

# **Closed Borders, Open Immigration: Can nationalism ground the right to exclude?**

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## Abstract

I argue that the nation does not possess the right to close its borders, or otherwise determine entry into its territory. Focusing on intrinsic justifications, I explore two essential elements of nationalism as a basis for this right, i) the prioritisation of one's (obligations to) co-nationals and ii) the protection of national culture. In the first instance, I posit a novel interpretation of nationalism as *immunisation* against the foreigner, used to strengthen and unify national identity and cohesiveness. Second, I apply this interpretation in looking at the role of associative obligations (i) in grounding the right to exclude. I differentiate between direct associations – formed from relationships – and indirect associations – formed *through* communities – to argue that the latter cannot coherently produce obligations. Third, I apply the interpretation again to focus on the protection of national culture (ii). I show that as a morphological concept, constructed *through* as well as *against* the foreigner, national identity is not actually protected through excluding non-members. Ultimately I conclude that the right to exclude cannot be grounded in nationalism. I thus hope to show that the onus is not on why there should be open borders, but why there shouldn't.

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## **Introduction**

The members of a national group supposedly have a say in determining who to grant and who to deny national membership (Walzer, 1983, p.32). I argue that this right to exclude potential immigrants is justified by one of two foundational reasons. Either

- i) The group's desire to prioritise their (obligations to) co-member's,

or,

- ii) The group's protection of its culture.

However, I argue that neither of these reasons are successful in justifying the right to exclude. In section 1, I discuss the concept of nationalism, and elaborate on i) and ii). I largely focus on non-civic rather than civic nationalism, simply because the latter, with its concerns for inclusivity, would have little reason to claim a right to exclude (Harris, 2009, p.29). In section 2, I posit a novel interpretation of nationalism as *immunisation*, which emphasises how non-national cultures strengthen and unify the national group. In sections 3 and 4 respectively I address the above two foundations for the right to exclude, making use of the interpretation provided in section 2. Firstly, I argue that if we wish to maintain the foundational value of liberal political philosophy—the moral equality of persons—then associative obligations, those duties prioritising co-nationals over non-nationals,<sup>1</sup> cannot be accepted (section 3). Secondly, I demonstrate that the exclusion of immigrants does not actually support the aim of protecting national culture (section 4). Ultimately, I therefore conclude that there is no intrinsic grounding for the right to exclude. Unless practical reasons (such as economic or demographic circumstances) prevent it, international borders should therefore remain open.

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<sup>1</sup>Throughout, I use "foreigner", "non-national" and "non-member" interchangeably

# I

In this section I make lucid the reasoning behind i) and ii), and their connection to the right to exclude. I outline the problem of immigration. I then elaborate on my understanding of the nation and expand on the two essential features of nationalism. Finally, I discuss the attribution of group rights and connect nationalism to a more recent defence of the right to exclude from Wellman (2011).

Note that 'immigration occurs when someone moves to one country from another', for whatever reason, usually for the long term (Wellman and Cole, 2011, p.1). As an ancillary, freedom of movement is an individual's ability to go where they wish uninhibited. The problem of immigration is that supposedly universal values of freedom and equality, giving rise to a *right* to freedom of movement, produce tension against non-civic nationalism's claim towards a right to exclude on the grounds of protecting its people or identity. Not only, but, as Higgins (2013, pp.10-13) articulates, many of the problems of global justice would be alleviated through the dissolution of closed borders. Despite arguments evidenced from Libertarianism, Rawlsian Justice as Fairness and even Utilitarianism (Carens, 1987), the right to closed borders is maintained due to the importance, largely, of a singular factor: nationalism. Questioning immigration justice therefore means interrogating the tension between liberal values and the significance of national identity. Any defence of the right to exclude, if it wishes to remain consistent with liberal theory, must therefore achieve the following generalised condition:

RE: The right to exclude must be independently justifiable, sufficiently override concerns regarding free movement and arise coherently with pre-existing individual rights.

That is to say that the right cannot *undermine* or *contradict* pre-existing individual rights, but that it can still come into reasonable *conflict* with individual rights.

I turn now to elucidate on the nation. This can be divided into two necessary political and cultural "dimensions" (Smith, 1991, pp.9-10), useful in differentiating it from other merely cultural groups (McKim, 1997, p.259), and providing a neutral definition of the term (Delannoi, 2017, p.139). The nation's cultural dimension expresses individuals feeling distinct belonging to a particular, unique cultural tradition (Berlin, 1990, p.244-245) with common goals individuals 'believe to be worthwhile' (McKim, 1997, p.261). The existence of *multiple* cultures alongside this is not necessarily problematic as result of both the national culture overlaying itself on top of more local cultures to provide commonality, and of the further unification offered by the nation's political dimension, which represents its institutions and governmental bodies (Smith, 1991, p.10). Its unified citizenship, authority and systems of mutual commitment and support therefore play a second part in generating a historical narrative of belonging (Miller, 1997, pp.23-24). The desire to direct, control or protect this resultant identity, and map its destiny, is that political dimension possessing a state allows to be realised.

Nationalism combines these two dimensions to claim that they should coincide: the nation should possess self-determination, permitted through independent state governance (Copp, 1997, pp.278-280). Yet, recognising the importance of, or even achieving self-governance doesn't always lessen national sentiments (Canovan, 2001, p.206-211)—put simply, self-determination as self-governance is not enough. I suggest that this is so for two reasons. Firstly, it continues to remain unclear how we should organise our duties to others. The unit of discussion for Rawlsian justice is the 'self-contained' closed society (Rawls, 2005, p.12) - a group much like the modern nation-state. As such, we might presume we first have duties to those within our nation and next to those worldwide, under other nation-states. Yet how do

we then accommodate the pressing moral demands of non-nationals who might be far more needy or deprived than our co-nationals (Scheffler, 2001, p.56)? Either we argue that justice extends globally (MacDonald and Ronzoni, 2012), supporting non-nationals, or we continue to prioritise our co-nationals—with no obvious way of reconciling the two. Secondly, liberal democracy's focus on the rational individual fails to comprise an understanding of the shared way of life and culture which retains central importance for identity (Parekh, 2000, pp.118-122). Each group desires to protect and preserve what is their own from "foreign" individuals and cultures.<sup>2</sup> The problem here is that solely considering the individual *as an individual* does not address this. Instead, we need to view things from a group level and we end up with 'two competing values, [the individual and the group,] that have to be weighed against one another' with no obvious solution for doing so (Barry, 2001, p.117).

These two points expose two essential features of nationalism over and above self-determination, producing the tension I previously mentioned between the right to freely migrate and the right to exclude. These are:

- i) A desire to prioritise co-nationals through associative obligations. Such duties are less easy to invalidate due to their increased strength and take precedence over duties to non-associates/non-members (Scheffler, 2001, p.52).
- ii) A desire to differentiate and protect one's culture from others, controlling the course of the national future.

From this we can begin to see how the two reasons above could ground a right to exclude based on nationalism. I shall come back to and elaborate on this shortly. Firstly, though, I address the notion of group rights.

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<sup>2</sup> See section 2 for a broader elaboration of this.

A group right is possessed by a group qua group. It is characteristically "special"; it doesn't arise naturally, but in conjunction with the group's circumstances (Ingram, 2000, p.14). Many take for granted that a nation may possess such rights. However, as we shall see, nations(-states) are not like people, so it is unclear what grounds their rights-status. Nonetheless, I make the same assumption in order to fully challenge the right to exclude. I would like to note several things, though. Firstly, the right to exclude is a 'claim-right'—that is, a right against someone performing a particular action (Waldron, 1984, p.6). Specifically, acts of free movement across borders. It must present reasonable grounds for this restriction, consistent with condition RE above. Secondly, if we are to consider the right to exclude for a nation, that nation ought to have a distinct connection to a particular territory (Miller, 1997, pp.24-25). Third, the nation needn't possess a state (Harris, 2009. pp.38-40). Hence, it makes sense to argue that a central national group right is that of *Self-Determination*; the right of that group to 'constitute itself through a state' (Copp, 1997, p.277).<sup>3</sup> Fourth, the right to exclude is what Kymlicka (1995, p.35) calls a group's *externally protective* right, which prevents external oppression, rather than an *internally restrictive* one, which permits the enforcement of particular ways of life. Finally, I am solely concerned with *legitimate* nation-states, those which 'adequately protect' the rights of their members and 'respect the rights of all others' (Wellman, 2011, p.16). Such groups will be characterised by voluntary membership (Barry, 2001, p.147).

These last two elicitations assuage many initial worries. For instance, Tamir (1997, cited in Barry, 2001, p.128) claims that group rights are 'either dangerous or of little importance' but this applies only to *illegitimate* political groups or to the *internal* management of the affairs of a group. That, for instance, a community could enforce the subjugation of women through a group right to prevent the disappearance of a certain "cultural traditions" is an example of

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<sup>3</sup> I use "nation" and "nation-state" interchangeably, however.

Tamir's concern. Yet, as well as regarding *internal* affairs, this also constitutes an illegitimate political practice due to its injustice.

Given all this, we can differentiate between *intrinsic* and *practical* reasons to justify the right to exclude. Reasons of nationalism constitute an intrinsic justification due to their focus on the group itself, while a practical justification, such as the maintenance of stable population levels (Miller, 2014, p.371), is based upon certain contingent circumstances arising, such as overpopulation. I am concerned only with the former. Specifically, if we want to test the full possibility of the right to exclude we must do so in ideal circumstances. I assume, then, that individual rights are met and injustices addressed by those who maintain a qualified right are resolved.<sup>4</sup> *Attributing the right to exclude therefore becomes a matter of whether a national group is justified in determining who should possess membership.* If a right to exclude cannot be maintained under these circumstances, then arguably nations would equally have no intrinsic reason to reject in circumstances of injustice, such as for asylum-seekers.

Sourcing an *intrinsic* grounding entails that the right to exclude has to be connected to the two points, i) the prioritisation of co-nationals and ii) the protection of culture, explained above. How might we more formally ground the right to exclude in these two reasons? Wellman's more recent defence of this right is a good starting point. Though he bases it on freedom of association alone, consequential concerns are what give his argument its motivating force (Cole, 2011, p.241-242). Wellman (2011, p.13) presents the following:

1. 'Legitimate states are entitled to self-determination'
2. 'Freedom of association is an integral element of self-determination'
3. 'Freedom of association entitles one not to associate with others'

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<sup>4</sup> Such as Walzer (1987, pp.48-51; pp.56-63) and Miller (2008)

4. Therefore 'legitimate states may choose not to associate with foreigners, including potential immigrants' and maintain a *right* to exclude.

Premise 1 should be held to include nations as the bearers of states. I do not question this premise's validity here. Premises 2 and 3 appear to true in the case of individual relationships. It is in extrapolating this onto the state level that Wellman has been met with criticism due to the importance of consequentialist concerns in justifying this move. I emphasise that Wellman's avoidance of addressing this through "nations" is likely down to his desire to differentiate himself from strictly cultural defences of the right and place his argument within a discussion of deontological reasons (2011, p.45-57). Neglecting this, however, leaves his argument open to critique: as Fine (2010, pp.345-346) points out, Wellman fails to explain how communal bonds through culture form the group's unity, allowing it to express freedom of association *as a group*. By including a conception of the nation, relating Wellman's account to i) and ii), we can draw out these concerns, which, as Cole (2011, p.241) posits, are central to his argument. I do this in premise form in section 3 and 4. Section 3 focuses on i), the prioritisation of one's (obligations) to co-nationals, where I specifically explore how co-nationals can be seen to associate with one another *through* their membership, thus interrogating whether this provides unifying *partiality* between members. Section 4 subsequently focuses on ii), the protection of national culture, where I draw out the centrality of the continuity of common identity for self-determination and contest whether the right to exclude would protect this.

I have thus provided an overview of the ways I perceive to be exhaustively possible to *intrinsically* ground the right to exclude. With this understanding in mind, I turn now to a brief overview of the interpretative mechanism I will employ.

## II

It is not uncommon to perceive of the nation as a "body" of individuals. If we extend this metaphor further, we might perceive nationalism to be the nation's "immunitary" function, protecting and strengthening it against the exterior, much like a human body's. Esposito (2011) develops an understanding of communities based on this metaphorical use of *immunisation*. In this section, I adapt and apply this interpretation for use in understanding nationalism. I therefore present a brief overview of nationalism as *immunisation* which I shall refer back to in sections 3 and 4.

The immunitary interpretation places the foreigner as highly significant in forming, unifying and binding the nation together through nationalism. Just like a biological body, Esposito writes, 'to survive, the community—every community—is forced to introject the negative modality of its opposite' (2011, p.28). I would argue that this perception of nationalism directly places the foreigner, rather than the nation itself, as its object. It is only indirectly, through the foreigner, that nationalism comes to affect the nation itself. Immunisation therefore aims to expose the way in which a group (X) protects, binds and strengthens itself through the foreigner (Y) not only to survive, but to flourish. Y may or may not be a part of a group, as long as they are *perceived as not-X, not a part of the host identity*. I therefore refer to nationalism as the nation's *immunitary function* in direct comparison with the biological immune system. As in the biological sense, nationalism can be seen to identify individuals who are either within or outside its locus and, subsequently, attempting to "negate" this foreign presence in order to protect and strengthen the national group. Negation occurs either by assimilating Y, having them accept full cultural and political integration into X; or, more commonly it would seem, by presenting Y as outside and directly opposed to X, in short, by emphasising their *difference*.

The immunitary understanding makes the foreigner's identity formative in the creation of the nation's own. Note that a single communal village, isolated from the rest of humanity will form an identity *without* foreign contact. Traditions and cultural practices will spontaneously arise. Nonetheless, as long as this village remains isolated from the rest of humanity, its culture will not appear to be as charged with the intensely characteristic, meaningful and impassioned identity which exemplifies large communities—and modern nationalism. The immunitary understanding focuses on the way in which our answer to the question "what is nation X's character?" turns on not only the *positive* qualities which typify that culture, present in the isolated village—for Britain, crumpets, red post boxes and driving on the left—but those *negative* aspects against which the nation generates "immunity", through nationalism. That is to say, the fact that the British do not drive on the right and do not eat croissants for breakfast are, notionally, absorbed into the public knowledge and used as references points both to *re-emphasise* and to *realise* those positive qualities. The ubiquitous use of the word "sorry" in Britain is a good example. It is only through contact with a non-national that a British person comes to realise that this is a feature of the culture they come from. This realisation itself generates nationalist sentiments, strengthening the individual's sense of belonging. Hence, the marked differentiation that occurs when two non-nationals come into contact allows opportunity for reflective identification: each person strengthens their notion of who they are not against, but through who the foreigner sees them to be.

I reiterate that the above is only a schematic overview of the interpretation. As I will emphasise in section 4, it does not entail a static notion of national identity, but on the contrary an ever-changing one that incorporates external narratives/influences. I shall explore it further in the next section on the prioritisation of one's co-nationals and the subsequent on the protection of one's culture.

### III

I presented two essential components of nationalism as an intrinsic grounding for the right to exclude. Relevant for this section is the first, *the prioritisation of co-members* through associative obligations/duties. I formally state the reasons relating the first argument to the right to exclude, extending on Wellman:

5. Within a nation, all members can be considered to be the indirect associates of other members *through their membership*.
6. This association is important enough to give rise to the possibility for the formation of associative obligations.
7. These associative obligations are 'central to the way that the relationship is understood by the participants' (Miller, 2005, p.66).
8. Control over to whom members have such associative relationships is an essential component of the group's self-determination (Wellman, 2011, pp.29-33).
9. Therefore legitimate states have the right not to associate with others, including would-be immigrants, based on their prioritisation of one another.

In the following section I first explain my understanding of associative obligations. I then elaborate on what I mean by 'indirect' associates in premise 5. Subsequently, I challenge premise 6 by looking at the nature and formation of associative duties through the immunitary interpretation. I show that the right to exclude, grounded in this way, contradicts the condition RE above, that the right should arise coherently with individual rights. Given the argument I present, I explain the falsity of premise 7 and ultimately conclude that the prioritisation of one's co-nationals is not a justification for the right to exclude.

In accordance with moral equality, we generally believe that we should let all person's interests count equally when considering moral dilemmas (Gewirth, 1988, p.283). This might

be seen as the central goal of *ethical impartialism*, at the extreme end of which everyone is always considered equally, regardless of identity. General duties make sense of this as the correlative of everyone necessarily possessing rights *qua* human (Magnell, 2011). Their generality is defined by the fact that no special arrangements, relationships or contracts must exist for them to be maintained. Yet, our moral intuitions are also often motivated by a very desire to favour certain others. To illustrate this, imagine the following:

Example 1: Both your own sibling and a stranger are suddenly homeless. Who do you help, given that it can be only one person?

Few would argue that *partialism* towards one's sibling is not permissible here.<sup>5</sup> This is because of our *associative* duties to our sibling which are less easy to invalidate, have increased strength and take precedence over duties to non-associates (Scheffler, 2001, p.52). Partialism allows a 'split level' position to arise: overall, we might say that we have general duties, but in certain circumstances favouring others is permitted, or even required (Miller, 2005, p.63). Yet, things become more complicated when we imagine the sibling being replaced with associates of decreasing importance. For example, a friend, fellow "club" member or co-national.

This split level position therefore leaves three questions: how is partialism justified, when exactly is it permitted and what kind of duty does an associative one constitute? The first question is sidelined here. I take Collins's (2013, pp.909-910) and Cole's (2011, pp.211-216) position in arguing that full partialism cannot offer an adequately independent justification for our obligations. I assume that we must refer to universal impartial principles in justifying cases of partialism, such as the desire to see partiality towards relatives universalised (Collins, 2011, p.911). The thrust of my argument will be responding to the second two questions, claiming

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<sup>5</sup> Godwin (1793, cited in Goodin, 1988, p.665) is an example of someone who would. I do not engage with this position.

that when we critically analyse the notion that co-nationals associate with one another the inherent contradiction in the supposed associative obligations which arise is revealed, but this contradiction does not exist for other forms of association. My argument depends on a division between *direct* and *indirect* relationships which I now present.

Tenably, certain duties 'are justified on their own terms by reasons specific to the interpersonal connection between the duty-bearer and the beneficiary—either *qua* humans, for general duties, or with respect to their special relationship for associative duties' (Lazar, 2009, p.92). Yet as true as this seems for general obligations, it is not always for associative. This is because the "special relationship" is of two kinds: either it arises out of a *direct* relationship with another, for example, the bonds between family members, or it arises through an *indirect* relationship, such as connections to national co-members. The group mediates the relationships of co-members, giving rise to the possibility for associations despite the lack of direct relationship, as in premise 5. As a result of this, we see that *direct* relationships exist with only a limited number of family, friends and acquaintances. In the case of these, Lazar's argument that duties are justified on their own terms still holds; it seems appropriate to say that the associative obligations arising are distinct from the general duties to others *qua* humans due to their being formed out of the relationship itself. In example 1 above we favour our sibling *because* they are our sibling. In the case of indirect associations however, such as nations, things are not so simple. *If* we assume that such duties still arise then I argue they do so not independently but by *depending on* the general obligations.

In order to justify this claim, I explain how indirect associative obligation would arise, exposing their contradictory foundation. The understanding of nationalism I offered above, in section 2, becomes useful here. If we go back again to the isolated village then notably the people in the village constitute *the whole* of the human race for the villagers. Towards other villagers they do not have a direct relationship with, they would only have general duties:

there is no one "below" the other villagers in order of prioritisation for them to have the capacity for more forceful duties, hence it would be absurd to say that the villagers have associative obligations to their co-villagers.

Imagine that the village suddenly comes into contact with the outside world, however. Their range of general duties is immensely expanded. Now it might make sense to say that each villager has a stronger, associative obligation to their co-villagers in virtue of their citizenship. The "base" of their general obligations suddenly changes. The outsider is placed *below* the co-villagers in order of importance because of their status as an outsider. Yet, necessarily most 'special duties derive the whole of their moral force from the moral force of... general duties' (Goodin, 1988, p.679) because only general duties are pre-given. The immunitary interpretation draws this out: without the general obligation towards everyone *qua* human, without this new "base", there would be no associative obligations towards co-villagers *qua* co-villagers. Just as 'one is included by excluding' (Esposito, 2011, p.42) one can only have the associative obligation by denying one's more general obligations. As Esposito emphasises in a separate case, 'the affirmative bond of common obligation' is reversed (2011, p.25) to produce associative obligations. Hence, the co-villager is placed lexically prior only because there are those who are "not-villagers".

This is problematic because it begins to undermine the general obligations themselves, presenting a case of *incompatibilism*. If associative duties depend on general duties to arise but by arising must effectively deny the general, then their foundation is removed and hence contradictory. I suggest this is necessarily so. Even if we present 'reasonable' qualifications, as Miller (2005) attempts, then the rights of non-members cease to matter, because we are unable to consider outsiders without comparison against our associative obligations to insiders, which continually places our co-members in priority. If we reconsider what grounds our

general rights—our status as moral equals—then we can see that this very status is compromised where associative duties of this kind arise. Imagine the following:

Example 2: You suddenly discover that a co-national and a foreigner are both in danger of being hit by a separate piano falling from two separate windows. Assuming it can be only one person, who do you leap to save?

If we favour the co-national because of our indirect associations, then our favouring them depends on the fact that we have *merely* general obligations to everyone else. But if we have such associative obligations then we were always going to save our co-national. The foreigner is inactively considered because, comparably, we have already dismissed them as not having the relevant identity for full consideration. Hence, the equal status is undermined by our favouring our co-nationals and, contradictorily, by doing so the basis of indirect associative obligations are undermined.

If the right to exclude is to be grounded in associative obligations then its foundation therefore violates the condition that this right should arise *coherently* with our individual rights (RE). Yet, associative obligations are not the only kind of special obligations we can have. To test the above, it might be useful to see how our other kinds of obligations play out. See the following two further examples:

Example 3: You are a long-time member of a small running club whose members you know relatively well. While out jogging, a fellow member and a stranger both fall and smash their head simultaneously. The injury is fatal if not immediately treated. Who do you help?

Example 4: You have just joined a larger running club and do not know anyone. The same event as in example 2 occurs. Who do you help?

In example 3, we are *ethically* partial to our fellow runner, not because we are both members of the same running club necessarily, but because of our direct relationship to them—just as with our sibling in example 1. However, in example 4 if we give *ethical* priority to our fellow runner then this would be a result not of our direct relationship, but their shared membership within the running club: such an obligation would be dependent on our general obligations, as above. Is ethical priority the kind of priority we actually give them though? Certain other special obligations arise out of contracts, promises or reciprocal arrangements (Hart, 1955, pp.183-187). The benefit of being in a running club is awarded from these special, *non-associative* obligations. Partialism might be justified in example 3, therefore, in virtue of the reciprocal agreement made between the members. The partialism is not *ethical* therefore, but *contractual*. Why does this kind of contractual arrangement not hold in the case of the villagers and by extension, a nation?

In short, because, 'as a number of theorists have emphasised over the years, states are not like clubs' (Fine, 2010, p.350). It might be true that national membership generates special obligations, but these do not extend to give special, contractual or ethical, priority to co-members. As, Macedo (2007, p.73) points out, we might be said to have duties of distributive justice to maintain our state's just institutions, and this is especially so, according to fair play, if we use the state's services. Yet, though this constitutes a special obligation which will indirectly provide support for co-members, it does not constitute a directly ethical association between members. Our being bound by the same set of rules of authority does not give sufficient, independent reason for further associative obligations (Higgins, 2013, p.55), so if they were to exist they must be additionally mediated through the indirect measure of our mutual identity. As I show above though, this is not tenable. Further, it is tenuous to presume we enter into any kind of consensual/contractual relationship with our fellow members (Simmons, 1979, chaps. 3 and 4) that would merit our giving them associative priority.

I believe that this therefore invalidates the possibility for associative obligations between co-nationals, disqualifying premise 6. A final test of whether this holds is observing its effect on the notion of national identity, especially given that premise 7 states that prioritisation of one another is of central importance to national associations. In short, if this is true then national identity would be undermined. Yet, I see no reason to believe it to be true. Miller argues that if national identity doesn't result in associative obligations then it could not 'locate people within an intergenerational project' or 'underpin political values' (2005, p.69). With regards to the first point, it seems hard to maintain that it is the associative obligations which place people within intergenerational communities rather than the individuals embracing the identity itself. With regards to the second, we might reasonably ask why general rather than associative obligations cannot ground understandings of political value, such as justice. Miller is prepared for this. He states that this 'purely cosmopolitan' approach does not motivate people to act on duties like the national approach (2005, p.79). Yet, this doesn't seem to be reason to continue to suppose that partiality *should* let alone *does* have central significance to national identity. Not only should practical considerations not affect our assessment of ideal principles (Balint, 2015, p.497), but, conceivably, it is our identity as a member of the human race which often motivates us to act on our general obligations. Granted, this motivation would not always be expressed with the same solidarity as in nationalism, but as the above shows, national solidarity necessarily involves a lack of inclusivity that should not be expressed in an ethical sense.

Overall, then, I conclude that associations between national members are not such that special obligations arise between those members. Ultimately, nationalism's first essential component—the prioritisation of one's co-nationals—cannot ground the right to exclude.

## IV

I turn now to the defence of the right to exclude based on the second essential element of nationalism, the protection of one's culture. I extend Wellman's argument from section 1:

10. 'The continuity of the identity shared by the members of a nation is a significant moral value' (Miller cited in Higgins, 2013, p.34), which includes culture.
11. Further, 'An important part of self-determination is having control over what the self is' (Wellman, 2008, p.115); that is, having control over the continuity of the identity.
12. 'New members will typically have a say in determining the future course' of the nation (Wellman, 2011, p.39).
13. Unrestricted immigration can endanger current member's ability to control and protect the continuity of their identity (Miller cited in Higgins, 2013, p.34).
14. Therefore legitimate states have the right not to associate with others, including would-be immigrants, based on their ability to affect the future course of the nation.

The above depends on the ability we have to assign a culture significant moral value, allowing us to ground rights in this value. I address this assumption first before again applying the immunitary interpretation of communities to nationalism. By doing so, I challenge premise 11's assumption that it is *feasible* to control identity. I then contest that excluding would-be immigrants even helps protect identity, as in premise 12 and 13. Finally, I consider a response to my argument before concluding that protection of culture cannot ground the right to exclude.

Identity and culture are not static, but fluid objects of change which are affected by events and the environments they are placed in (Kukathas, 1992, p.110). It would be wrong

therefore to think that nationalist group claims are based on an unchanging notion of identity, for if they were their basis would quickly evaporate (Kukathas, 1992, p.110). Instead, what the nationalist values is what connects the identity across time (Miller, 1997, p.39-41). It is not unreasonable to contend that even if identity is fluid, there is something about present and past morphologies of it that connects them: this 'historical continuity' is what allows the identity to persist (Miller, 1997, pp.23-24). From this that we can assume certain future morphologies to be more valuable than others to national members. Those which contradict, radically alter or fail to preserve certain cultural features are going to be considered less desirable. It is from this that premise 10 gains its purchase. Why, though, does this harm become a matter of *normative* value?

If distinctly valued *for its own sake*, damaging the continuity of identity, or obstructing the occurrence of particular future morphologies, might cause harm in an evident way. If we assume individuals are socially embedded then this will come to damage the background on which their lives are constructed and given meaning. If instead culture is valued *for consequentialist reasons*, there are two further ways damaging culture could be problematic. Culture can be seen to provide a form of "social trust" around welfare institutions or of "political solidarity" around civic institutions (Cole, 2011, pp.268-278). The first focuses on the fact that individuals will be more likely to support welfare policies for those to whom they culturally identify. Multicultural states, the relevant evidence supposedly shows, experience less unity and this allows welfare policies to receive less support, damaging the just distribution of resources (Miller, 2008, pp.378-379). The second points to political participation. This states that without an understanding of and commitment to national culture, individuals cannot meaningfully participate in democratic processes (Seglow, 2005, p.322-324). Both arguments therefore emphasise the importance of unity and co-operation for states. They then posit that national culture provides this unity.

I needn't dismiss these arguments. Instead, I merely show how the exclusion of foreigners fails to achieve their relevant goals. In the interests of doing so, I will now draw out two key insights from the immunitary understanding of nationalism I presented in section 2.

Firstly, I emphasise that the foreigner plays a pivotal role in the active construction of the nation's identity—in allowing it to strengthen itself and present unity. Notably, the isolated village from above cannot produce a strong identity because it is the story the foreigner tells about a place which constructs that place's identity as much as it is the story that long-term inhabitants of that place tell themselves. This means there isn't one but two narratives constitutive of national identity: an external one, produced by the foreigner, and an internal one, produced by the nation itself. This internal narrative is comprised of the various conceptualisations of what the nation is to its members and the practices they perform. The nation constructs its own self image through embracing particular norms. For instance, constructing houses using red bricks in Britain. Yet this is only one side of the coin, and the only side that can be controlled. Externally, the foreigner produces their own narrative about what these things mean which may or may not conform with the internal one. To give one example, the Danish are often seen to be a friendly and happy people. This aspect of Danish culture cannot be realised except through the foreign. But despite the lack of control over how the nation is externally perceived, this narrative comes back round to contribute towards constituting the nation's identity. The national culture is partially constituted by external narratives, which will exist regardless of whether nations attempt to reject the way they perceive things.

In the case of individuals, it would be feasible to agree with Wellman's statement in premise 11 that 'an important part of self-determination is having control over what the self is' (Wellman, 2008, p.115). The individual should be able to choose to what they identify in order to construct a notion of who they are which they are satisfied with, according to the

conditions of autonomy (Litchtenberg, 1997, p.163). Contestably, external narratives also affect the individual, but, as the sole sovereign over themselves, the individual maintains control. In the case of nations, things are different. Self-determination doesn't mean full control over the *self* for they only possess control over one of the two things which constitute their "self": the internal narrative. It is full control over *that* narrative that self-determination grants.

If self-determination necessitates absolute control over the self then we reject premise 11. If, more tenably, what premise 11 actually means is control over the *internal* narrative then it is hard to see how a right to exclude could provide additional control, as I will now argue. In short, at worst premise 11 becomes untenable and, at best, highly questionable.

In order to fully reject a right to exclude on this basis I move to the second point. I reiterate that there are two ways in which the foreigner's presence can be "negated" for the national community. One way is the presentation of the foreigner as the nation's opposite, the antithesis of national culture, emphasising difference rather than similarity. Another way is through their assimilation into the national culture, where they newly identify with the nation in question, politically and culturally. Commonly, nationalism only takes the first into consideration, however. This makes sense given that immunisation is not an active but a reactive force: it 'presupposes the existence of the ills it is meant to counter' (Esposito, 2011, p.7). That is to say, if nationalism is meant to protect national culture, then it presupposes that foreigners will be a threat to that culture. It is this particular assumption which the argument for the right to exclude, grounded in culture, falsely makes. However, 'the immune system cannot be reduced to the simple function of rejecting all things foreign' (Esposito, 2011 p.18). This is why the second option of assimilation is present.

Exposing this assumption challenges premises 12 and 13 if it can be shown that the voice foreigners have won't damage national identity. Remember that within this context we discuss the most ideal circumstances: individuals do not migrate to seek asylum, or due to economic necessity. Given this, we can presume that if an individual migrates then it is because they wish to integrate into the culture of their destinations. Indeed, that would-be immigrants would *not* wish to integrate is due only to one of two things: 'firstly, if they intended to live as a complete hermit, with no social connections with any citizens of the host society; or if they were intent on its destruction' (Cole, 2011, p.280). The former is implausible. The latter is perhaps part of the very reason that the immediate assumption that the foreigner is a threat is adopted. To avoid tangential discussion, I assume Cole (2011, pp.280-286) is right in reasoning that excluding non-members does not increase security. The consequence of this, however, is that neither the intrinsic nor the consequential value of the nation is undermined if migration is allowed. If immigrants are to become akin to members then the culture remains the same, but with additional members, and the unity of the group is maintained. The assumption that the foreign is a threat has no stable basis.

One final threat to continuity of identity might be conceived of if we imagine a backdrop of national culture against a multi-cultural society, where pockets of internal cultural antagonism might exist. An example might be the Indian community within Britain, for instance. As a group, they might maintain their Indian culture while taking on British citizenship. The right to exclude would then be based on the fact, in premise 13, that if this community became large enough it could begin to change the national, British, identity. This directly brings the assumption that certain future morphologies of culture are more valuable than others into the foreground.

However, there is little that implies that continuity of identity for previous members will not still be maintained. Scheffler (2007, p.101) points out that identity is not only continually

changing but it is not even *sourced* in a fixed, determined object. Hence, immigrants would not only affect, but be affected by the host culture. Though the host culture might be changed by the new members, change would occur mutually, marginally and progressively, allowing the continued recognition of identity across time. There seems no reason to presuppose that one future version of the culture would have more value than another, equally continuous, version of the same culture, either intrinsically or instrumentally. Further, there is no more reason to suppose that certain members desire to see a certain version of culture come about matters more than other members desires, nor more than immigrants desire to migrate.

I thus conclude this section by dismissing the possibility that the right to exclude can be grounded in the second essential element of nationalism: the protection of one's culture.

### **Conclusion**

The right to exclude supposedly followed on from two essential elements of nationalism: the prioritisation of one's (obligations) to co-nationals and the protection of one's culture. As *essential* elements, I theorised that these formed the justificatory basis for the intrinsic right to exclude foreigner's entry into a particular national territory. In section 2 I outlined my interpretative mechanism, which I applied in sections 3 and 4 to demonstrate the right to exclude's indefensibility. This is because associative obligations do not have a coherent basis and excluding others does not actually support the protection of national culture. This allowed me to draw out two further insights. Firstly, based on my understandings of associative obligations, the ways in which our national obligations to one another are conceived must be reconsidered. Secondly, the interpretation of nationalism as immunisation which I have applied throughout might be a useful source for understanding nationalism in a variety of other contexts.

The question of membership is an important one with regards to nationalism. I hope to have shown that the burden of proof is not on why there *should* be open borders, but why there shouldn't. I thus conclude that there is no intrinsic justification for the right to exclude others from national territory.

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