

Introduction: Voluntariness and Migration

Eszter Kollar and François Boucher

From migrant processing centers to public and scholarly debates, the concept of voluntariness pervades our understanding of migration and the migrant. Whether a person is considered to be a voluntary or involuntary migrant has far-reaching consequences for their right to enter a host state, the kind of legal and political treatment that an individual is owed once they are admitted, and cultural expectations about integration.

The United Nations Convention on Migrants' Rights defines cases of voluntary migration as those "where the decision to migrate has been taken freely by the individual concerned, i.e., without intervention of external compelling factors."¹ This framing can have direct policy implications. When the former-U.K. home secretary Suella Braverman insinuated that asylum seekers arriving on small boats are in effect economic migrants,² or that gay and lesbian asylum seekers are merely discriminated against and not persecuted,³ she was reframing refugees as voluntary migrants to deflect responsibility. Public sentiments toward migrants are also deeply shaped by judgments of voluntariness that consider some people on the move to be deserving and worthy of empathy and others as undeserving and subject to hostility.⁴

In legal and ethical debates, the distinction between refugees and migrants is commonly articulated in terms of voluntariness. It forms the core of the "conventional view on immigration,"⁵ which stipulates that states enjoy discretionary control over voluntary immigration but have binding obligations toward (involuntary) refugees. Subject to liberal-democratic constraints, states are free to determine how

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many immigrants can enter, according to which selection criteria, and which rights and obligations apply to them. Most prominent theories of citizenship and immigration rely on some, albeit often-implicit, assumptions of voluntariness and its significance for the differential treatment of refugees and (voluntary) migrants. Liberal nationalists defend the sovereign nation-state's right to exclude voluntary migrants but not refugees.⁶ Liberal multiculturalists claim that the cultural rights of minorities resulting from (voluntary) immigration are limited to accommodation measures designed to ensure their fair integration, while groups who are now ethnocultural minorities due to forced incorporation into a state should benefit from much broader rights to collective self-government.⁷

Despite the omnipresence of voluntariness in the ethics and politics of migration, very few have carried out the task of critically scrutinizing its precise nature and conditions, or of explaining its normative consequences for migration regimes.⁸ Which conception of voluntariness should we adopt? Why does it matter morally? What are its political consequences? This special section moves the debate forward in two ways: first, by examining the philosophical and practical complexities involved in distinguishing between voluntary and involuntary migration; second, by reflecting on some of the difficulties that arise when drawing out its ethical and political implications.

In previous contributions on the “nature of voluntariness,” Valeria Ottonelli and Tiziana Torresi argued that migration should be seen as voluntary when it satisfies four conditions: migrants are *not coerced* to leave their country; staying home offers them *acceptable alternatives*; they have the *option to exit* their migrant status; and they have *access to relevant information* regarding their future situation in the destination country.⁹ Despite the clarity of this general framework, each criteria raises some difficult questions. Voluntariness arguably has less to do with the range of options available and more with the way we choose among them: “the way in which the nature of those options affects our will.”¹⁰ Scholars disagree about the relevant standard of acceptability, whether it should include subjective elements or only objective ones, and whether rejecting options to stay on moral grounds renders migration involuntary or not. Some, for example, claim that economic migration from desperate situations should be viewed as forced displacement.¹¹ In their contribution to this special section, Ottonelli and Torresi call for a more clear-cut distinction between choices that are coerced and choices that are constrained by unjust background conditions, which should not automatically count as forced. Further nuancing the acceptability standard of alternative

options, they explore a complex case in which staying home offers sufficient subsistence opportunities but makes it impossible for migrants to live according to their deeply held moral convictions.

Determining when migration is voluntary is further complicated by complex causal chains in the real world of migration, containing both voluntary and involuntary elements. Some criticize the current international legal regime of migration for relying on a too sharp distinction between voluntary and forced migration, and focusing on individual choices, whereas, when viewed from a collective perspective, real-world flows of migration often contain a mix of persons who are forcibly displaced and exercise agency to various degrees, but nonetheless share the same itinerary and face common vulnerabilities.¹² Moreover, an individual's long migration journey contains several segments such that one migrant's odyssey may be a collection of voluntary and involuntary displacements. Tackling this complexity from a philosophical point of view, Michael Blake in his contribution develops a fine-grained normative analysis that disentangles the different *sites* of migration in cases when an individual migrant's itinerary is a complex compound of involuntary and voluntary decisions to start moving (departure), keep moving (itinerary), and cease moving (immigration). A more accurate morality of migration, especially one that seeks to carefully evaluate refugees' "secondary movement" from safe third countries, has to account for the different ways voluntariness applies to its different sites.

Even when it is relatively easy to determine the voluntary nature of migration, the ethical and political significance of voluntariness is not always clear. The intuition that people should bear the cost of their voluntary decisions and should not be penalized for circumstances beyond their control informs various practices. In criminal law, punishments for crimes without *mens rea* are less severe than those that are fully intentional.¹³ Luck-egalitarian theories of distributive justice claim that inequalities arising out of choices people have made are acceptable, but not those rooted in their unchosen circumstances.¹⁴ Yet, voluntariness plays little role in conceptions of legal responsibility based on strict liability or crime prevention,¹⁵ and many theories of justice contest the view that the point of equality is to neutralize the impact of bad brute luck.¹⁶

In debates about migration, the conventional view holds that voluntary migrants should bear the costs of their decision, while refugees are owed compensation for the involuntary loss of membership. In their contribution, Ottonelli and Torresi also argue for an improved morality of migration where we consistently

apply the standard of voluntariness to foreigners' and citizens' domestic choices; recognize migrants' agency without expecting them to fully internalize the costs of their decision to migrate; and urge the liberal state to accommodate a diversity of life plans, including those that involve temporary migration projects.

One may also question the role of involuntariness in the determination of what is due to refugees. One view of the central role of voluntariness in determining the cultural rights of migrants in their host societies¹⁷ invites us to ask whether refugees should be granted extensive cultural rights akin to those of national minorities as a form of compensation for an involuntary loss of access to opportunities afforded by their culture. In her contribution, Christine Straehle examines the role of voluntariness as it relates to the prospect of not having a viable option to remain in one's homeland in the future. She focuses on the particularly acute case of climate change-induced involuntary displacement where return is precluded by submersion or desertification of the homeland. She argues that understanding the role that voluntariness (or lack thereof) plays in the harms of territory loss is critical for assessing the extent to which relocation can be presented as a remedy to climate displacement and provides nuance to our normative judgment of what is owed to climate refugees.

While all the articles in this collection recognize the importance of the concept of voluntariness in migration ethics, they also demonstrate the complex ethical judgement involved in delineating voluntary from forced migration and in drawing out its political and institutional implications. They highlight the interplay between the voluntary and nonvoluntary elements over time and across the different sites of the migration journey, add further nuance to the various conditions of voluntariness, and challenge common ideas about its normative political consequences.

NOTES

¹ United Nations Educational, Scientific and Cultural Organization, *United Nations Convention on Migrants' Rights: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, July 1, 2003 (Paris: UNESCO, 2005), p. 25, unesdoc.unesco.org/ark:/48223/pf0000143557.

² Suella Braverman, cited in Rajeev Syal, "Charity Challenges Home Secretary's Claims about 'Economic Migrants,'" *Guardian*, October 1, 2023, www.theguardian.com/politics/2023/oct/02/charity-challenges-home-secretarys-claims-about-economic-migrants#:~:text=Suella%20Braverman's%20claim%20that%20most,if%20their%20claims%20were%20processed.

³ Suella Braverman, "Keynote Address by UK Home Secretary Suella Braverman: UK-US Security Priorities for the 21st Century" (American Enterprise Institute, Washington, D.C., September 26, 2023), www.aei.org/events/keynote-address-by-uk-home-secretary-suella-braverman-uk-us-security-priorities-for-the-21st-century-web/.

- ⁴ Irene Bloemraad, Will Kymlicka, Michèle Lamont, and Leanne S. Son Hing, “Membership without Social Citizenship? Deservingness & Redistribution as Grounds for Equality,” *Dædalus* 148, no. 3 (Summer 2019), pp. 73–104.
- ⁵ Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013), p. 10.
- ⁶ David Miller, *Strangers in Our Midst: The Political Philosophy of Immigration* (Cambridge, Mass.: Harvard University Press, 2016).
- ⁷ Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995).
- ⁸ Valeria Ottonelli and Tiziana Torresi, “When Is Migration Voluntary?,” *International Migration Review* 47, no. 4 (Winter 2013), pp. 783–813; and Valeria Ottonelli and Tiziana Torresi, *The Right Not to Stay: Justice in Migration, the Liberal Democratic State, and the Case of Temporary Migration Projects* (Oxford: Oxford University Press, 2022).
- ⁹ Ottonelli and Torresi, “When Is Migration Voluntary?”; and Ottonelli and Torresi, *The Right Not to Stay*.
- ¹⁰ Serena Olsaretti, “Freedom, Force and Choice: Against the Rights-Based Definition of Voluntariness,” *Journal of Political Philosophy* 6, no.1 (March 1998), pp. 53–78, at p. 53.
- ¹¹ David Bartram, “Forced Migration and ‘Rejected Alternatives’: A Conceptual Refinement,” *Journal of Immigrant & Refugee Studies* 13, no. 4 (2015), pp. 439–56.
- ¹² Jane McAdam and Tamara Wood, “The Concept of ‘International Protection’ in the Global Compacts on Refugees and Migration,” *Interventions* 23, no. 2 (2021), pp. 191–206.
- ¹³ H. L. A. Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* (Oxford: Oxford University Press, 1968).
- ¹⁴ G. A. Cohen, “On the Currency of Egalitarian Justice,” *Ethics* 99, no. 4 (July 1989), pp. 906–44.
- ¹⁵ Hart, *Punishment and Responsibility*.
- ¹⁶ Elizabeth S. Anderson, “What Is the Point of Equality?,” *Ethics* 109, no. 2 (January 1999), pp. 287–337.
- ¹⁷ Kymlicka, *Multicultural Citizenship*.

Abstract: The concept of voluntariness permeates the ethics and politics of migration and is commonly used to distinguish refugees from migrants. Yet, neither the precise nature and conditions of voluntariness nor its ethical significance for migrant rights and state obligations has received enough attention. The articles in this collection move the debate forward by demonstrating the complex ethical judgments involved in delineating voluntary from forced migration and in drawing out its political and institutional implications. In addition to highlighting the interplay between the voluntary and nonvoluntary elements of migration over time and across different sites of the migration journey, they provide a nuanced account of the various conditions of voluntariness and they challenge common ideas about its normative political consequences.

Keywords: voluntary migration, forced migration, sufficiency, acceptable alternatives, moral costs, refugee rights, migration journey, secondary movement, climate-induced migration