground.<sup>29</sup>

The U.S. Department of Homeland Security backed him up, saying:

This rule mitigates the strain on the country’s immigration system by more efficiently identifying aliens who are misusing the asylum system to enter and remain in the United States rather than legitimately seeking urgent protection from persecution or torture.<sup>30</sup>

In the same spirit as Javid, the U.S. Department of Homeland Security asserts that anyone who moves through Guatemala on her way to the United States is best



understood as “misusing” the refugee system; her claim to “urgent protection” is defeated because of her voluntary act of not claiming refuge in the first available country deemed (by the United States) adequately safe.

These sorts of safe-state agreements have proliferated in recent years. They are attractive to wealthy states because they provide the justification by which asylum seekers can be deported—if not to their countries of origin, then at least to some other country deemed “safe”—prior to a hearing on the merits of their claims. They are attractive to less wealthy states because there are financial and political incentives to take in such migrants. Guatemala, for instance, has received promises of an increased number of agricultural visas for its citizens (as well as, quite likely, a promise for less vigorous investigations into potential corruption on the part of the Guatemalan government.)<sup>31</sup> The United Kingdom, similarly, published without comment a memo detailing its intention to increase the use of safe third country agreements in those legal agreements to be constructed after Brexit.<sup>32</sup>

There are any number of moral difficulties with such institutional arrangements—starting with the fact that Guatemala, for one, is poorly described as a safe third country. It has neither the institutional capacity to investigate the claims of migrants nor the ability to integrate them into its society.<sup>33</sup> The United States, moreover, has little structural incentive to evaluate Guatemalan practices and policies fairly; the interests of the United States lie in working with the Guatemalan government to reduce the number of people arriving at the southern border of the United States.<sup>34</sup> The same is true, of course, for a great many other institutions designed to deter migration; a recent agreement between Italy and Libya, for instance—which commits Italy to providing financial incentives for Libya to apprehend and encamp would-be migrants to Italy—is an even more stark example of the interest wealthy states have in reducing the number of people arriving at their borders.<sup>35</sup>

My present interest, though, is not with the overall injustice of such policies, but with the moral argument that is presented as a partial justification of those policies. Both Javid and Barr (and the U.S. Department of Homeland Security) assert that a migrant who passes through a safe country demonstrates, thereby, that she is a voluntary migrant, rather than one fleeing intolerable antecedent circumstances. I have asserted that, as a general matter, the voluntary nature of the decision to cease moving cannot be used to assert that the decision to start moving was similarly voluntary. What sorts of arguments might be given to support the equation made by Javid and Barr?

I can see three possibilities. The first argument asserts that anyone possessed of the will to decide where to settle is in insufficiently desperate circumstances to be rightly understood as an involuntary migrant. The second argument asserts that the migrant's journey is rightly understood as two journeys—from country of oppression to safe country, and then from safe country to desired country; the latter journey, on this account, is regarded as voluntary and treated accordingly. The final argument—which has, I will argue, the best chance of success—sees the burden of accommodating refugees and involuntary migrants as a collective one, so that there is in principle no wrong involved in a wealthy state's refusal to be the particular jurisdiction in which a given migrant's rights are to be vindicated.

We can call the first argument “the argument from desperation”; it is, I think, a fairly common, if unspoken, argument in defense of statements such as those of Javid and Barr. The thought is that someone who is willing to be choosy is most likely not comprehensible as someone in need of refuge. Anyone who arrives at a safe country with the wherewithal to be picking and choosing her country of ultimate rescue is most likely possessed of the resources needed to evade or survive whatever it is that is nominally “forcing” her to leave her country of origin. There are, here, at least two modes by which this argument might be understood. It could be taken as a thesis about gratitude and the proper attitude taken by those truly in need of refuge; those who are protected by the goodwill of others should recognize this fact and make no demands on their protectors above those absolutely necessary. The alternative mode is to take this argument more literally and read it as an assertion about what one must leave behind in order for one's leaving to be considered forced.

The first mode, I think, reflects a not-uncommon feeling that charity requires gratitude. (Immediately after Hurricane Katrina, for instance, conservatives began forwarding emails that accused those saved from the hurricane—who were largely Black—of insufficient gratitude, marked in particular by their desire for certain sorts of foods.)<sup>36</sup> The fact that this feeling is common, though, does not entail that it is morally defensible. Those seeking to escape from the intolerable, after all, are seeking something to which they have a right—both in law and in morality. We do not ordinarily expect cringing gratitude for the provision of what is rightly ours, and there is something morally distasteful about regarding the forced migrant as making a demand for charity. The one seeking refuge is not seeking a grant of charity, which might or might not make grateful acceptance of what is offered appropriate; instead, she is seeking justice, and there is no moral

reason for her to refuse to act on her own interests and desires in acquiring what is rightly hers.<sup>37</sup> The fact that a migrant might prefer the United States to Guatemala does not, in itself, reflect any morally deficient sort of attitude.

The second mode of the argument from desperation might seem more defensible; it asserts not that the migrant should show gratitude and accept what is on offer, but that for one who is forced to move in such desperate circumstances, such an acceptance is inevitable. One who is truly deprived is unlikely to be especially picky about the precise contours of the aid she is provided. This is true, however, only on a particularly implausible understanding of the circumstances that give rise to forced migration. On Ottonelli and Torresi's account, one can become a forced migrant because of a variety of circumstances—including the absence of full information, a lack of available options, and so on. The presence of such circumstances, we should note, does not require the annihilation of the agency of the one whose migration is nonvoluntary. One can be, after all, a refugee without giving up her interests, goals, and commitments. After the rise of the Nazi regime, both Albert Einstein and Sigmund Freud were targeted by that regime; Einstein sought refuge in the United States, partly because of its university system, while Freud sought refuge in the United Kingdom, in part because of its greater importance within the psychoanalytic community. That both chose where to seek refuge because of—in part—preexisting interests cannot be used to deny the forcible nature of their departure from Germany; Freud's four sisters, notably, all died in death camps, and it is likely Freud would have faced a similar end had he not migrated.<sup>38</sup>

It is worth noting, moreover, that the assertion that a forced migrant cannot be capable of maintaining particular interests, plans, or relationships—and that any migrant seeking a particular site of rescue, on the basis of those particular facts, is not forced to move—is not only philosophically wrong but also pernicious. It is wrong because one can indeed be a refugee without being reduced to mere humanity—to the need for food, air, and shelter.<sup>39</sup> It is pernicious because it encourages the migrant to abdicate these parts of herself so as to make the case to those judging her that her claim is rightful. Irish novelist Eoin McNamee describes the demand for this sort of abdication:

People look at you and say the baby is healthy, the pink shirt is only a little torn, you're not a real refugee. Why is your child plump? Why is your child sleeping? Why is it not skin and bones? To qualify as a refugee you have to wear hell on the outside.<sup>40</sup>

If there is anything right about the assertions of Javid and Barr, it cannot be that only those who are experiencing hell are truly forced to move. Wherever the line between voluntary and involuntary is to be inscribed, it should not be at the gates of hell.

We might therefore look at the second argument in favor of Javid's and Barr's assertions. On this, the migrant's journey is best understood as two distinct journeys, each of which must be evaluated in its own right. The first is the journey from the country of origin to the first nominally safe country. The second is the journey from that country to the country in which refuge is sought. Even if the first is nonvoluntary, on this account, the second is not. We can, therefore, regard the one making that latter journey as having done so under adequate alternatives, with adequate information, and so on, treating her no differently than any other migrant who arrives at the border with no particular right to enter. That migrant, then, can be deported back to the first safe country—Guatemala, say—without her rights as a forced migrant being in any way disrespected.

This vision of the migration journey is true, I think, from the standpoint of the state to which migration is sought. A migrant who comes from Syria to Canada to the United States looks rather similar to a migrant who comes more simply from Canada to the United States. But this superficial similarity hides what I take to be a deeper form of difference. From the standpoint of the migrant, the nominally safe third country is safe only as a matter of theory and prediction. It has not provided those goods that home does, or should, provide: particular relationships, particular plans, and particular commitments, together with the legal protection such particularities deserve. The one who has entered Guatemala might have entered into a jurisdiction that could offer her particular interests protection, but it has not yet done so, and that makes her original decision to exit her country of origin different in kind from her decision to move on from Guatemala.

We can get at this more clearly, I think, by noting once again that the migrant makes two decisions: the decision to start moving and the decision to stop. Her decision to begin the process of migration initiates an abandonment of previous forms of relationship; she is, most importantly, setting out to acquire a new form of life under the protection of a new set of political relationships. But when she simply passes through a nominally safe country, she is not making the decision to acquire a new form of life within that country, nor is she abandoning—as she does in her exit from her country of origin—a great many particular forms of relationships. Those relationships have not yet been formed in the

nominally safe country through which she passes. Her decision to start moving, in short, is entirely separate from her decision to keep moving; she is not yet “at home” in that nominally safe country, and her decision to “abandon” that third country is better understood as a continuation of the process of migrating from her home than as a distinct decision undertaken to abandon that third country’s protection.

One response to this, of course, is to insist that—even if she has not yet been provided with a life within that safe third country—she ought to *seek* those goods from that country. That, however, is simply to raise the moral question of what the refugee may rightly demand of others. We are, here, trying to understand why she is no longer comprehensible as a forced migrant when she passes through a safe third country without stopping. On the account I favor, her migration is forced insofar as she was forced to begin the process of migration; her decision of where to end that process need not be outside of her control for that migration itself to be rightly understood as involuntary. To assert a duty to acquire refuge in the first safe country, then, is to arbitrarily carve up into separate journeys that which is best understood as a single journey, whose commencement was involuntarily forced upon the migrant herself.<sup>41</sup>

This leaves us, though, with the final argument that might be given in defense of Javid’s and Barr’s (and the U.S. Department of Homeland Security’s) positions. It is, I think, implied by both of these accounts, given their concern with reducing the numbers of migrants arriving at the borders of the United Kingdom and the United States, respectively. The thought is that the numbers of migrants that would arrive, if it were not for these programs, would be excessive. Javid asserts a need to “break that link” between, presumably, the migrant camps in Calais, France, and the polity of the United Kingdom; the U.S. Department of Homeland Security, more forthrightly, asserts that the “large number of meritless asylum claims places an extraordinary strain on the nation’s immigration system.”<sup>42</sup> Both of these accounts might be plausibly read as asserting that there are too many potential migrants seeking to enter countries of their choosing—namely, the United Kingdom and the United States—and that fairness would require that they be returned to the first safe country through which they traveled. Might these ideas ground a plausible account on which the migrants in question might be rightly treated as voluntary?

The answer, I think, is no—or, perhaps, not yet. The best way to understand considerations such as this is as an appeal to fairness in the allocation of the burdens of providing forced migrants with that to which they are entitled. The

difficulty, though, is that the insistence on returning forced migrants to the first safe country they enter simply replaces one form of unfairness with another; for example, instead of the United States having to deal with an outsized number of migrants, the burden is now to be placed on Guatemala, despite the latter state's comparatively smaller institutional capacity to provide for such migrants. If fairness is to be understood as the basis of the right to refuse to adjudicate a migrant's otherwise pressing claim for asylum status—and this reconstruction of Javid's, Barr's, and Barr's Department of Homeland Security's assertions places fairness in that position—then that right can only be placed within the context of a fair system in which the burdens and benefits of this migration flow are genuinely grounded in something like a morally defensible theory of justice.<sup>43</sup>

It should be obvious, though, that Javid's speech about the migrants of Calais fails this sort of test. These migrants, I might note in passing, are living in camps whose circumstances likely fall below the minimal standards of human rights protection; migrating from those camps would independently seem to be a type of forced, rather than voluntary, migration.<sup>44</sup> Even if this were not so, though, Javid is not proposing that the United Kingdom become part of some organization devoted to fairness in responding to the challenge of forced migration; he is simply asserting a right to be free from this potential "burden," by asserting that those migrants now in France have no right to move through France and into the United Kingdom. I hope to have established that he cannot make that assertion; one cannot discharge a moral burden simply by asserting that it does not exist.<sup>45</sup>

All of this, of course, is compatible with the thought that there might be circumstances in which even states like the U.K. and United States could object to additional migrants. We might imagine, for instance, a world in which too many migrants want to go to a particular state and in which that particular state can rightly assert that it is unfair for it to be tasked with discharging this responsibility. I take it as reasonably unlikely that a great many states—including those most attractive to prospective migrants—will be able to credibly make this case.<sup>46</sup> Nonetheless, if such circumstances were to arise, it might become defensible for especially desirable states to assert that some people otherwise entitled to protection must avail themselves of that protection in other, less desirable states. We cannot, however, design our domestic systems of migration control on the basis of a hypothetical world; and we do profound wrongs to existing persons when we try.<sup>47</sup>

## THE *WHO* OF MIGRATION: ON FAMILIES AND WORKERS

The migrant is generally assumed to be an individual person, whose decisions can best be explained with reference to her own self-interest as an individual. Certainly, philosophers and international lawyers are aware that people come from families, but the rightfulness of a given set of institutions is generally judged with reference to its effects upon a natural person. Thus, an agent is entitled to status as a refugee if she, as an individual, faces persecution on the basis of her political beliefs or membership in an ascriptive group. Ottonelli and Torresi's account even assumes as much, since they argue that an individual migrant is voluntary if *she* is possessed of the appropriate antecedent circumstances, among other conditions.

Most of the time, this assumption is unproblematic; indeed, it is often morally praiseworthy. But taking individuals as morally less important than a collective has, over the past century, proven to be a rather dangerous activity. We should, on occasion, examine the voluntariness of a given migration decision with reference to the intersecting set of preferences and freedoms available to particular groups of people—including, most centrally, the family. The decisions of who will migrate, to where, and for how long are very often affected by structural relationships within the family and the economic and political realities in which that family is situated. The one who migrates, on this account, does not necessarily do it for herself; instead, the constraints on her decision-making might reflect the constraints that emerge from within her family, including those members of her family who are left behind.

These facts, of course, might seem obvious. They are certainly not novel. The new economic theory of migration framework holds that migration is often a response by the family, rather than the individual migrant, to the perception or reality of serious risk.<sup>48</sup> I want to use this framework—or, more precisely, its recognition that the risks giving rise to migration are often those faced by a family, rather than solely by the individual migrant—to make a particular claim: the decision to migrate might seem voluntary when viewed from the perspective of the individual migrant, but it seems involuntary when viewed from the wider perspective of the family for whose benefit that migration is undertaken. Any valid account of voluntarism in migration, I argue, must recognize and reflect these facts.

We can begin the argument by noting the relationship between remittances—money sent home by migrants—and economic development. Right now, one in nine individuals globally is dependent upon remittances for financial support. In 2018 alone, migrants sent home over \$689 *billion*, of which over \$529 billion went to lower-income countries. These values, moreover, greatly outpace the total value of development assistance: remittances amount to more than three times as much money as official development assistance and foreign direct investment combined.<sup>49</sup>

The relevance of these facts for the voluntary nature of migration might become apparent when one reflects that, under some circumstances, life in particular places might become unsustainable in the absence of emigration from that place. Under these circumstances, philosophy has work to do in figuring out whether the migrant's journey is voluntary or involuntary.

To see this, imagine the following hypothetical pattern: A given community is close to the level of economic catastrophe, such that the presence or absence of remittances will determine whether or not its inhabitants can obtain adequate caloric intake. If the most vigorous members of the families in the community—often, the youngest members capable of both temporary migration and laboring abroad—do not emigrate, then those families will be incapable of preserving all of their members.

How should we think about this scenario? Here, I think we ought to avoid any easy assertion that the only sort of voluntarism that ought to be considered by those concerned with the morality of migration is the voluntary decision of the migrant herself. If we focus on an individual migrant, her decision might seem voluntary; she is, we might imagine, young and vigorous and capable of moving through cultural and geographic space, and so might be well positioned to obtain waged labor without emigrating—or, at least, better positioned to do so than the elderly or infant members of her family.<sup>50</sup> The decision to migrate, though, is poorly described as voluntary if that term is also used to describe those whose antecedent circumstances are perfectly adequate but who seek professional or personal advancement through their migration. The migration here seems, instead, *involuntary*, when viewed from the standpoint of the extended family, and the needs and interests of those who do not have the strength or skills required to earn wages through emigration. We might be able to describe the particular decision of any particular migrant as voluntary; but we should not lose sight of the fact that the emigration of *some* migrant seems necessary, and therefore better



described as involuntary, when viewed from the standpoint of the family within which that migrant is situated.

There are, indeed, some real-world situations that seem to echo this hypothetical. Oded Stark and Robert E. B. Lucas demonstrate that the young members of Botswanan families tend to increase temporary emigration under circumstances of drought; on their analysis, this emigration involves a household decision to ensure against the loss of cattle to drought, by diversifying the portfolio of household income through emigrant labor.<sup>51</sup> Although Stark and Lucas phrase this with reference to insurance against risk, it is worth emphasizing that there are often circumstances under which such emigration is the only way for a given family to preserve itself; for instance, for those families whose cattle have been lost to drought and risk falling below a level of subsistence.<sup>52</sup> Similarly, Keiko Osaki notes that out-migration by young members of Thai families is an effective means by which low-income families can overcome shortages of income; without these migrants, “the sustenance of poor families might have been difficult.”<sup>53</sup> Again, the young Thai migrants might have been able—as individuals—to obtain waged income in Thailand; they are relatively well positioned to both journey abroad and to seek paid employment at the end of that journey, and such individuals are often well positioned to seek whatever paid employment might be found at home. The economic marginality of their *family*, however, frequently led to them to seek to leave Thailand, for waged labor abroad.

These considerations are echoed by Paul Winters, associate vice president of the International Fund for Development, who recently emphasized that one beneficial result of remittances might be that they assist with the very sort of development that might make remittances *themselves* unnecessary. In a public address given on the International Day of Family Remittances, Winters said:

Providing better access to remittances and better use to families through rural financial institutions has had a positive impact in rural areas by bringing many unbanked recipients into the formal financial sector. Thanks to this inclusive effect, families can now collateralize remittances and access financial products, such as savings, credit, and insurance. In fact, it is fair to say that, in poor rural areas, *remittances can help to make migration a choice rather than a necessity* for so many young people and for future generations.<sup>54</sup>

It is worth emphasizing Winters’s admission that migration for the purposes of providing remittances is not, under present circumstances, a voluntary choice.

It might become such if development allows, but under present conditions migration is best understood as involuntary.

How, though, can we make sense of the involuntary nature of the migrant's decision here? After all, the sort of involuntariness we are dealing with is somewhat odd; the migrant, again, may face no particular compulsion to migrate—what compulsion there is may stem from the needs of others rather than herself. How can we get an account of the involuntary nature of her decision?

We might make sense of this by examining a parallel discussion about freedom and its opposite from G. A. Cohen. Cohen's analysis of the Marxist concept of "the collective unfreedom of the proletariat" sought to vindicate that concept, while acknowledging that from within capitalist structures any *particular* proletarian was (potentially, at least) free to escape the proletariat class and obtain capitalist power. The fact that class borders might be crossed, for some, was proof that Marxist thought was an inadequate guide to the real world of capitalism. Cohen sought to defend the thought that the proletariat is unfree by clarifying what that unfreedom ought to be understood to mean. On Cohen's account, the collective unfreedom of the proletarian consisted not in the inability of any particular individual to escape from capitalist exploitation; it referred, instead, to the necessity under capitalism for someone to continue playing the role of a proletarian. What this meant, then, was that the escape of some individual proletarians did not entail the freedom for the proletarian class to escape; for some people to escape, some others had to be left behind, and the unfreedom applied not to the individual but to the class as a whole. Cohen's analogy here is nicely instructive:

Ten people are placed in a room the only exit from which is a huge and heavy locked door. At various distances from each lies a single heavy key. Whoever picks up this key—and each is physically able, with varying degrees of effort, to do so—and takes it to the door will find, after considerable self-application, a way to open the door and leave the room. But if he does so he alone will be able to leave it. Photoelectric devices installed by a jailer ensure that it will open only just enough to permit one exit. Then it will close, and no one inside the room will be able to open it again. It follows that, whatever happens, at least nine people will remain in the room.<sup>55</sup>

Those residents within Cohen's prison can neither be easily described as free or as unfree; they are each free as individuals to leave—but only on condition that the others do not. The individual is free to leave; the group as a whole, however, is not.<sup>56</sup>

The circumstances facing those migrating from Botswana and Thailand are the inverse of those in Cohen's prison. They can each, as individuals, remain in their own places of origin; but they cannot all choose to remain. Just as someone must remain behind in Cohen's prison, so, too, in these countries *someone must leave* for many to subsist. The individuals in that community face, to use Cohen's terminology, a combination of individual freedom and collective unfreedom.<sup>57</sup>

Why, though, is any of this morally important? It becomes important, I think, in forcing our attention to the fact that the question of whether the particular migrant's journey is voluntary or not may poorly describe the actual sorts of decisions that have given rise to that journey. For any particular migrant, we might discover that her circumstances would have allowed her to remain behind; and we might therefore regard her as a voluntary migrant, with whatever normative consequences follow from that determination. But doing this would be to fail to understand the collective unfreedom that gave rise to her decision to migrate. If she had chosen to remain, then someone else would have had to migrate. The individual's circumstances are, here, only part of the story.

Ottonelli and Torresi seem to disagree with these conclusions; they insist that we ought to refrain from regarding family pressure as, itself, coercive. We should, instead, take the decision to sacrifice for others as evidence of care, rather than coercion:

The mere fact that the primary beneficiaries of many migration projects are not the migrants themselves (but, very often, their children, their spouses, their siblings, their families, or their community) should not count as evidence that the decision to migrate is coerced, not even when the migrants themselves describe their choices as a "sacrifice." . . . We usually do not take people's willingness to sacrifice part of their well-being for the sake of their loved ones as evidence of the non-voluntary character of their choices.<sup>58</sup>

This is, perhaps, right when applied to the individual herself, but it seems to ignore the ways in which the decision to migrate might be unfree at the collective level described by Cohen. In families like the impoverished ones discussed above, someone must make that sacrifice for the community to remain tolerable for those left behind. This seems to differentiate the sacrifice made by migrant parents from the sorts of sacrifices I might make in the domestic context. I might describe my purchase of educational goods, such as music lessons, for my daughter as a sacrifice; it helps her, which I take to be sufficient reason for me to forego some

spending on myself. But if I were to refrain from making that sacrifice, my daughter's life would still be a perfectly adequate one; she would not risk malnutrition, grinding poverty, or the other circumstances that would likely occur in a family without emigrants. Those who sacrifice for others in their family, though, face a considerably different sort of choice. They may be free as individuals to refrain from emigration; but they are not, collectively, free to all make that choice. Indeed, the choice might be best described as coercive, on the terms used by Ottonelli and Torresi, with reference to the adequacy of antecedent circumstances, where such circumstances are evaluated with reference to the family itself and that family's sustainability. One who must move or die does not move voluntarily; a family that must ask one of its members to move, or risk dying as a family, is similarly compelled to begin some journey of migration, even if that journey is not undertaken by all family members. This, to my thinking, suggests that there can be contexts in which the notion of coercion—or, more broadly, the notion of the involuntary—is rightly brought to bear upon the decision of the migrant to leave for the sake of those left behind.<sup>59</sup>

How, though, might we use these moral considerations? I cannot, in the space that remains, provide any particularly detailed account of how they might be used in the evaluation of policy. I would suggest, though, that if the involuntary migrant is to be accorded more deference by the migration regime of a particular political community, then there is likely to be a case for extending that deference to those whose migration was occasioned by a collective sort of involuntariness. Those whose decision to leave was prompted by the sorts of considerations giving rise to emigration seem to have strong claims against the rest of us to be provided with refuge; that refuge might rescue not only the one migrating but those left behind as well.

## CONCLUSION

The question of voluntary migration will continue to be an important one for as long as there is a moral distinction drawn within public political discourse between the voluntary immigrant and the involuntary one. I have suggested, here, that the cut between these two sorts of immigrants might benefit from a greater clarity about how the adjective “voluntary” is rightly used. I have argued, first, that we ought to be careful drawing conclusions about the voluntary nature of the decision to begin that journey based on voluntary decisions about where to

end it. Safe third-country regimes may be convenient for wealthy countries keen to dissuade migrants from traveling to those countries' borders; but they are unlikely to prove morally defensible in any world that resembles our own. I have argued, moreover, that the notion of the involuntary might be rightly applied not only to the migrant considered as an individual agent but also to a broader set of individuals bound together by family and social ties. We misdescribe the moral landscape, I have argued, when we regard migration from certain communities as voluntary. These considerations are, doubtless, inadequate; much more could be said about the concept of the voluntary and how it ought to be used in migration discourse.

I therefore hope more philosophers will discuss these topics for at least two reasons. The first is philosophical; the notion of freedom and its opposite are complex, and it would be good to get a better sense of how they apply to the phenomenon of migration. The second is more political; given the ongoing rise of authoritarian populism—and its broad hostility to migrants and their interests—it is good to have the language with which to speak back against those who would deny migrants their due. Philosophers cannot do very much in the face of those global trends that seek to demonize migrants; but what we can do, we should.

#### NOTES

- <sup>1</sup> I am grateful to four reviewers from this journal for their comments and criticism on this article. I am also grateful to Melissa Knox for our discussions of the economics of household decision-making about migration.
- <sup>2</sup> The International Organization for Migration, in its *Glossary on Migration*, defines “forced migration” as “migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion.” International Migration Law, *Glossary on Migration* (Geneva: International Organization for Migration, 2019), p. 77, [publications.iom.int/system/files/pdf/iml\\_34\\_glossary.pdf](https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf).
- <sup>3</sup> In this article, I use the word “migrant” to refer to anyone seeking to cross international borders for the purposes of some relatively lengthy term of residence. I do not intend that term to entail any particular intention to resettle permanently.
- <sup>4</sup> Maykel Verkuyten, Kieran Mepham, and Mathijs Kros, “Public Attitudes towards Support for Migrants: The Importance of Perceived Voluntary and Involuntary Migration,” in “Migration and Race in Europe,” themed issue, *Ethnic and Racial Studies* 41, no. 5 (2018), pp. 901–18.
- <sup>5</sup> This is the contention of Will Kymlicka in *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995).
- <sup>6</sup> See Kieran Oberman, “Refugees & Economic Migrants: A Morally Spurious Distinction,” *Critique*, January 6, 2016, [www.thecritique.com/articles/refugees-economic-migrants-a-morally-spurious-distinction-2/](http://www.thecritique.com/articles/refugees-economic-migrants-a-morally-spurious-distinction-2/). See also Desirée Lim’s contribution to this exchange.
- <sup>7</sup> I do not believe these to be the only sites at which a more careful analysis of voluntariness might be of moral use. We might also discuss the *how* of migration, and discuss the ways in which unfriendly geography can be an impediment to mobility—such that some people who would be understood as forced migrants cannot acquire that status because they are unable to engage in those forms of movement that would cause us to characterize them as migrants. I discuss these questions in my book *Justice, Migration, & Mercy* (New York: Oxford University Press, 2019), pp. 143–65.

- <sup>8</sup> Valeria Ottonelli and Tiziana Torresi, "When Is Migration Voluntary?," *International Migration Review* 47, no. 4 (Winter 2013), pp. 783–813, at p. 796.
- <sup>9</sup> *Ibid.*, p. 798.
- <sup>10</sup> *Ibid.*, pp. 801–2.
- <sup>11</sup> *Ibid.*, pp. 802–3.
- <sup>12</sup> *Ibid.*, p. 809.
- <sup>13</sup> For an overview, see Etienne Piguet, "Theories of Voluntary and Forced Migration," in Robert McLeman and François Gemenne, eds., *Routledge Handbook of Environmental Displacement and Migration* (London: Routledge, 2018), pp. 17–28. Piguet, while describing the ways in which migration theory has moved beyond the dichotomy of forced and free, nonetheless remains sympathetic to the thought that such a distinction might have some practical significance. A more critical rejoinder to the relevance of voluntarism can be found in Marta Bivand Erdal and Ceri Oeppen, "Forced to Leave? The Discursive and Analytical Significance of Describing Migration as Forced and Voluntary," in "Aspiration, Desire and the Drivers of Migration," special issue, *Journal of Ethnic and Migration Studies* 44, no. 6 (2018), pp. 981–99. See, finally, Hein de Haas, Stephen Castles, and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 5th ed. (New York: Guilford Press, 2020), pp. 25–54.
- <sup>14</sup> See Nicholas Van Hear, Oliver Bakewell, and Katy Long, "Push-Pull Plus: Reconsidering the Drivers of Migration," in "Aspiration, Desire and the Drivers of Migration," pp. 927–44. Resources on mixed migration are available on the Mixed Migration Centre website at [mixedmigration.org/about/](https://mixedmigration.org/about/).
- <sup>15</sup> I am grateful to an anonymous reviewer for urging me to consider this question.
- <sup>16</sup> Piguet, "Theories of Voluntary and Forced Migration," p. 18.
- <sup>17</sup> See, for a theory of such matters, Gary S. Becker, "A Theory of Marriage, Part I," *Journal of Political Economy* 81, no. 4 (July–August 1973), pp. 813–46.
- <sup>18</sup> See, on this, Nir Eyal, "Informed Consent," in *Stanford Encyclopedia of Philosophy*, last updated January 16, 2019, ed. Edward N. Zalta, [plato.stanford.edu/archives/spr2019/entries/informed-consent](https://plato.stanford.edu/archives/spr2019/entries/informed-consent).
- <sup>19</sup> Sajid Javid, quoted in Jessica Elgot and Peter Walker, "Javid under Fire over 'Illegal' Cross-Channel Asylum Seekers Claim: Refugee Calls Home Secretary's Comments 'Deeply Concerning,'" *Guardian*, January 2, 2019, [www.theguardian.com/politics/2019/jan/02/people-crossing-channel-not-genuine-asylum-seekers-javid](https://www.theguardian.com/politics/2019/jan/02/people-crossing-channel-not-genuine-asylum-seekers-javid).
- <sup>20</sup> I am grateful to an anonymous reviewer for pressing this objection upon me.
- <sup>21</sup> For critical engagement with the concept of the refugee, see Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2015); Michael Dummett, *On Immigration and Refugees* (London: Routledge, 2001); and Sarah Fine, "Refugees and the Limits of Political Philosophy," *Ethics and Global Politics* 13, no. 1 (2020), pp. 6–20. A more positive account of the philosophical salience of refugee law is found in Matthew Lister, "Who Are Refugees?," *Law and Philosophy* 32, no. 5 (September 2013), pp. 645–71.
- <sup>22</sup> See William Maley, *What Is a Refugee?* (Oxford: Oxford University Press, 2016).
- <sup>23</sup> See United Nations High Commissioner for Refugees, *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*, September 10, 1969, [www.unhcr.org/us/media/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted-assembly-heads](https://www.unhcr.org/us/media/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted-assembly-heads).
- <sup>24</sup> See Verkuyten et al., "Public Attitudes towards Support for Migrants."
- <sup>25</sup> A good summary of the legal institutions affecting refugee admissions to Europe can be found in Patrick J. Lyons, "Explaining the Rules for Migrants: Borders and Asylum," *New York Times*, September 16, 2015, [www.nytimes.com/2015/09/17/world/europe/refugees-migrants-rules.html](https://www.nytimes.com/2015/09/17/world/europe/refugees-migrants-rules.html).
- <sup>26</sup> See Kristy Siegfried and Joe Dyke, "Playing the EU Asylum Lottery," July 21, 2015, New Humanitarian, [www.thenewhumanitarian.org/maps-and-graphics/2015/07/21/playing-eu-asylum-lottery](https://www.thenewhumanitarian.org/maps-and-graphics/2015/07/21/playing-eu-asylum-lottery).
- <sup>27</sup> The inefficiencies of the Dublin Regulation have led the European Commission to introduce a proposed New Pact on Migration and Asylum. The pact seeks to avoid some of the difficulties of the Dublin Regulation, but maintains the general presumption that the migrant's claims will be adjudicated by the country in Europe in which she first arrives. The pact, then, presupposes that the migrant who decides to end her journey in a country other than the one that she first entered must be understood as a voluntary migrant rather than one whose journey was forced.
- <sup>28</sup> European Commission, *Communication from the Commission to the European Parliament and the Council towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe*, COM/2016/0197 final (Brussels, June 4, 2016), p. 6, [eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52016DC0197](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52016DC0197).
- <sup>29</sup> William Barr, quoted in "DHS and DOJ Issue Third-Country Asylum Rule," U.S. Department of Homeland Security, July 15, 2019, [www.dhs.gov/news/2019/07/15/dhs-and-doj-issue-third-country-asylum-rule](https://www.dhs.gov/news/2019/07/15/dhs-and-doj-issue-third-country-asylum-rule).

- <sup>30</sup> “DHS and DOJ Issue Third-Country Asylum Rule,” U.S. Department of Homeland Security.
- <sup>31</sup> Lauren Carasik, “Trump’s Safe Third Country Agreement with Guatemala Is a Lie,” *Foreign Policy*, July 30, 2019, [foreignpolicy.com/2019/07/30/trumps-safe-third-country-agreement-with-guatemala-is-a-lie](https://www.foreignpolicy.com/2019/07/30/trumps-safe-third-country-agreement-with-guatemala-is-a-lie).
- <sup>32</sup> Jamie Grierson, “UK to Deny Asylum to Refugees Passing through ‘Safe’ Third Country,” *Guardian*, December 10, 2020, [www.theguardian.com/uk-news/2020/dec/10/uk-to-deny-asylum-to-refugees-passing-through-safe-third-country](https://www.theguardian.com/uk-news/2020/dec/10/uk-to-deny-asylum-to-refugees-passing-through-safe-third-country).
- <sup>33</sup> Adriana Beltrán, “Guatemala Is No Safe Third Country: Why the Asylum Deal Is a Mistake,” *Foreign Affairs*, September 25, 2019, [www.foreignaffairs.com/articles/guatemala/2019-09-25/guatemala-no-safe-third-country](https://www.foreignaffairs.com/articles/guatemala/2019-09-25/guatemala-no-safe-third-country).
- <sup>34</sup> Max Cherem similarly notes the lack of incentive to ensure legal compliance and procedural equity in the asylum decisions made by other legal systems. See Max Cherem, “Refugee Rights: Against Expanding the Definition of a ‘Refugee’ and Unilateral Protection Elsewhere,” *Journal of Political Philosophy* 24, no. 2 (June 2016), pp. 183–205.
- <sup>35</sup> “Libya: Renewal of Migration Deal Confirms Italy’s Complicity in Torture of Migrants and Refugees,” Amnesty International, January 30, 2020, [www.amnesty.org/en/latest/news/2020/01/libya-renewal-of-migration-deal-confirms-italys-complicity-in-torture-of-migrants-and-refugees/](https://www.amnesty.org/en/latest/news/2020/01/libya-renewal-of-migration-deal-confirms-italys-complicity-in-torture-of-migrants-and-refugees/).
- <sup>36</sup> Snopes discusses one such conservative email forward at [www.snopes.com/fact-check/so-i-volunteered/](https://www.snopes.com/fact-check/so-i-volunteered/).
- <sup>37</sup> I defend the contention that those seeking refuge are making claims of justice in my *Justice, Migration, & Mercy*.
- <sup>38</sup> See Peter Gay, *Freud: A Life for Our Time* (New York: W. W. Norton, 2006).
- <sup>39</sup> The work of Jean Améry emphasizes the ways in which torture reduces the person to their body; it is as evil as it undoubtedly is, says Améry, precisely because the one who is tortured is robbed of all those particular things that makes him distinct from others—his knowledge, his language, his relationships, his commitments, and so on. To assert that the migrant must resemble that sort of being is to assert that only those facing torture can rightly describe their transit as forced—which seems deeply implausible. See Jean Améry, *At the Mind’s Limits: Contemplations by a Survivor on Auschwitz and Its Realities* (Bloomington: Indiana University Press, 1980).
- <sup>40</sup> Eoin McNamee (taken from “Pink Shirt”), quoted in Martin Doyle, “Irish Writers Respond to Refugee Crisis for Oxfam Ireland Culture Night Project,” *Irish Times*, September 10, 2015, [www.irishtimes.com/culture/books/irish-writers-respond-to-refugee-crisis-for-oxfam-ireland-culture-night-project-1.2347216](https://www.irishtimes.com/culture/books/irish-writers-respond-to-refugee-crisis-for-oxfam-ireland-culture-night-project-1.2347216).
- <sup>41</sup> This perspective, I should note, is reflected in Canadian legal practice more than in many other legal systems. In Canadian jurisprudence, presence within a particular “safe” jurisdiction can prove relevant to one’s status as refugee, but it is not taken as dispositive. Thus, for example, when a family from South Africa had a seven-hour layover at Heathrow prior to their arrival in Canada, the board hearing their claim held that their refraining from claiming asylum in the United Kingdom did not demonstrate a genuine fear of persecution. The federal court hearing their appeal disagreed—and, moreover, took it as a reasonable decision for that family to seek asylum in Canada rather than in the United Kingdom, given the comparatively higher success rate for such claims in Canada. See *Citizenship and Immigration (Nel v. Canada)* (F.C. 842 2014), paras. 57–59. In contrast, a would-be migrant to Canada who stayed in the United States for four months before claiming persecution in her country of origin was, indeed, held to now be simply engaging in an attempt at voluntary migration from the United States to Canada. *Citizenship and Immigration (Kayode v. Canada)* (F.C. 495 2019). Whatever the circumstances that led to her departure from her country of birth, that migrant’s decision to migrate now was best understood as an independent decision to begin a new process of migration. To equate this decision, though, with those of people passing through Guatemala on their way to the United States is to misdescribe the moral landscape quite badly.
- <sup>42</sup> Sajid Javid, quoted in Elgot and Walker, “Javid under Fire over ‘Illegal’ Cross-Channel Asylum Seekers Claim”; and “DHS and DOJ Issue Third-Country Asylum Rule,” U.S. Department of Homeland Security.
- <sup>43</sup> These conclusions may be defended by the account of fairness in migration I discuss in *Justice, Migration, & Mercy*.
- <sup>44</sup> On the general phenomenon of encampment, see Serena Parekh, *Refugees and the Ethics of Forced Displacement* (New York: Routledge, 2016).
- <sup>45</sup> I should note, for clarity, that I do not think I have established that the United Kingdom must admit such migrants. I have, elsewhere, argued that states have no obligation to admit those whose rights are being adequately protected elsewhere; those whose rights are adequately protected cannot make a claim of justice to be admitted to a new state, as such a claim is open to those whose rights are not being protected elsewhere. All I want to establish in the present context is that such migrants cannot have their claims dispelled as morally akin to those whose migration is, regarding both the starting and

the stopping of that migration, voluntary. I would also note that those now present in French migrant camps are, in at least some construals of human rights, not receiving adequate protection for those rights; as such, they might have independent claims of justice derived from that fact. These considerations might be grounded in the discussion of encampment in Parekh's *Refugees and the Ethics of Forced Displacement*. I am grateful to an editor for *Ethics & International Affairs* for urging me to be more precise about these claims.

- <sup>46</sup> One way in which they might make the case would be by invoking the limited capacity of social trust, and the need for some forms of national identity with which that trust is provided. See David Miller, *Strangers in Our Midst: The Political Philosophy of Immigration* (Cambridge, Mass.: Harvard University Press, 2016). I respond to Miller in my book *Justice, Migration, & Mercy*, pp. 58–60.
- <sup>47</sup> Ralph Wedgwood offers a powerful defense of a more general version of this claim; Wedgwood argues that a reliance on ideal theory can be pernicious when it is applied without due recognition of the claims that would emerge from the nonideal realities in which the claim is asserted. See Ralph Wedgwood, "Against Ideal Theory," "Ralph Wedgwood's blog," May 2, 2014, [ralphwedgwood.typepad.com/blog/2014/05/against-ideal-theory.html](http://ralphwedgwood.typepad.com/blog/2014/05/against-ideal-theory.html).
- <sup>48</sup> See Oded Stark and Robert E. B. Lucas, "Migration, Remittances, and the Family," *Economic Development and Cultural Change* 36, no. 3 (April 1988), pp. 465–81.
- <sup>49</sup> These facts are valid as of July 2019, and are taken from the United Nations website; see "Remittances Matter: 8 Facts You Don't Know about the Money Migrants Send Back Home," *UN News*, June 15, 2019, [news.un.org/en/story/2019/06/1040581](http://news.un.org/en/story/2019/06/1040581).
- <sup>50</sup> She might also be capable of moving within the country in question without emigrating. I do not discuss internal mobility in the present article, but I believe similar moral analyses might be made as regards that phenomenon as the international mobility I discuss here.
- <sup>51</sup> Stark and Lucas, "Migration, Remittances, and the Family," pp. 477–78.
- <sup>52</sup> Falling below a level of twenty cattle, for instance, risks a lack of agricultural success, since eight cattle are required for plowing and twenty are required to assure the presence of eight cattle capable of working as plow animals. See *ibid.*, p. 481.
- <sup>53</sup> Keiko Osaki, "Migrant Remittances in Thailand: Economic Necessity or Social Norm?," *Journal of Population Research* 20, no. 2 (September 2003), pp. 203–22, at 218.
- <sup>54</sup> Paul Winters, quoted in "On International Day of Family Remittances, a Reminder that 1 in 9 People Globally Are Supported By Funds Sent Home By Migrant Workers," International Fund for Agricultural Development, June 14, 2019 (emphasis added), [www.ifad.org/en/web/latest/news-detail/asset/41191428](http://www.ifad.org/en/web/latest/news-detail/asset/41191428).
- <sup>55</sup> G. A. Cohen, "The Structure of Proletarian Unfreedom," *Philosophy & Public Affairs* 12, no. 1 (Winter 1983), pp. 3–33, at p. 20.
- <sup>56</sup> Cohen's argument is not without its detractors; John Gray, for one, argues that there can only be an unfreedom asserted here by means of comparison to an alternative set of affairs—and that Cohen has not, and cannot, provide that state of affairs. See John Gray, "Against Cohen on Proletarian Unfreedom," *Social Philosophy and Policy* 6, no. 1 (Autumn 1988), pp. 77–112.
- <sup>57</sup> I should note that I do not at present consider the morality of remaining within those circumstances when enough other people have chosen to migrate. It is possible that there are constraints of justice upon choosing to do so; it is also possible that there are structural reasons for those individuals whose migration is not demanded by collective survival to consider migration from the standpoint of structural change. I am thankful to David Brunt for raising these possibilities to me.
- <sup>58</sup> Ottonelli and Torresi, "When Is Migration Voluntary?," p. 797.
- <sup>59</sup> A reviewer for this journal has noted that there may be coercion within the family, in the determination of who must bear the burden of migratory labor. This seems right, and any complete account of the morality of migration would have to acknowledge these distinct forms of coercion and, likely, injustice, given the ways in which such coercion would likely track such attributes as age and gender. I can, in the present context, only acknowledge this fact and the related fact that independent moral attention is due to such intrafamily coercive pressures.

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Abstract: The claims of those who are compelled to migrate are, in general, taken to be more urgent and pressing than the claims of those who were not forced to do so. This article does not defend the moral relevance of voluntarism to the morality of migration, but instead seeks to demonstrate two complexities that must be included in any plausible account of that moral relevance. The first is that the decision to start the migration journey is distinct from the decision to stop that journey, through resettlement; the latter may involve voluntary choice, without that voluntarism impugning the involuntary nature of the former. The second is that the migration decision of the individual



might be voluntary, even while that individual's family or social network might be compelled to insist upon some particular individual member's migration. That is, the fact that any particular person might be free to refuse migration does not contradict the fact that the group in question does not have the effective freedom to avoid the migration of some group members. Once these two complexities are understood, I argue, the moral relevance of voluntarism in the ethics of migration becomes more complex and nuanced than is generally understood.

Keywords: forced migration, family migration, collective freedom, individual freedom, refugee, asylee, safe third countries, Karl Marx