The resource curse and duties to immigrants
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ABSTRACT
This paper brings together the discussions on international resource trade and immigration. Following Wenar’s analysis of the resource curse, the aim is to challenge the conventional view on immigration that asserts the right of states to have discretionary control over these policies. The paper shows that more liberal immigration is required as an additional remedial policy to persons harmed in unjust trade. The right to self-determination and territorial rights, which are used as the basis for the exclusion of immigrants, are in the context of this analysis constrained by both attentiveness to harm and the charge of inconsistency. Both rights, which are protected domestically, are violated by the unjust ‘might makes right’ trade rule in the international context, causing harm to people in resource exporting countries. This inconsistency presents a challenge to the moral plausibility of the conventional view in the context of the resource trade.

Introduction

The aim of this paper is to challenge the conventional view on immigration in the context of international trade with resources. It is claimed that liberal immigration policies are required as additional remedial policies for the harm caused to individuals by the international resource trade. This paper challenges the conventional view on immigration that asserts the discretionary right of states to decide who, if anyone, should be allowed to immigrate. Accepting both the relevance of the right to self-determination and territorial rights, upon which immigration restrictions are grounded, it is argued that Wenar’s analysis of trade provides good grounds to qualify the discretion of affluent societies to (dis)allow immigration into their territory.

The first part of the paper maps the assumptions fundamental to our proposal, and introduces the conventional view in immigration. In the second part, a brief overview of

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Wenar’s account and some concerns regarding his policy proposal, is given. Finally, in the third part of the paper, a more open immigration policy is proposed as an additional form of remedy to harmed individuals. This challenges the idea that states may preserve closure as long as they fulfill their duties to harmed parties in some way (i.e. choice view). The conventional view on immigration is challenged by taking harm and benefit from it in the resource trade as constraining the importing state in choosing a form of remedy. Additionally, the inconsistency argument (IA) is offered to undermine the stronger conclusion on the right to freely determine immigration policies based on self-determination and territorial rights.

**Mapping the approach**

One of the core questions in the debates on immigration is the morality of restrictive immigration policies. Proponents of the conventional view see the right of a sovereign state to control immigration as morally justified (Walzer 1983; Miller Miller, 2005a, 2007, 2016; Wellman 2008; Wellman and Cole 2011; Blake 2013; Song 2019).

This conclusion is mostly seen as based on the right to self-determination (Miller 2016; Wellman 2008; Pevnick 2011; Song 2019), territorial rights (Blake 2013; Song 2019), and the rejection of the human right to freedom of immigration\(^2\) (Miller 2017; Song 2019).

The right to collective self-determination is often cited as one of the main reasons to justify the exclusion of immigrants (Miller 2016; Pevnick 2011; Song 2019; Wellman 2008; Wellman and Cole 2011). Members of a political community have the right to govern themselves and enjoy discretion over policy choices and the future development of their community.\(^3\) This right generally refers to freedom from unjustified external interference and the exercise of the popular sovereignty (Song 2018, 395). Regulation of membership in a political community is seen as an important part of self-determination, with freedom to determine immigration policies as falling under it (Wellman 2008; Song 2019).

Furthermore, states, as territorial and jurisdictional entities, require definite and bounded territory over which to exercise authority. Territorial rights consist in the right to territorial jurisdiction, the right to control resources and the right to control movement over the borders of the territory and immigration (Song 2019, 61).

This leads the proponents of the view to conclude that states have a presumptive right to close their borders to immigrants. This view resonates with international practice where a broad right to control immigration is recognized as a right of sovereign states.\(^4\) Territorial sovereignty of states and belonging rights are, however, generally

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\(^2\)Proponents of the view argue that strategies to establish a general right to freedom of immigration fail. See Carens (2013), Cole (Wellman and Cole 2011) and Oberman (2017) for defence of the Miller (2007, 2016, 2017), Song (2019), Stilz (2019) for its rejection.

\(^3\)See articles 1. of both International Covenant of Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights (OHCHR 1976).

\(^4\)There is a theoretical dispute whether states can be genuine right bearers (Nine 2012, 13). We accept the notion of states having rights insofar as they satisfy some conditions. These conditions are conceived differently, but they generally invoke, especially in liberal accounts, the notion of legitimacy (Lægaard 2013; Altman and Wellman 2009; Song 2019; Stilz 2019) or respect and protection of basic rights to inhabitants and foreigners, the idea of the rightful claim to the territory (Stilz 2019: ch.2; Song 2019, 62–63), and securing the conditions for internal self-determination of the people state represents (Stilz 2019; Song 2019).
considered as constrained (Stilz 2019). Observing duties to foreigners (and members), in form of respecting their basic rights, is one such constraint on free actions of states. Most proponents of the conventional view recognize some global and corrective justice duties as prerequisite for the exclusionary rights such is the right to exclude immigrants (see Blake 2013, 126–127; Miller 2007, 221; Moore 2015, 213–214; Walzer 1983, 33).

Thus, some duties to outsiders are recognized, especially in cases in which relevant relationships can be established. Failure to protect human rights or their violation generates responsibilities on the global level. It is remedial responsibilities to individuals harmed by injustice that this paper is focused on.

The work of Leif Wenar falls neatly into this framework. He aims to show that rules that govern international trade with natural resources perpetuate human rights violations to populations of resource-exporting countries struck by the resource curse (RC) (Wenar 2008, 2016, 2018). The symptoms of the RC, such as authoritarianism, conflicts, civil wars, violence, corruption, extreme poverty and inequality, harm both people residing within the borders of these countries, but also migrants that flee them. Responsibility is owed to both, but we aim to focus on the latter.

Furthermore, Wenar’s approach strongly commits to principles like self-determination and territorial rights, which characterize the conventional view as well. Within this framework, presumptive right to exclude is challenged. The relevance of these collective rights for individuals and their autonomy is recognized in the paper. Following Wenar, and most of the proponents of the conventional view, we accept the relevance of territorial sovereignty of states and belonging rights. Sovereign state system is thus taken as a framework of discussion (see Blake 2020).

However, the exercise of territorial sovereignty and exclusionary rights requires justification to outsiders and is limited by certain justice concerns. One such limitation to free actions of self-determining states, stressed in this paper, is harm to the basic interests of foreigners; and other, relevant for inconsistency argument, lies in allowing for exercise of self-determination and territorial rights to others.

Thus, we will not argue against either the right to self-determination or territorial rights as entailing the right to control immigration, but we will try to show that other considerations, like harm or inconsistent treatment of these rights, weaken the claim of resource importing countries in preventing immigration from resource exporting countries. It is the duties and responsibilities to the harmed that informs our approach, and not freedom to immigrate as a basic right, which is, we believe a strategy more attuned to the constraints of a non-ideal world.

\(^5\)For relational account of responsibility, see e.g. Altman & Wellman (2009) and Wellman (2008). See also Miller (2007).

\(^6\)Especially by stressing the importance of internal self-determination or popular sovereignty and ownership rights over resources.

\(^7\)These rights can be conceived as serving important individual interests, like the interests to exercise personal and political autonomy, control one’s political environment and occupy a specific territory in which one can engage with their territorially located life plans (see Nine 2012: ch.2; Stilz 2016, 2019: ch.2, 4; Moore 2015: ch.3; Song 2019, 55).

\(^8\)This paper does not take cosmopolitan stance in arguing against sovereign state system, but it takes existence of states as representatives of political collectives as a given framework, as do most of the authors in immigration debates (see Blake 2020; Kukhatas 2020: ch.2). It is, however, taken, that this institutional arrangement is subject to constraints and requires justification (see Stilz 2019).

\(^9\)The human right to immigrate may be the more just route to defend more open immigration, but since it is neither recognized in International HR documents, nor uncontroversial, we abandon this strategy and seek to weaken the discretion over immigration based on duties of justice.
The resource curse, clean trade policies and a more open immigration policy

Popular resource sovereignty and ‘might makes right’

Wenar offers an analysis of the international resource trade and the resource curse (RC), which he sees as a symptom of property rights violations (2008, 9). His analysis is built on the popular resource sovereignty, or the idea that the natural resources belong to the people of the country where they are found (2016, 193). The current arrangement of the resource trade allows violation of that right. By endorsing a customary might makes right (MMR) rule, by which violent control over territory and resource extraction is translated into an internationally recognized legal right to sell the resources, this right violation is allowed. If the regime of exporting country fails to represent the interests of its people, and if the people cannot authorize the sale, it is not obvious that it can grant rightful title over the resources it controls (Barry and Wisor 2015, 220). By the MMR rule, citizens of importing countries, their corporations and governments are placed into legal relationships with dictators and human rights violators. They are, by their domestic law, allowed to legally buy products made from resources taken by force from peoples within exporting countries, who are their rightful owners. MMR legitimizes the translation of force into legal right when a certain commodity is illegitimately appropriated in one place to be sold and owned within the legal system in another.

The participation of liberal democracies and their citizens in resource trade contributes to the curse. Foreign money incentivizes conflicts and coups; it finances wars, weapons and authoritarians; and perpetuates human rights violations and poverty (Wenar 2008, 3–5). Such trade not only fails to benefit the people of the resource-exporting countries but also provides the unaccountable agents with means to oppress them (Barry and Wisor 2015, 228). Not only is the right over resources violated by various local actors but other rights, like freedom from torture, arbitrary incarceration or rights to minimal subsistence are also violated, as a consequence of such trade.

We believe that this description provides enough reasons to characterize the relationship between the consumers, governments and corporations of importing countries with the oppressed peoples from exporting countries as one of complicity (Barry and Wisor 2015, 228; Wenar 2016, 2018, 15; Wiens 2013). Causal connections to rights violations are obtained, since participation in the trade belongs to a set of factors that contribute to the curse. It is clear that mere trading is not sufficient to give rise to the curse, since many resource-rich countries, like Norway, are decently arranged. However, what is paid for resources financially aids corrupt and illegitimate regimes lacking public accountability to maintain power and violate human rights in resource cursed (RC) exporting countries.

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10 Whether resources belong to humanity as a whole or to peoples is a matter of disagreement, but for the purposes of this paper we accept Wenar’s reading of the legal documents that recognize people as the owners of their country’s natural resources. For alternative views see Armstrong (2015), Steiner (2005) and Stilz (2019: ch.8).

11 See Lepora and Goodin (2013). Contributing to another’s wrongdoing, albeit on a more structural level (see Iris Marion Young 2006), can be recognized in the case of international resource trade. Importing states trading with unaccountable regimes may be seen as contributing to the regime’s wrongdoing, i.e. their abuse of rights in exporting countries. Using complicity to describe this relationship does not entail moral culpability, but indicates the role of states and their citizens in a causal chain that contributes to the wrongdoing.
Such a trade causes harm, which generates some responsibilities to harmed parties, including migrants that leave them. On the one hand, there is the responsibility for the harm, which results from resource trade arranged around MMR rule. This harm is at least partly a result of importing states choosing MMR rule to arrange the trade.\(^\text{12}\) On the other hand, since opting for this rule contributes to restricting basic rights and interests, participatory countries have a responsibility to remedy these negative outcomes. It is the method of these reparations that this paper is focused on, suggesting implications for migration policies.

**Remedial responsibility and clean trade policies**

In the discussion on duties to outsiders, the sovereign states are taken to have a right to choose a way to fulfil them. This is coined the ‘choice view’ (Oberman 2011), and the proponents of the conventional view generally subscribe to it (Miller Miller, 2005a, 198; Wellman 2008, 129; Blake 2002, 281–282). The right to choose the method of discharging the responsibilities to foreigners is following from the right to self-determination. Immigration debates mention two broad categories of ways to discharge global justice duties; ‘export of justice’ methods and allowing immigration as a form of remedy, where exporting justice entails a number of policy options like sending aid or investing in development (Wellman 2008). Proponents of the conventional view generally claim that as long as global and corrective justice duties are fulfilled in some manner, states need not ‘open their borders’ to potential immigrants.\(^\text{13}\) Most, however, claim that in order to have discretion over immigration policies, states must fulfill their duties to foreigners in some way (Walzer 1983, 33; Miller 2007, 221; Blake 2013, 126–7). The full exercise of territorial sovereignty and exclusion from the territory are conditional on the fulfilment of global justice duties, even when minimally conceived, as protection of the sufficient level of basic rights to foreigners Territorial sovereignty, self-determination and rights that follow from them, like the right to choose remedial policy options and the right to control migration, are considered limited and constrained by some justice concerns. Justifiable exercise of exclusionary rights can thus be conceived as conditional on provision of global and corrective justice duties, and importantly for our account securing fair terms of economic cooperation, allowing background conditions for achievement of self-determination to other societies, and allowing for others to exercise their territorial rights (Miller 2005b; Stilz 2019).\(^\text{14}\)

Remedial responsibility\(^\text{15}\) generated by relationships with human rights abuses in exporting countries entails that some measures must be taken to prevent injustice and

\(^\text{12}\) Primary responsibility for harm lies with regimes in exporting countries that directly afflict it. However, importing states are recognized as partly responsible for the injustice. Following Pogge (2002) and Wenar (2008, 2016) we reject purely domestic thesis in explanation of adverse conditions in exporting countries. For alternative view see Miller (2007, 238–247) and Risse (2005).

\(^\text{13}\) While Wellman subscribes to this stronger claim, encompassing even refugees (2008, 129–30), Pevnick (2011, 39–40), Song (2019, 113–131) and Miller (2016, 76–93) tend to soften it, recognizing that in some cases the general right to exclude may be sidestepped.

\(^\text{14}\) See Stilz (2019). Legitimate appropriation of territory, that is, should be consistent with allowing others similar use (Stilz 2019: ch.2, ch.6).

\(^\text{15}\) See Miller (2007, 97–108). Bearing remedial responsibility means having the duty to set some state of affairs right. Primary bearers of remedial responsibility may be the agents that are responsible or complicit in negative outcome, but also the most appropriate ones to provide the remedy, e.g. the most capable.
to compensate the victims. These responsibilities are borne not only by countries that are causally connected to trade injustice but also by countries that are at that time most capable to provide remedy. Wenar primarily focuses on the more affluent democracies, which due to their political arrangement may put certain issues, like resource trade and migration, on the political agenda. Responsibility to remedy thus primarily lies with affluent democratic importing countries and their populations, which contribute to the curse by opting for MMR rule in the resource trade.

A major contribution of Wenar’s work is his Clean Trade Policy (CTP) proposal, that as a general aim has a reform of the international trade system (2016, 281).

The Clean Trade Act (CTA) amounts to the commercial disengagement from regimes where public accountability is lacking (2016, 284). By boycotting trade with regimes, and making it illegal in domestic law, consumers can stop dirtying their hands in the unjust trade. Due to a realistic concern that some global actors will not cease to trade with these regimes, Wenar proposes other incentives, such as the Clean Trade Trusts (CTT), bank accounts credited by money collected by tariffs on imports from countries that continue to trade with the regimes. The idea behind CTT, aside from the additional incentive, is to provide compensation to those harmed by unjust trade. The money collected as compensation for stolen resources is to be returned to the rightful owners of the traded resources once minimal conditions of public accountability are restored in their countries (2016, 209).

Since his proposal does not consider immigration policies, we provisionally see it as a form of ‘export of justice’. It should be stressed though that the primary focus for Wenar is on reforming and enforcing trade rules in the domestic context, and not on acting directly to reform the political arrangements of exporting countries, however unaccountable they may be.

**Concerns with CTP and more open immigration policies**

The effectiveness of CTP may be questioned, as many scholars did (Wenar et al. 2018), but even if effective, these policies seem to have a rather long-term effect. Due to the issues of feasibility, Wenar proposes that countries introduce these measures in a slow-paced manner (2016, 286). However, it seems clear that simply withdrawing from harmful trade will not immediately improve the conditions of harmed individuals, and for a time their conditions may even be worse (see Blake 2018).

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16Twofold duties are recognized: (1) to stop harming others, by for example sustaining illegitimate regimes and (2) to compensate the victims for caused harms (Pogge 2002; Wilcox 2007, 279).

17Assigning responsibility to citizens may be considered as controversial element of both Wenar’s and our analysis. Ordinary citizens are generally unaware or disinterested in resource supply chains and trade rules of their countries. This, however, does not absolve one of responsibility, at least in democratic countries in which citizens have a possibility to actively participate in the creation of laws. This does not entail moral culpability for harms occurring in exporting countries. However, responsibility to remedy such harms may be ascribed to citizens and democratically elected governments of importing states. See Miller (2007: ch.3) and Stilz (2011), who explain the conditions of collective responsibility.

18This mirrors his concerns with principles such as sovereignty and non-intervention, and the feasibility of the proposal. More open immigration, due to the probable unpopularity (see Pogge 1997), may not be seen as a favourable option. However, this does not negate the requirement for a more open immigration policy from the standpoint of justice (see also Wiens 2013).
Before providing compensation in the form of disbursements from the CTT, some minimal conditions of accountability need to be obtained in the exporting country. This means that some form of decent political order capable of securing basic liberties and accountability should be elected in exporting countries (Wenar 2016, 290). Clearly, this may entail that many years would have to pass before these conditions are established, and many individuals will lose out in the process (Wenar 2016, 298).

So even if CTP may bring positive changes to RC exporting countries, their effect is not to be expected as ameliorating circumstances for many individuals that are currently suffering from rights violations under unaccountable regimes. Oftentimes, the conditions of rights violations cannot be easily and quickly remedied (Wilcox 2007, 285). This seems to hold for countries affected by adverse conditions of the RC as well, since the negative effects of war, authoritarian rule, and extreme poverty may last for a considerable amount of time, allowing further harm to individuals, even after trade has been blocked.

With respect to this observation, it seems that if harmed individuals are the main recipients of remedial responsibility, then the proposal Wenar puts forward is limited. If individuals are taken to have separate lives and experiences, then one currently harmed person cannot be remedied by providing future benefits to some other persons. Many long-term export of justice measures, like aiding in structural and institutional reform, often results in this. Justice that accounts for the interests of currently living individuals requires more than measures that mostly target some other (future) individuals. It is the harmed persons that are owed remedy, and this is often neglected in proposals of remedial policies for injustice on the global level.

In the context of the RC, it is important to notice that it is not only individuals within the exporting countries but also migrants pushed to flee them, that are harmed by resource trade, and owed remedy. Hence, the proposed measures (CTP), which also have a compensatory element (like CTT), do not adequately live up to that fact.

This is why we claim that Wenar’s measures, as well as some other ‘export of justice’ methods, may need to be supplemented by additional policies that target harmed individuals as separate persons that are each owed remedy as a matter of justice.

One set of remedial policies we, thus, propose is more open immigration policy. This policy seems an appropriate response at least in some cases. For individuals that are already in the process of migrating, this is the best available option, especially when the role of both poverty and conflicts in affecting migration is acknowledged. Furthermore, since it is harmed individuals that should be compensated, and when this is not possible by exporting justice, then admission to these individuals should be taken into account as a valuable option (Wilcox 2007, 287).

However, the suggestion is not to make open immigration policy a policy of choice in this context. We do not claim that measures of exporting justice and less restrictive immigration are mutually exclusive, or that one should be abandoned for the sake of the other (Carens 1992, 35). Forcing immigration as the only option would generate additional harm to the harmed individuals and violate their right to stay in their

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19 Collier (2007, 71) showed that it takes more than 50 years for a failing state to reform.

20 For role of poverty and violence in fostering migration see International Organization for Migration, World Migration Report 2020.
country (Oberman 2011). This is why we do not propose to abandon Wenar’s policy options; we consider them (or some other similar methods) essential for the development of a more just global order. However, we believe, the extent and effectiveness of these measures for harmed individuals should be considered. Compensatory measures should not be additionally harmful, nor primarily tailored to suit interests of parties that owe remedy. This undermines the idea that states are free to choose any remedial policy to preserve closure.

The strong right to close borders does not seem warranted when actions of states lead to harm, and when the ‘export of justice’ is not adequately satisfying the separateness of persons (Rawls 1971) or provides benefits to some other, or future individuals (Blake 2013). This right, as rights on which it rests, should be seen as provisional and constrained, as in cases of corrective justice for which we have tried to show elected measures should be such to effectively remedy harms.

However, in Part 3 additional challenges to the conventional view are introduced. The aim is to show that even if there were ‘export of justice’ policies that can adequately provide remedy to the harmed individuals, the right to prevent immigration from RC countries seems unwarranted, due to considerations to harm and benefit from it, which constrain the self-determining choices of states; and inconsistency that characterizes domestic and international dealings with both self-determination and territorial rights, on which a right to exclude is grounded.

Challenges to the conventional view on immigration

Harming others – constraints on self-determination and choice view

Attentiveness to harm is important for many authors who challenge the conventional view. Harming others may be seen as a constraint on the policies of states and the right to exclude (Fine 2010, 2013; Wilcox 2007; Banai 2015). However, it is unjustifiable harm to others that is constraining the conventional view (Lægaard 2013), and with it connected choice view. Harming basic interests to outsiders, especially for one’s benefit, puts some limits on self-determining choices of states.

States that participate in unjust trade with self-beneficial policies that contribute to harming others, we believe, are morally not justified in opting for immigration restrictions when providing remedy to the harmed parties. This conclusion rests on the fact that harm occurs (partly) as a result of actions of some states and, on the fact that remedial policies themselves cannot be tailored to benefit these states at the same time being additionally harmful to parties owed remedy.

On the one hand, importing states participate in actions that harm basic interests and rights to others. This harm is partly the result of states opting for MMR rule which aids the interests of unaccountable actors and human right violations that often follow

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21Although the aim of this paper is to show that participatory countries are required by justice to introduce more liberal immigration as one policy of remedy for harms fostered by unjust resource trade, this need not mean that other migratory schemes and policies, introduced individually by each state or cooperatively, should not be taken into account. Since many of those harmed will stay in the exporting countries, remedial policies should be tailored to adequately answer to their claims as well. This means taking the effect of migration on those that remain into account. Analysis of different migration schemes tailored to address these effects are, however, a potential second step of research with which this paper is not engaged.
in exporting states. The way importing states arrange their trade lies in their sovereign rights and is result of their self-determining choices (see Wenar 2018, 10–11). MMR rule clearly brings significant benefits to importing countries. Consumers and corporations strongly benefit from stable supply of resources and access to easily obtained and produced commodities. As was previously shown, this arrangement harms the citizens of exporting countries by perpetuating conditions of poverty or human rights violations.\(^{22}\)

On the other hand, opting for free choice of remedial policies, such as providing other options in place of allowing immigration to harmed parties, may itself be considered harmful, since it restricts vital interests of immigrants fleeing severe conditions of RC countries (see Hidalgo 2014, 10). This restriction, however, does not seem morally justified. When non-citizens are harmed by actions or policies of some states that benefits from that harm, then this puts some constraints on the policies of that state, especially in the sense of autonomously choosing remedy to that party. Self-determination, on which the right to freely choose policies is grounded, is a moralized claim. It is justified by legitimacy of the collective and respect of human rights to others (Wellman 2008). While it can be seen as protecting important freedoms, it is constrained by freedom of others and it does not give licence to unjustifiably harm them (Banai 2015). Immigration restrictions prevent people from escaping harms that occur in RC exporting countries. Restricting immigration removes exit options to individuals harmed by actions in which states opting for restriction participated. Restricting the possibility of migration to persons fleeing the RC brings additional harm to generally strong welfare interests that these individuals have in migrating. Excluding them often removes only viable option to escape harms. Furthermore, taking them as main recipients of remedial justice means taking their interests and choices as relevant. So, if persons from RC countries have already migrated, or have chosen to do so, then preventing that choice means not taking their interests seriously and allowing for further harm to occur (Wilcox 2007, 287). To ignore the choices of harmed parties, or force other options upon them, risks being additionally harmful and ultimately disrespectful.

States that have benefitted from harmful polices and that owe remedy seem constrained in freely choosing the way to fulfill those remedies, especially by opting for policies that further better suit their interests (e.g. by choosing export of justice in place of more liberal immigration). This follows from the idea that self-determination itself is constrained by a duty not to inflict unjustifiable harm to others and that remedial policies should not bring additional harm, which also means taking interests and perspective of harmed individuals into account when fulfilling them. In cases of migrants from RC countries, this may mean allowing for their immigration to importing states that participated in harming of their interests, as an option they have selected to better their position.

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\(^{22}\) Accruing benefit from harm, even when unintentional, provides additional reasons to remedy them (see Miller 2007, 102–103). Indirect benefit may also foster some remedial responsibilities and various global actors may indirectly or unintentionally benefit from the described trade. However, the primary focus is on the importing states that by their actions (opting for MMR rule) contribute to a negative outcome (harm to people of exporting countries). The benefit from these actions play only contributory role in assigning remedial responsibility (see Miller 2007, 97–108), it is not its main justificatory strategy.
Exclusionary policies and inconsistency

Territorial sovereignty and exclusionary policies

Territorial sovereignty consists in right to non-intervention and territorial jurisdiction, resource rights and the right to control territorial borders (see Stilz 2019: Introduction). As previously stressed, self-determination and territorial rights are grounds for the right to exclude. Preventing admission into a territory and political membership to immigrants implies having rights over the territory to which prospective immigrants request admission (Miller 2016, 57–62; Song 2018, 2019, 61–67; Moore 2015: ch. 9) and right to determine the policies and development of society, including membership policies (Miller 2016, 62–63; Wellman and Cole 2011, 40; Song 2019, 53).

These rights belong to the political community and are protected and enforced by the state representing it. Under the assumption that some minimal conditions, as legitimacy or occupany rights are obtained, the state is entitled to territorial sovereignty, including the right to control immigration and the right to manage the resources of the territory.

Territorial sovereignty, thus, implies some exclusionary acts towards outsiders. When states restrict immigration or manage their resources, they exercise exclusionary rights and claim them against non-members (Stilz 2019, 157). The rights over territory as rights over membership entail that some will be excluded from enjoyment of territorial and membership entitlements and benefits. All this requires justification, and some minimal levels of fulfilment of global and corrective justice seem needed to justify the exclusion. Minimally, it seems, allowing for others to justifiably exercise similar rights is needed to justify territorial sovereignty and subsequent exclusionary rights. Sovereign state system and territorial sovereignty should be justifiable to all. Allowing others to exercise their territorial sovereignty rights is thus required to justify such institutional arrangement and respect important autonomy interests to others.23 Their exercise, as well as exercise of rights that follow from them, may at times be justifiably restricted.

Ensuring fair terms of economic cooperation and background conditions to ensure self-determination of others may be seen as examples of preconditions to exercise exclusionary policies (Stilz 2019, 15–17; Miller 2005b). Failure to observe these conditions in the international trade with resources leads to harming territorial interests of people of RC countries and disallowing the achievement of their internal self-determination.

International trade with resources, rights of others and inconsistency

By choosing the MMR rule, importing states participate in restricting of the territorial and resource rights of people of exporting countries together with their interest to be self-determining. Furthermore, as previously showed, it is the right of the people to their resources and benefits from their management that is being violated. Unauthorized sale is legitimized and recognized as legal in the context of international

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23 We follow Stilz (2019) who stresses that territorial sovereignty should be justified not only internally, by showing that important interests of members are protected with such institutional arrangement, but also externally, to outsiders as well. Lockean fair use proviso, or allowing exercise of territorial sovereignty to outsiders is stressed as needed to justify exclusionary territorial sovereignty rights. This proviso rests in need to to protect important individual autonomy interests to all, and also serves to address cosmopolitan worry against exclusionary claims over territory.
trade. In effect, by engaging in trade with authoritarian regimes or non-state actors, and in the absence of any accountability or government legitimacy in exporting states, importing states participate in the persistent violation of territorial and resource rights.

Lacking popular support, regimes that engage in the trade with resources lack the right to do so. This conclusion leans on the idea that territorial rights ultimately belong to the people and not to regimes that do not adequately represent them. States or regimes only have rights insofar as they represent populations that occupy the territory (see Stilz 2009, 2019; Song 2019). Regimes or militias in RC exporting countries do not satisfy conditions that could legitimize their rights over territory and resources. They do not represent interests of the population nor provide possibility of consent to trade; instead of securing basic justice these regimes often oppress people and use violence to maintain power disallowing possibility of people’s self-determination. Popular sovereignty and public accountability of a government or regime would allow citizens of exporting countries to manage natural resources found on the territory of their states and to benefit from their sale (Wenar 2016: Ch.10). However, precisely this is significantly constrained in cases of the RC.

Furthermore, for people to be self-determining, some minimal conditions need to be obtained. A political arrangement that ensures accountability to citizens and authorization of government decisions is needed to achieve internal self-determination (see Song 2019, 54; Stilz 2019, 128; Miller 2016, 69). For citizens to be able to freely act, or to shape the future development of their community, some political order that represents their interests needs to be obtained. However, the MMR rule contributes to the perpetuation of authoritarian regimes, in which people cannot manage territorial resources or be self-determining. More precisely, MMR rule incentivizes authoritarians and unaccountable actors to use force to control the sale of resources, often without the knowledge or approval of the population, and to use profits from that sale for their own benefit. Revenues from trade aid violent rulers to control territory, consolidate their power and hold population in control. This often makes it impossible for population to elect accountable government that would protect their rights and enable them a degree of political power. Thus, by participating in resource trade, importing states contribute to the conditions that constrain the possibility of fulfilling the right to self-determination of the peoples from RC countries and, by doing so, they participate in harming their interests and rights. It is the policies of importing states, their sovereign choice of using MMR, that contribute to the negative background factors making it less possible for people of exporting states to achieve internal self-determination.

To achieve self-determination, minimally the basic rights of inhabitants need to be protected, the conditions for creation of the deliberative public opinion achieved and mechanisms for revoking government decisions secured (Stilz 2019, 128). Without the achievement of internal self-determination, it is less possible for people of exporting state to claim their resource right and enjoy benefits from them. Exercise of the resource rights is thus corollary of self-determination (Stilz 2019, 232). People cannot manage their resources in the absence of responsive government, where the possibility to access information about management of resources and the possibility to revoke government decisions is unavailable (see Wenar 2016, 227–228).

We, thus, follow Wenar in showing that resource trade arranged around the MMR rule, plays a role in restricting the achievement of self-determination and exercise of the
territorial rights to populations of exporting countries. If this is analysis is correct then it is clear that fair economic cooperation is not observed, and that self-determining choices of some states, lead to restricting the background conditions for achievement of self-determination to others. This generates responsibilities of corrective justice and may in this context to some extent affect the exercise of territorial sovereignty of importing countries.

Inconsistency and immigration policy
In this case, we believe, an inconsistency arises with respect to exercising the same set of rights in the international and domestic context. This inconsistency has a bearing on the form of corrective justice that importing states elect, which can reinforce our proposal to introduce more open immigration policies as a form of remedy.

As previously stressed, when states control immigration, they exercise their self-determination and territorial rights. However, by opting for MMR rule, they play a role in restricting of precisely these rights to others.

What states protect and claim in the domestic context, among other things by restricting immigration, is what their market conduct violates in the international context. If it can be shown that importing states contribute to violation of territorial and self-determination rights of peoples of exporting countries and subsequently have some duties to remedy these harms, then it seems that invoking the same set of rights as a reason to freely choose remedial options to harmed parties and restricting their immigration is limited.

When states participate in harm by their freely chosen actions, then invoking these rights to restrict some options, like immigration, to harmed individuals seems morally unjustifiable. MMR rule is a result of exercise of self-determination of some states, which allows for restriction of self-determination and territorial rights to others. If this analysis is correct, then claiming these rights, as ground to prevent remedial immigration, seems morally unwarranted.24

This, clearly, limits some rights to importing states, like the right to exclude and freely choose the way corrective justice can be observed. However, these rights as rights on which they are grounded are not unlimited and absolute. They are minimally constrained by not unjustifiably restricting them to others, which is allowed by participation in unjust economic cooperation.

Limits on some choices of importing states, that result from this inconsistency, do not mean that states have lost their right to self-determination or territorial rights.25 These rights have their internal justification, based on protection of important individual interests of members of the collective that states represent. However, the full exercise of these rights is in some cases not morally justified. It shows that it is morally unjustifiable to invoke the same rights that were harmed to others to elect exclusionary and self-beneficial policies, especially when remediing harms that resulted from exercise of these rights. Minimally, it seems that admission to the territory of importing

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24Both territorial and the right to self-determination are collective rights and cannot be held by individuals (Nine 2012, 18). However, restricting them affects members of these collectives (see Altman and Wellman 2009, 38–39). Apart from violating these rights to a specific collective, it brings harm to individuals, as a consequence of said restriction.

25This implies that even when legitimacy of some states is questioned, not all sovereignty rights are forfeited (see Altman and Wellman 2009, 148–153).
states should be allowed to individuals harmed by restriction of territorial and self-determination rights by importing states. This reinforces the proposal of a more open immigration policy as an additional option for discharging remedial responsibility. It does not make this policy the only appropriate remedy for harming territorial and self-determination interests of others in the context of resource trade. It simply shows that this remedial option should not be restricted by invoking the same set of rights violated elsewhere.

**Concluding remarks**

In this paper, we tried to connect the analysis of international resource trade and immigration debate. We tried to show that if the relationships that are obtained between actors of trade can be described as complicity in harm, then implicit resource importing states are morally required, in addition to ‘exporting justice’, to allow immigration into their territory as a form of remedy. We have tried to show that the proposed ‘export of justice’ measures, like CTP, do not always adequately target harmed individuals as primary recipients of remedial justice, and that they should be supplemented by additional policies. More liberal immigration can be one policy to provide a short-term and direct remedy, especially to individuals who opted to avoid harm by migrating. This does not make it the best policy or the policy of choice. However, proposing it as an option to remedy harms goes against the conventional view on immigration, which claim that other measures of exporting justice are enough to preserve closure. The conclusion of the conventional view is thus rendered unwarranted in the context of resource trade. Self-determination and territorial rights on which this conclusion is grounded are constrained by engaging in harmful and self-beneficial policies and inconsistency in international and domestic dealings with respect to both rights. Citing them as grounds of the right to exclude to those who suffered restriction of the same rights is unjust. Justice thus requires importing states not to prevent immigration from RC exporting countries.

We acknowledge that there are objections to our use of Wenar’s and complicity analysis of global trade relationships, or to the proportionality and feasibility of a more open immigration policy as a form of remedy. We have stressed that we accept Wenar’s analysis of trade relationships as generating remedial responsibility. If this account can be accepted as a plausible way of explaining global trade then some additional remedial policies that target harmed individuals should follow. The feasibility or strategy of enforcement of these policies is not a part of this paper. We tried to show that consistency and morality may require some action, even if this action is somewhat unpopular or problematic in light of practicability or potential unintended consequences. The discussion thus remains on the level of what we take requirements of justice to be in a specific context with the focus on immigration fostered by resource trade.

Our proposal is limited in scope, targeting only migrants coming from RC countries. However, we believe it can point to a more general direction of taking more open immigration as a policy of remedy when unjust global relationships are obtained. One example can be related to climate change, which is expected to significantly affect migratory movement. Since actions that affect it can be traced both historically but
also currently more to self-beneficial policies of some countries, remedial duties may follow. Apart from the array of ‘export of justice’ duties, allowing the migration of climate refugees may be one of the remedial policies requested by justice, especially in cases in which consequences of climate change leave entire populations without the access to their territory and with it connected possibility to exercise self-determination (see Nine 2012: ch. 8). Similarly, in cases of contribution to conflicts or war, states may bear responsibilities to host migrants from affected territories. The argument may also extend to the matters of historical injustice, e.g. in cases of exploitative colonial rule. Contribution to harms to local population, which included restricting both their territorial and self-determination rights, may have an impact on migration from these countries and may require specifically tailored migration policies as a form of reparative justice. These examples show that, even in cases where freedom of international movement is not established as a basic human right, the presupposition of a strong right to control immigration may be subject to further analysis.

The rights on which the right to exclude immigrants is grounded should be conceived as limited and subject to some restrictions. In this paper, we try to show that engaging in policies harmful to others, especially when restricting important rights and interests, such as territorial or interests in political freedom, may provide a reason to limit a right to exclude, especially in cases in which immigration itself is a form of remedy for certain injustice.

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