

Migration and the Point of Self-Determination

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Abstract: Many philosophers argue that the right of self-determination confers to states a right to exclude would-be migrants. Drawing on the case of anti-colonial struggles of the 20th century, I argue that self-determination should be thought of as fundamentally a claim against intergroup hierarchy. This means that self-determination only grants a right to exclude in cases where immigration poses a genuine oppressive threat. Cases involving immigration into wealthy and powerful states rarely meet this criterion, and so talk of self-determination as grounding a right to exclude in such cases is misguided.

Keywords: immigration, migration, self-determination, borders, colonialism, domination

1. Introduction

This paper is about collective self-determination and its relation to the control of human movement.¹ While few normative theorists defend actual current restrictions on movement, many argue that at least in principle, states have a self-determination-based right to control migration across their borders (Walzer 1983; Wellman 2008; Pevnick 2011; Miller 2016; Song 2018; Brock 2020; Ferracioli 2022). These arguments derive much force from self-determination's respectable standing in international law, politics, and morality.² In what follows, however, I'll argue for an account of the right to self-determination that significantly complicates its connection to the right to exclude. The summary of my view is this: the point of the right to collective self-determination is to prevent hierarchical and dominative relationships between groups. Because of this, any discussion of what rights flow from the right to self-determination must consider the extent to which the attribution and exercise of such rights will promote this function. The move from the right of self-determination to the right to exclude is no exception. Specifically, what the excluding state needs

¹ Hereafter I'll use the term 'self-determination' to refer to collective as opposed to individual self-determination.

² According to the United Nations Charter (United Nations 1945) and the International Covenant on Civil and Political Rights (United Nations 1966), self-determination is a right of all peoples. It also has an impressive pedigree as an emancipatory ideal, in part due to its application in decolonization movements of the 20th century. This application will become central to the discussion of this paper in section 3.

to show is that the prospective migrants pose an oppressive threat. Although this burden can be met in principle, it is much higher than most defenders of a self-determination-based right to exclude allow. In particular, it rules out most instances of self-determination-based exclusion by wealthy and powerful states.

The plan of the paper is as follows. I begin in section 2 by discussing the relationship between the idea of collective self-determination and the right to exclude. I argue that theories connecting the two rest on a problematic conception of self-determination, one that likens it to autonomy. This motivates section 3, wherein I ask what the real point of self-determination is by examining a paradigm case of its use: decolonization. Drawing on recent work in the history of anti-colonial political thought, I argue that the importance of self-determination lies in its opposition to inter-group hierarchy, and particularly domination. Section 4 turns back to the issue of migration and argues that this understanding of self-determination implies a different view about the connection between the right to self-determination and the right to exclude than what is held by many theorists of migration. Section 5 concludes by summarizing the argument and clarifying its scope. My view does not rule out there being grounds for exclusion, or a right to exclude, that are not related to self-determination. It also does not imply that self-determination can never ground exclusion. It does, however, put a significant burden on self-determination-based claims for exclusion.

2. Self-determination and exclusion

What is collective self-determination? The idea has been understood in different ways in theory and in practice. These can be roughly sorted into two categories, which are analogous to the familiar distinction in political theory between negative and positive freedom (Berlin 2002).

On the negative side is the idea of noninterference. On this understanding, a group is self-determining insofar as it is not interfered with, and the right to self-determination is the right to not be interfered with. This view thus links self-determination tightly with another familiar idea: sovereignty. For the most part, this is how current international law and practice treat the of self-determination, and it is probably the most widely held view outside of outside of academic philosophy and political theory (Young 2004: 181).

It is not difficult to see how this view connects self-determination with the right to exclude: states can do what they want with their border policy, just as they can do what they want with any of their other laws and regulations. Forcing them to do otherwise would constitute interference and thus a violation of self-determination. In practice, this is often how the right to exclude has been interpreted. To take one example, the Global Compact for Safe, Orderly and Regular Migration, the most recent and far-reaching (although non-binding) international agreement about migration, “reaffirms the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law” (United Nations 2019).³ So while this view allows for some limits to self-determination—in this example, those set by international law—these limits are modest, and the presumption is firmly towards the state’s discretion.

Despite its prevalence in law and politics, self-determination as sovereignty is unpopular in normative theory. While such a conception can serve a useful practice role (Levy 2008), its main shortcoming from the normative perspective is that it seems to miss the deeper meaning and value that is invoked by the claim of self-determination. Self-determination points not to non-

³ The connection between sovereignty and immigration control goes back at least to Vattel’s *Law of Nations* and was notably affirmed by the US Supreme Court with the plenary power doctrine. For a discussion and critique see Song 2018: ch. 2.

interference per se, but to the ability to actually *determine* things in a meaningful way. That is, it points less to non-interference and more to self-government, which, as Avishai Margalit and Joseph Raz (1990: 440) put it, “speaks of groups determining the character of their social and economic environment, their fortunes, the course of their development, and the fortunes of their members by their own actions.” Similarly, David Miller (2016: 69) writes of self-determination as the ability of a group “to order its activities and shape its surroundings in light of [its] common aims and values.” Margaret Moore (2019: 622) likewise holds that it is groups’ “power to shape the collective character of their political communities, to choose modes of leadership, and representation that reflect their conception of political legitimacy, develop their own processes of collective deliberation and decision making, and make policies and laws that reflect their own values and priorities.”

These conceptions depart significantly from mere non-interference, much in the same way as positive freedom or autonomy at the individual level is distinct from negative freedom. Moving forward, I’ll refer to the family of such conceptions as self-determination as positive freedom or collective autonomy. The basic thought at the heart of this family is that self-determination requires that a group be able to act on its own will, thus governing itself as it sees fit and shaping its own political life in line with its own needs and desires.

There are several ways in which theorists have reasoned from this notion to the thought that self-determining political groups in this sense are entitled to a right to exercise control over admission. For example, communitarians and nationalists stress that a crucial part of acting on one’s own will is acting on one’s own values and interests. For collectives, this means that the values and interests at issue are collective values and interests that flow from a collective identity. Given that immigrants carry with them potentially foreign and unwanted values and interests, control over

immigration is “an essential lever,” as Miller (2016: 62) puts it, that helps ensure the community’s ability to continue to control their future in line with the values and interests common to their identity. Accordingly, Michael Walzer (1983: 61-62, emphasis his) famously argues that “admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination. Without them, there could not be *communities of character*, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life.” In other words, shaping the collective future of the polity in the right way necessitates being in control over immigration.

Nationalist and communitarian views face certain well-known difficulties, not least of which is that the idea of using immigration controls to protect a national community and its values has a troubling tendency to license racist and xenophobic policies in the real world.⁴ But this view is not the only game in town for those who maintain the central importance of self-determination for discussion of rights over migration policy. Christopher Heath Wellman (2008), for example, derives the right to exclude from freedom of association, which is said to be entailed by self-determination.⁵ Alternatively, Ryan Pevnick (2011) argues that self-determination is best thought of in terms of citizens’ ownership claims over political institutions, from which a right to exclude can be derived.⁶ Rejecting these accounts, Sarah Song (2018) suggests instead that self-determination is tightly connected with democratic participation. So, Wellman, Pevnick, and Song all rely on

⁴ For a liberal statist view directly aimed at dealing with this problem, see Ferracioli 2022, esp. ch. 3. For further discussion, see Pevnick 2011: 140-41; Song 2018: 34-36; Fine 2016; Finlayson 2020.

⁵ Wellman does not explicitly distinguish between the positive and negative senses of self-determination as I have here, but his analogies to individual autonomy suggest a positive understanding.

⁶ While Pevnick’s particular way of cashing out self-determination is unique, I believe it still belongs in this category because it derives from a more general conception of self-determination as positive freedom, evidenced, for example, in the idea that “[c]itizens are to be their own rulers” (Pevnick 2011: 27). Indeed, his account parallels the connection at the individual level between self-ownership and autonomy and is motivated by many of the same concerns as more explicit autonomy accounts—namely, the way in which members of collectives coordinate in pursuit of important shared goals and goods.

self-determination in the positive sense but distance themselves from nationalist and communitarian approaches.

Despite the differences between these arguments, all are meant to show that self-determining communities must have considerable discretion to include or exclude potential immigrants, within certain bounds.⁷ For some, such as Wellman, the relationship is straightforwardly instrumental, whereas for others, such as Walzer and Song, controlling borders is closer to being part of what it means to be self-determining in the first place.

Other theorists have criticized the details of each of these arguments.⁸ But there is an important question upstream of them, which is whether self-determination as positive freedom is the sort of thing that ought to be understood as a right, and particularly one from which other rights, such as the right to exclude, can be derived.⁹ One reason to doubt this is that it is not clear the extent to which self-determination understood in this way is possible in large political communities such as the modern state. I'll take a moment to sketch the familiar case for thinking this, but I should be clear beforehand that it is only a sketch. I should also be clear that we need not completely jettison self-determination as positive freedom as an ideal. My goal is only to motivate the search for a conception of self-determination that is more suited to political reality, though one that retains critical normative bite.

⁷ It's worth noting that, like their negative counterparts, most of these views understand the self-determination-based right to exclude as subject to important and potentially substantial qualifications stemming from other demands of justice, such as protecting human rights (Wellman is the exception here). This suggests that in the real world, the right to exclude is often wielded in an unjust way. Such arguments, then, have the benefit of appealing to those who are sensitive to the current plight of actual migrants while also respecting the value of self-determination.

⁸ These come in roughly two categories. Some downplay the importance of self-determination, arguing that other concerns outweigh it in the case of immigration. In this category, on Miller and Walzer, see Cole 2000; Oberman 2016; Fine 2017; Song 2018. On Wellman, see Fine 2010; Fine 2013. On Pevnick, see Higgins 2013; Song 2018; On Song, see Williams 2019; Park 2019. The second category argues more directly that self-determination as collective autonomy does not grant the right to exclude (Van der Vossen 2015; Stilz 2019: ch. 7). This is an interesting and potentially fruitful line of thought, but not one I will pursue here. If it ends up being correct, then this is further evidence that self-determination doesn't entail the right to exclude.

⁹ The same question can be raised if one prefers, as Miller (2016: 70-71) does, to think of self-determination as a strong interest that peoples have, from which the right to exclude can be derived.

To begin to see the problem, note that in order to make sense of any conception of self-determination, we need an account of the self and an account of the determination, and we need those accounts to cohere with one another. This story is relatively uncomplicated the case of self-determination as positive freedom at the individual level.¹⁰ For one, the individual self has clearly defined boundaries, at least in the most basic sense. If, for example, I am the agent that is said to be self-determining, it's not difficult to understand who we're talking about; it is me, and not you, or anyone else. Similarly, we can readily get a grip on the idea of me acting in accordance with my own values, desires, and so on.¹¹ These notions are commonplace in ordinary thought and talk, and, despite some complications, have obvious practical value.

Things get trickier when we move to collective self-determination. All of these views must idealize significantly when it comes to both the self and the determination. This gives rise to problems that do not appear, or appear in much less threatening ways, in the individual case. To define the self, nationalists and communitarians elevate nations or cultural groups, whereas others, as we have seen, point to citizens as collective owners or free associators. Another popular choice is the elusive notion of peoples (Rawls 1999; Song 2018; Moore 2019).¹² Any such conception of the collective self must exclude, thereby designating a group of agents who does not have the right to exercise determination. This excluded group will inevitably encompass those who have strong interests in being included, for example if they are affected in important ways by the decisions of the in-group. Given the stakes, the question of who is in and who is out is often vigorously contested, unsurprisingly so. Drawing the line in one place rather than another has weighty

¹⁰ I say “relatively” here because there are of course complications that can and have been raised. For one, this idea may rely on a misleadingly atomistic sense of personhood. Furthermore, there are questions about in what sense we can say that my values and desires are truly mine, inherited as they are from my social context. The point here is just that we at least seem to know what these ideas mean, and how to use them, without too much explaining.

¹¹ Though, again, see the previous note.

¹² This is also, in general, the preferred term in international discourse (see, e.g., United Nations 1960).

consequences, and this places a burden on the defender of self-determination to explain why the value of the group's self-determination trumps the interests of the excluded. High stakes and indeterminacy are a dangerous combination; in practice, power tends to decide.¹³

Even if some way of navigating these difficulties can be made to work, there is the further question of that self's connection to the state, the agent often at the center of debates around the right to exclude. There are reasons to think that arguments from the collective autonomy conception of self-determination to the state's right to exclude rest on implausible assumptions about the kind of agent the state is in relation to its citizens, or to any other collective self that it is supposedly representing. Matthew Joseph (2021), for example, points out that the intentions of the state commonly do not supervene on the intentions of citizens.¹⁴ Similarly, Chandran Kukathas (2021: 220) highlights the ways in which the state has its own interests—for example, in its own continued existence—and a deeply complex relationship with the various individuals and collectives that constitute it. He concludes that the “state is not the agent of a society or a people; nor is it coextensive with society, even though it might shape or govern it” (Kukathas 2021: 220-21).¹⁵ If this is right, then self-determination as positive freedom has a further hurdle in explaining how it can be operative in the state setting, especially when being used to justify a right to exclude.

¹³ It's fair to say that some ways of defining the self do better than others on this point. Cultural, national, and ethnic variations, for example, are at one end of the spectrum. But even less benign forms of group identity will have to answer difficult questions. Famously, the democratic answer, which is potentially the most inclusive route, runs into the boundary problem (Abizadeh 2012; Ochoa Espejo 2011). On the role of power in settling disputes over self-determination, see Fisch 2015: 52-56. For a recent attempt to defend an account of the self in self-determination, see Stilz 2019: §5.2. For an argument to the effect that the principle of self-determination itself has the resources to solve the boundary problem, see Kwan 2021.

¹⁴ Ferracioli (2022: 154-55n10) argues in an endnote that Joseph makes too much of this fact, but this seems to me to not appreciate Joseph's point. Joseph notes (and Ferracioli seems to concede) that we often think of states as self-determining even when they do not track the will of the people. His point, which I am drawing on here, is that this casts doubt on the thought that self-determination is rooted in the will of the people, and thus also casts doubt on the project of grounding a state's right to exclude in self-determination, where self-determination is thought of as rooted in the will of the people.

¹⁵ For a more mixed verdict, where one co-author (but not the other) is also skeptical of the relationship between the people and the state, see Collins and Lawford-Smith 2021.

This leads us to problems with the determination in self-determination. Here we run into familiar difficulties with the extent to which groups, and especially large and diverse ones over time, can act in accordance with the will of their members. As Miller (2019: 63) puts the question, “for a group to be self-determining in the fullest sense, its members must actively control its collective decisions. But what kind of bottom-up control is actually feasible in the case of large groups such as nations?” The history of liberal and democratic thought has offered influential ideal-theoretic answers to this question, but the record of actual liberal democracies in this area is underwhelming. And recent work in political science and democratic theory has not been kind to ideas like popular control, collective rule, and the will of the people. Indeed, even many contemporary partisans of democracy argue that such ideas are largely illusory in practice (Achen and Bartels 2016; Weale 2019; Kukathas 2021: 224-29; for a more moderate view, see Przeworski 2010). Views that stop short of democratic commitments (i.e., those that allow that self-determination could occur in non-democratic settings) also rely on an account of acceptance, consent, or some other engagement of agency that is difficult to realistically scale (e.g., Stilz 2016).

Again, the difficulty that self-determination as positive freedom in this regard is not on its own a reason to throw out the idea. Its defenders continue to formulate ways of dealing with these problems, and perhaps they will prove convincing in the end.¹⁶ In the meantime, though, it is worth remembering that these are not just theoretical questions. The right to self-determination is an established part of international law and politics and the subject of real and consequential struggle (Fisch 2015; Augestad Knudsen 2020). The difficulties here are not the same as those that we could

¹⁶ See, e.g., Miller 2019; Stilz 2019. These theorists are alive to the practical issues, but it’s worth noting that both rely on small-scale model analogies—in Miller’s case, neighbors who share a street, and in Stilz’s case, a few people running a coffee shop, to show that acting on a collective will is possible. Their arguments deserve more careful consideration than I can give here, but I stress that at the very least it is worth wondering if there is another way of thinking about self-determination that doesn’t rely on such suggestive, and to my mind unconvincing, examples.

raise about any other worthy ideal, such as justice. The issue isn't simply whether the ideal is likely to be realized by imperfect beings, it is whether this particular conception of it is coherent and workable given its function and context. This is especially so when the question we are eventually interested in has to do with downstream consequences of self-determination, as is the case here, in discussing the right to exclude.

To summarize, we can think of self-determination as a collective version of either negative or positive freedom, with each providing a way of arguing that states with the right of self-determination also have the right to control immigration. While the positive conception is more attractive from the point of view of normative theory, it faces difficult hurdles when moving from theory to practice, especially at the level of the state. We might wonder if we ought to jettison the term altogether, but, as noted at the outset, self-determination remains relevant to politics and has a certain pedigree as an emancipatory ideal. In what follows, then, I'll turn to one important source of that pedigree to see if we can uncover something that might be missing from extant discussions of self-determination in the literature.

3. The point of self-determination

If large-scale collective self-determination is chimerical, what is its relevance to politics and to normative theory? What is the point of self-determination?¹⁷ To answer this question, it is helpful to turn to real-world struggles and the politics of self-determination. Why and in what situations have people felt the need to invoke it? What concrete problems does it respond to? Something like this methodological suggestion is widely accepted, as discussions of the value of self-

¹⁷ The idea of focusing on the "point" of an idea is given a particularly well-known articulation by Elizabeth Anderson (1999) with regard to equality. See also Charles Beitz's project in Beitz 2009: ch. 3. On the idea of a point-based explanation, see Queloz and Cueni 2021: §4.

determination are often motivated by reference to paradigmatic cases. Anna Stilz (2016: 99-100; see also Stilz 2015; Stilz 2019: ch. 4), for example, points out that “some support for self-determination’s moral importance is provided by our intuitive judgments about colonial rule, military occupation, and annexation.” Miller (2016: 69) calls on “the phenomenon of decolonization” to illustrate the power of self-determination. And Song (2018: 54) refers to the demands of “colonized and occupied peoples.” Decolonization in particular looms large here—as Joseph Massad (2018: 161) summarizes, “it is often claimed that anticolonial nationalism and self-determination have a coeval history, indeed, that self-determination is the principle through which anticolonialists would achieve their declared goal of independence from colonialism.”¹⁸ It is with this in mind that we might use decolonization as a case to help us understand the point of self-determination. Instead of just mentioning decolonization, though, and proceeding to an abstract discussion, it is worth focusing on the actual situation that anticolonial movements were responding to and the functional role that self-determination took on during those movements. To do so, I’ll draw on the history of political thought, and particularly on the recent work of Adom Getachew. There are certain limitations to this endeavor, so I want my goal to remain modest: if I can draw out some plausible theoretical implications from what I take to be a compelling historical interpretation, then we at least have the initial materials for re-casting self-determination and addressing the question of what other rights ought to flow from it.

In *Worldmaking after Empire: The Rise and Fall of Self-Determination*, Getachew documents the ways in which political actors and intellectuals in Africa and the Caribbean mobilized the idea of self-determination in their struggle against colonialism. She argues that they conceived of self-

¹⁸ As the title of the essay (“Against Self-Determination”) suggests, Massad goes on to argue against self-determination, but it is important to note that the argument targets a particular conception of self-determination that Massad thinks unfortunately dominated the period of decolonization. This does not rule out the existence of a conception that doesn’t face these problems. For discussion, see Bradley Simpson’s reply to Massad in Simpson 2019.

determination as a solution to a particular problem, namely, empire.¹⁹ To this end, self-determination took on forms that sometimes incorporated but often went beyond the idea of the independent nation-state, such as regional federations, demands for increased economic power, and more equal representation in international decision-making bodies. This is to say that anticolonial actors did not simply latch on to the dominant Westphalian model of sovereign states with hopes of taking up their proper place within it. Rather, they were engaged in a project of fundamentally remaking the world's power structure. Getachew stresses that while anticolonial nationalists were aiming at a sense of self-rule, these aims were distinctively anti-imperial and positioned against domination and inequality. In their hands, she writes, “the right to self-determination mitigated the effects of the substantive hierarchies that structured international society...In this sense, the right to self-determination set juridical limits on domination in the international sphere and aimed for a ‘domination-free’ international society” (Getachew 2019: 98). Anticolonial actors saw the problem they faced as global and relational, and their attempted solutions followed suit. Fighting for self-determination was a way of rejecting an international hierarchy that placed postcolonial peoples in a vulnerable and subordinate position.

This account, then, adds a distinctively relational element to the idea of self-determination. If we want to take self-determination's connection to decolonization seriously, we should think of it as a claim to not be subjected to dominative relations of economic and political power. This distinguishes self-determination from the collective versions of both positive and negative freedom (Getachew 2019: 35-36). Negative freedom, recall, requires only that others not interfere. Positive

¹⁹ “In this pairing of question and answer,” she writes, “the anticolonial account of self-determination was invented” (Getachew 2019: 77). It's worth noting that on Getachew's telling, the hierarchy of empire was not just the hierarchy of exclusion, or of colonizer and colonized, but a structure that Getachew describes as “unequal integration,” whereby non-European peoples were included in international society, but on terms that perpetuated their political and economic domination. See Getachew 2019: 18 for an initial discussion of unequal integration.

freedom, on the other hand, has to do with the internal quality of the group. Neither concerns itself with the ramifications of intergroup relations that go beyond these narrow confines, and neither is particularly concerned with inequality.

One need not agree with every detail of Getachew's history to appreciate this point, as the idea of self-determination as tied to a critique of international power relations is an attractive vision in its own right. It is also not unprecedented in the philosophical literature; it has parallels with neo-republicanism, an outlook that centers the idea of non-domination, usually understood as the condition of not being subject to the arbitrary will of another group (Pettit 1997; Skinner 2003; for an extensive bibliography, see Augestad Knudsen 2020: 21n20). In terms of self-determination specifically, Iris Marion Young (2004: 188; see also Young 2005; Pettit 2016; Pettit 2010) has drawn on neo-republicanism and feminist theory to develop this idea, arguing for "a principle of self-determination understood as relational autonomy in the context of nondomination."²⁰ However, Young's conception has received little sustained engagement, and none to my knowledge as applied to immigration. My proposal is congenial to Young's, although I leave it to further work to determine whether or not it is a republican conception per se, and whether it needs to rest on the specific idea of domination as subjection to arbitrary rule.²¹ They are certainly of a piece in their foregrounding of the quality of relations that obtains between political groups. As she puts it, "[j]ust as promoting freedom for individuals involves regulating relationships in order to prevent domination, so promoting self-determination for peoples involves regulating international relations to prevent the domination of peoples" (Young 2004: 189). One benefit of thinking of things

²⁰ It is worth noting that in developing this view, one of Young's primary concerns was thinking through the case of indigenous movements for self-determination. For a sympathetic critique, see Levy 2008.

²¹ Getachew (2019: 35) also finds republicanism friendly to her project, although lacking in certain ways. For a critique of domination of arbitrary rule, and a defense of domination as "subordinating power," see Vrousalis 2016. A useful discussion of the various ways of thinking about non-domination and its relationship to equality can also be found in Shapiro 2012. For a treatment of the concept of non-domination in the context of migration, see Fine 2014.

in this way is that it shows the sense in which this concept of self-determination is not merely self-defense or resistance.²² It can be implicated, for example, in dominative relationships that don't immediately amount to an attack that requires defense. In any case, I believe that the idea of self-determination here is attractive regardless of one's position vis-à-vis the larger debate about neo-republicanism.

One reason why it is attractive is that, while it may not immediately solve the difficulties faced by the collective autonomy conception, it can at least give us a workable way of approaching cases. When some group is claiming a right of self-determination, a crucial feature of the situation to investigate is the operative power structure. Where is power concentrated? Who is wielding it over whom? How has this played out in the past, and how is it playing out now? And so on. This conception of self-determination thus addresses the task of locating the self: it is those who feel the pressure of the power being wielded over them, and who seek to resist it.²³ Furthermore, it avoids problems with the determination of self-determination, as it does not rely on the specious idea of a collective will.²⁴ It only requires us to be concerned with obvious disparities in power that directly lead to oppression and domination. These are widely recognized to be concrete 'bads,' situations to be avoided and resisted.²⁵

²² I thank an anonymous reviewer at this journal for pushing me to clarify this.

²³ In some cases, this self could overlap with or cut across more traditional definitions of the self, such as a group of citizens. In such a case, a definition of the self such as Ferracioli's (2022), on which people qualify for citizenship rights in a state by virtue of their ongoing and long-term residence there, could cohere with the way of thinking of the self that I am suggested. But they will also come apart in many cases—again, the question is whether some group is being threatened by a dominative power relationship.

²⁴ Note that there will still be the question of whether the self has a legitimate claim to self-determination; this is distinct from the question of who the self is. Some self may feel the pressure but be mistaken about it. When Shuk Ying Chan (2019) asks of Getachew's account, "nondomination for whom?" I take it that she is pointing to this issue. And I should add that her suggestion, citing Kwame Nkrumah's invocation of "the so-called little man" is, I think, basically the right one, and my aim is that the approach I advocate in this paper is in this spirit.

²⁵ Does this mean that there is no right of self-determination once non-oppressive, non-dominative conditions have been established? Only in the sense that in such conditions the right to self-determination is essentially dormant, in that there will not be an immediate use for it. This is one similarity that this conception of self-determination has with negative freedom. In this connection, though, it is important to remember that in the actual world there are always unbalanced power relations, or the nearby possibility of them, even in the best of circumstances. So it is difficult to

Now, one might point out that the anticolonial use of self-determination was just one case—a response to particular conditions at a particular time, using the tools available. Indeed, Getachew (2019: 77-79) makes this point herself. If this is so, am I entitled to lean on it so much? Two points are worth making in reply. First, as I mentioned earlier, there are good reasons that decolonization is frequently cited by theorists of self-determination, among which are that it is both normatively and historically important. Neither fact is likely to change soon, and it is imperative that a conception of self-determination grapples with the extent to which our world remains so deeply shaped by colonialism and its legacies. Second, there are also good reasons to think that the radical idea of self-determination that Getachew attributes to anticolonial nationalists was not unprecedented—Rita Augestad Knudsen (2020), for example, argues that similar claims have repeatedly emerged throughout the history of self-determination.²⁶ Central to this radical idea is the notion of freedom as bound up with equality (Augestad Knudsen 2020: 8-9). If this is right, then it is evidence that I am not over emphasizing decolonization, but that it is a useful and representative example.

With that said, it is true that the case made here is only a start, leaving more work to be done. For one, I am leaving out the question of how well this account can make sense of contemporary political movements that invoke self-determination, such as those in Catalonia, Scotland, or Quebec, or various movements for indigenous rights, which have some similarities and some differences from the efforts that Getachew focuses on. I do think this view of self-determination comports well with those cases, though I lack the space here to argue for this conclusion (though see Young 2004).

imagine the need for self-determination being too far away. I thank an anonymous reviewer at this journal for pressing me on this point.

²⁶ This is not to gloss the differences between these various moments, just to point out their similarities. And it is certainly not to disagree with Getachew on the important point that anticolonial nationalists had unique view when compared to the Westphalian conception embodied in the UN Charter.

Second, I have not explored the question of what kinds of international political arrangements might be demanded by this conception of self-determination. For example, it may seem to call for, or at least be consistent with, coercive global institutions aimed at redistribution of wealth and income. This would be one area in which it would stand in contrast to the negative freedom and positive freedom conceptions of self-determination called into question in section 2 above.²⁷ Indeed, this is one of the interesting aspects of anticolonial struggles that Getachew's work helpfully illuminates, in exploring the various kinds of political formations that actors involved those struggles imagined and pursued. This broader question lies outside of the scope of this paper, but it is worth reminding here that self-determination is just one value, and questions about international institutions, like all political questions, need to consider many values, weighing them in the appropriate way. The question of what global institutions are demanded, all things considered, is underdetermined by the account of self-determination developed here.

A final issue worth clarifying is the following: why exactly are the accounts of self-determination that I reject incompatible with the analysis given thus far in the section? One might agree that relational inequalities, hierarchy, domination, and so on, are important, but argue that they are important because they directly affect the degree to which their preferred version of self-determination can be realized. In other words, the aim of self-determination is indeed to fight international hierarchy and domination, but this is because these relations threaten the realization of the values at the heart of self-determination, such as acting on collective values, participating democratically, affirming one's institutions, and so on. What needs explaining is why we should see self-determination first and foremost in relational terms, rather than seeing those relations as required by the

²⁷ I thank an anonymous reviewer at this journal for raising this point.

protection of whatever is valuable about self-determination. One way to put this is that there is a question of priority, and I need to show why it lies with the self-determination's relational aspect.

I've already suggested one answer, which is that focusing on the relational aspect helps make the right of self-determination a more workable concept in practice. An additional reason, though, has to do with the danger of co-option.²⁸ Despite its mobilization as an anticolonial ideal, self-determination has also been used to protect the status quo of colonialism, particularly when it is conceived without the relational component that I have been stressing (Massad 2018; Augestad Knudsen 2020; Getachew 2019). The case of Woodrow Wilson and the League of Nations can provide a brief illustration. As historians have noted, Wilson held up self-determination as an important and universal principle while also opposing movements of self-determination by groups that he considered unfit for that principle (Augestad Knudsen 2019: ch. 3; Getachew: ch. 2). Wilson's vision of self-determination thus became bound up with various forms of colonialism.

There are different ways to interpret this history. On one view, Wilsonian self-determination was unfortunately "truncated," as Getachew puts it. According to this story, while Wilson's League of Nations ended up being fully compatible with and indeed participated in colonialism, this is best seen as a "tragic failure" that still left self-determination as a worthy and universal goal to be achieved at a later time (Getachew 2019: 39-40). In other words, Wilson simply failed to apply his principle properly. Against this narrative, Getachew argues that the Wilsonian moment was counterrevolutionary by design; in short, Wilson (and others, especially Jan Smuts) consciously worked to entrench international hierarchies, notably along racial lines (see also Massad 2018; Augestad

²⁸ This worry about co-option parallels Berlin's original worries about the idea of positive freedom at the individual level, which to him seemed to open the door to legitimizing dangerous forms of power and control in the name of freedom. Young, interestingly, turns this sort of worry against *negative* freedom; as Jacob Levy (2008: 66) puts it, summarizing Young's view: "True self-determination, she suggests, is not mere separation; a refusal to acknowledge coexistence and negotiate together could lead to a very dominating kind of non-interference." My view combines both critiques: both negative *and* positive freedom at the collective level can engender this sort of co-option and misuse.

Knudsen 2020; Fisch 2015: 121). On this reading, this was not a failure of self-determination but an example of how a certain understanding of that idea could be conveniently consistent with maintaining international hierarchy. The work of Getachew and others thus points to the danger in reifying and mobilizing any particular account of the content of self-determination without attending to what ends it may lend itself to, as various modes of “self-rule” can be granted while maintaining important forms of political and economic subjugation.²⁹ In keeping our gaze on self-determination’s opposition—that is, domination in the form of international hierarchy—we can guard against such co-option.³⁰

Drawing on self-determination’s history can help us with the normative question about how best to think about self-determination in the present. If we find, for example, that a certain conception of self-determination has tended to go together with problematic practices, then we have a reason for disfavoring that conception.³¹ That many contemporary political philosophers argue for the importance of self-determination by invoking its use in decolonization movements of the twentieth century shows that this methodological point is tacitly accepted in at least some form. In trying to take this approach a step further, I have followed Getachew and others in suggesting that

²⁹ Another example that should give us pause is the discourse around the New International Economic Order (NIEO) in the 1970s. In short, the NIEO was a proposal to restructure the world power structure by, for example, giving postcolonial states more control over their domestic resources, and by giving them more decision-making power at the international level. These demands were rejected by many in the west on the grounds that they would ultimately not be in the interest of justice and freedom. This rejection typically took the form of humanitarian and human rights discourse. An argument frequently made was that granting increased powers of sovereignty and control to recently independent peoples would result in human rights abuses at the hands of unscrupulous and undemocratic governments. While many of these arguments were made in good faith and were grounded in real experience, in retrospect a growing number of historians and political theorists are coming to the conclusion that such discourse ultimately (if often unwittingly) contributed to perpetuating the subordinated status of postcolonial states and peoples. For discussion, see, Moyn 2018: ch. 6; Forrester 2019: ch. 5; Getachew 2019: ch. 5.

³⁰ One might come away from these studies with a more pessimistic view of self-determination, as Massad does. In this paper, I set aside this possibility and try to show that, if we do want to hang on to our self-determination discourse, we should not let it play the role in migration justice that it is commonly thought to play. As it happens, I do not have Massad’s view; I think that Fisch is right when he says that self-determination can still be a useful “right of the weak.” But it is a response worth taking seriously, even if I lack the space to do so here. See Fisch 2015: 248-51; Simpson 2019. For another pessimistic take on self-determination, drawing on Getachew among others, see Menge 2022.

³¹ For discussion of a similar point in a different context, see Srinivasan 2019.

in its emancipatory use, self-determination focuses on addressing hierarchical international relations. This does not mean that there is no general right to self-determination; what it means is that we should understand that right in a particular way, and that this understanding should inform our assessment of what other rights may flow from it.

4. Self-determination and migration

With all this in place, we can return to the question of borders and control over movement. In this section, I aim to show that the account developed above significantly complicates arguments for the right to exclude based on self-determination.

As we saw in section 2, a number of philosophers take self-determination to license the state's right to exclude potential immigrants, although they have important disagreements both about how to understand this connection and about how much the right is restricted by other concerns of justice. In response, I hope we are now in position to see that the problem that self-determination tries to solve—that of mitigating hierarchical intergroup relations—is not a problem that is addressed in most cases by exclusion. Once we pay more attention to the backdrop of power relations against which claims of self-determination are made, it becomes strange, even perverse, for wealthy and powerful states to invoke such claims against potential immigrants. This is in large part because such states have been disproportionately influential in setting the terms of the international order that we live in today.

Again, recall the paradigm cases often mentioned to motivate self-determination's value: settler colonialism, occupation, annexation, and so on. To deny entry to a person on the basis of self-determination is to treat that person, in a sense, as a potential (even if inadvertent) colonizer, occupier, ruler—in short, an oppressor. I say “in a sense,” because there are of course other ways in

which states don't treat potential immigrants that way when they exclude them. There are plenty of "nice" ways to deny a would-be immigrant, ways that we wouldn't deploy if we were being invaded.³² Still, the claim of self-determination in response to immigration is the claim that the would-be immigrants threaten to impose some kind of oppressive hierarchy on the existing residents, and this is simply false in the vast majority of real-world cases that concern us. Indeed, it seems to have things exactly backwards: in our world, exclusionary border policies are most often part of a distinctly hierarchical relationship that place migrants at the wrong end (Sharp 2022). It is also worth noting that the agents of domination in the paradigm cases—i.e., the state—are highly disanalogous to would-be immigrants. This serves as further evidence that the problems presented in the cases are very different.³³

To be clear, what I am saying does not rule out the possibility that self-determination could grant a right to exclude.³⁴ Rather, it lays out the conditions for that possibility, and suggests that such conditions rarely obtain in the cases that defenders of the right to exclude are interested in. What would need to be true is that the members of the state are genuinely threatened by some form of oppressive power imbalance that would be created by immigration in some particular case. Such cases are conceivable. We can consider, for example, a small country with minimal amounts of political and economic power facing a large number of aspiring immigrants looking to enter. With other details filled out in certain ways—i.e., if controlling migration flows were an effective way to prevent their subjugation—there may reasonably be a self-determination-based case for exclusion. Indeed, it does seem likely that the prospects in these cases are better for self-determination

³² It is worth reminding, though, that we do often keep out unwanted immigrants in ways that treat them more or less as invaders. To use Joseph Carens's (1987: 251) famous line, "Borders have guards and the guards have guns." See also Jones 2016.

³³ I thank Carlos Pereira Di Salvo for drawing my attention to this point.

³⁴ It is in this sense a conditional account, like Stilz's (2019: ch. 7), which is an advantage that our accounts share. The difference, on my view, is that mine rests on what I am arguing is a more plausible idea of self-determination.

to be tied to a right to exclude than in cases involving wealthy and powerful states. I take this to be a benefit of my account: when those claiming a right of self-determination are and have been on the bottom end of a global order of unequal power, their claims should come with extra weight. But again, to tie this claim to a right to exclude, it must be shown that immigration would continue or contribute to that pattern of hierarchy, and that exclusion would be the best tool to prevent this.

Now, it may be that a worrying number of people in wealthy countries do see themselves in these or similar terms, as in danger of subjugation or domination by outsiders, and as powerless to protect themselves without border controls.³⁵ Feelings of powerlessness should be taken seriously—Stilz (2016: 117) correctly notes that they are characteristic of the experience of colonialism—and some of those feelings may be justified by the continuing concentration in these countries of economic and political power in fewer and fewer hands. But this situation clearly does not meet the bar set by my view. Again, what would need to be shown is that the powerlessness is caused by a structure of hierarchical relations perpetuated by potential immigrants that subjugate the state's inhabitants, rather than by, say, the conditions of modern global capitalism. Far too many people do indeed experience radical powerlessness, but in wealthy countries like the United States, it's not because of immigrants. As such, restricting immigration is not an appropriate response, and indeed would undermine the very point of self-determination insofar as doing so would perpetuate the subordination of potential immigrants.

There might be nearby cases that are more compelling, however. Hrishikesh Joshi (2018), for example, describes a hypothetical situation wherein a huge amount of people from a large but poor fundamentalist theocracy seek to immigrate to a comparatively smaller but richer liberal state.³⁶ In

³⁵ For a (sadly) influential example, see Camus 2011. For discussion, see Jaggar 2020; Finlayson 2020; Piketty 2020: ch. 16.

³⁶ I thank Daniel Wodak for raising this point.

this example, the numbers are such that it can be reasonably expected that the presence of so many people with illiberal views will gradually erode the liberal norms of the state, effectively ending its status as liberal. We can ask here whether my view would license a self-determination-based right to exclude. To the extent that the situation represents something like colonization, the answer is a qualified yes, with the qualifications relating to the background conditions of the case.³⁷ In particular, we would need a wider account of the global power structure within which the two states are situated, as well as a historical account of how we got to the situation described in the case. For example, the argument for a right to exclude based on self-determination would be strengthened by certain facts such as the liberal state not being implicated in past injustice, or not being perpetrators of a dominative power structure that perpetuates the poverty of the illiberal state. These are complicated questions, to be sure, but no less important for that. Finally, as always, we should ask how close this imagined case is to any likely real-world situation, and I think it's difficult to imagine such a scenario in our world, both in terms of the threat posed, and the background conditions that I mentioned obtaining. Again, though, we confront the worry that proponents of repugnant immigration restrictions often attempt to justify them on precisely these grounds: radical Islam, it is said, is a threat to the liberal way of life, and so Muslims must be excluded from liberal states. And again, we have a perfectly good way of explaining why these justifications fail according to their own criteria: the threat is simply not there.³⁸ There is no horde of invaders coming to dominate us.

5. Conclusion

³⁷ Similarly, Stiliz (2019) argues that there is no right to exclude when there is a threat of usurpation.

³⁸ To be clear, the wrongness of an argument like this is overdetermined.

In this paper, I set out to examine self-determination's relationship to migration. My conclusion has been that wealthy and powerful states—those who sit at or near the top of the global political order—have very limited self-determination claims against potential immigrants, given that those potential immigrants are highly unlikely to pose the kind of threat to which self-determination is an appropriate response. This conclusion rests on a view about self-determination according to which it is primarily a counter to intergroup subordination and hierarchy. I have defended this conception by drawing on histories of self-determination's use in anticolonial struggles.

I'll close by clarifying the scope of the argument. I have focused on the question of how we ought to understand the right of self-determination as invoked by states to ground other substantive rights (in our case, the right to exclude). I cast doubt on different understandings of self-determination as applied to this context. But this does not mean that those understandings can't be useful or applicable in other contexts. For example, I have not argued that the ideal of collective autonomy can't make sense in the context of smaller associations.

Finally, what I have said here applies only to arguments for the right to exclude that rely on self-determination; I have not ruled out there being other legitimate reasons for exclusion. As such, I have not given an argument for open borders. My point has simply been that, insofar as immigrants don't present a problem of domination or hierarchy for the receiving state, the concept of self-determination is out of place. In such circumstances, states seeking to justify exclusion will need to look elsewhere.

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