

Necessary and Proportional Immigration Enforcement

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1 Introduction

States use diverse mechanisms to deport migrants or prevent their entrance. They use physical violence to force migrants onto planes (Fekete 2005; Pickering and Weber 2013; Gibney 2013), detain migrants until they agree to leave (Corlett 2005; Blitz, Sales, and Marzano 2005; Webber 2011), and raid migrants' homes while they sleep, restraining anyone attempting to flee. Most famously, states have begun building thicker, higher, and more numerous walls (Paz 2016, 2017), and when migrants do manage to enter, some states separate parents from their children, giving families additional incentives to avoid entering to begin with (Rabin 2018).

Despite the diversity of immigration control mechanisms, there has been little discussion as to what means of exclusion are normatively justified. Instead, political philosophers tend to focus on which migrants states can justifiably exclude, and whether force in general is justified. For example, some philosophers hold that states have a duty to admit individuals whose right to life and liberty is undermined in their home countries, so long as admitting them would entail no more than moderate costs for citizens (Gibney 2004). Such philosophers do not address whether certain means of exclusion - such as indefinite detention - are justified when costs are more than moderate. Others claim that states have a duty to admit nearly all individuals, except in extreme cases, as when limiting movement temporarily can prevent the spread of a global pandemic (Hidalgo 2018; Oberman 2016; Carens 1987; Abizadeh 2016; Hayter 2000). Here, too, there is no discussion of what sorts of enforcement are justified when such extreme conditions arise: it is not clear, for example, whether utilising injurious force against those attempting to cross borders during pandemics is justified.

A similar lack of attention to enforcement is found amongst philosophers claiming states hold broad rights to control immigration. Such philosophers claim that immigration controls are permissible because immigration can undermine trust between citizens, or undermine the ability of citizens to determine who they associate with (Miller 2005, 2016; Wellman 2008). Even if one supports denying visas to immigrants who will somehow weaken the trust that exists between citizens, or who will impinge on state's right to freedom of association, one does not necessarily support lethally shooting immigrants attempting to arrive (Mendoza 2015).

One reason the study of immigration ethics largely overlooks questions of enforcement is

that it overlooks questions of proportionality, necessity, and liability. The principle of *proportionality*, common in discussions on war and criminal justice, holds that an act which involves far greater harm than justified for a given end is morally impermissible (Gross 1979: 436, Fish 2008, von Hirsch 2005; McMahan 2014 at pages 6-9; May 2007 at ch. 10). For example, it is wrong to institute the death penalty for someone who has committed the mere crime of theft, even if this will deter theft, as the end of deterrence does not justify the means of death. Similarly, it is wrong to drop a bomb on a civilian population to end a war, because the means of intentionally killing civilians may be disproportionate to the end of winning the war. Just as the death penalty for the thief and bombs on civilians are wrong, it might be wrong to use some types of force to compel migrants to leave, even if the ends of compelling migrants to leave is justified.

In contrast to the principle of proportionality, the principle of *necessity* holds that it is wrong to use force against an individual if such force is not necessary to bring about the desired ends (McMahan 2016). For example, it is wrong to kill an assailant if merely injuring him will prevent his lethal actions. Just as killing the assailant would be wrong, it may be wrong to violently exclude a migrant if merely requesting that they leave will be just as effective.

Finally, the principle of *liability* holds that the force permitted against those who choose to violate rights is often greater than the force permitted against those who do not choose to violate rights. For example, an individual who is coerced by a third party into breaking into a person's house is less liable to harmful force by the homeowner compared to an individual who breaks into the house on their own accord. Just as someone who is coerced to enter a house should not face harmful force, a migrant who is coerced into migrating should not face harmful enforcement.

Drawing on these broad principles of proportionality, necessity, and liability, the next four sections defend four specific principles for immigration control. The Benefit Principle holds that the more force used in mechanisms for immigration control, the greater the benefit for citizens must be for this force to be justified. We justify this on the basis of proportionality. The Lethal Force Principle holds that the use of direct lethal force is only justified when such force is necessary to prevent a migrant from threatening the life or basic necessities of innocent

individuals. We justify this on the basis of both proportionality and necessity. The Forced Migration Principle holds that it is at least a pro-tanto wrong to use any force against a migrant coerced to migrate because of conditions in their home countries. We justify this on the basis of liability. Finally, the Availability Principle holds that the use of force is never justified if non-forced forms of immigration control are available, all else being equal. We justify this on the basis of necessity.

After presenting arguments in defence of the above principles, the paper considers whether policymakers have duties to ensure immigration enforcement is consistent with the four principles outlined. They may not. This is because passing legislation consistent with these principles may require longer than a given policymaker's current term, and policymakers attempting to pass such legislation may be quickly voted out of office, due to the lack of popularity for the four principles we outlined. If they are unable to pass legislation, they may have no duty to do so.

To establish if our principles concerning enforcement were popular amongst voters, we could not simply analyse results from existing public opinion polls on immigration. This is because pollsters and researchers rarely ask citizens to indicate which enforcement mechanisms they support, instead focusing on general support for immigration and which categories of migrants they support excluding (Aalberg, Iyengar, and Messing 2012; Citrin et al. 1997; Dustmann and Preston 2007; Facchini and Mayda 2009; Hainmueller and Hiscox 2010; Harell et al. 2012; Johnston, Newman, and Velez 2015; Mayda 2006; Newman et al. 2015; Quillian 1995; Scheve and Slaughter 2001; Schildkraut 2011; Sniderman et al. 2002; Sniderman, Hainmueller, and Prior 2004; Wright and Jack 2011). For example, a consistent finding across a number of studies indicates that citizens support immigrants who are highly skilled, have no criminal background, are of certain nationalities and races, and display a high likelihood of assimilation, particularly in terms of speaking the language of the host country (Hainmueller and Hopkins 2015; Turper 2017; Dustmann and Preston 2007; Hainmueller and Hangartner 2013). These studies do not address whether citizens who support the exclusion of certain immigrants falling outside of the above categories also support all means of exclusion.

Given the limits of data available from established surveys, we conducted an original

survey dedicated solely to understanding citizens opinions concerning enforcement, and to understanding whether citizens opinions were consistent with the principles we formulated above. In Section 6 we first present our precise hypotheses concerning citizen opinions on immigration enforcement. We then present a description of a conjoint experiment we conducted to test these hypotheses, and our finding that citizens' opinions are roughly consistent with the four principles we presented. In Section 7 we note some specific implications of our findings for the duties of policymakers.

2 The Benefit Principle

The emerging philosophical literature on immigration enforcement largely accepts that certain types of enforcement are wrong: killing or detaining all border-crossers is clearly wrong (Lister 2020; Silverman 2014; Mendoza 2015). In this section, we defend a more broad principle: the more harmful the force used in immigration control, the greater the benefits must be for the force to be justified.

Our general argument in support of this Benefit Principle is as follows:

1. Defence is only justified if proportional.
2. For defence to be proportional, the harms from defence must justify the benefits, such that greater harm requires greater benefits (all else being equal).
3. Immigration control is only justified as a form of defence, broadly conceived.
4. If X is justified only because it a justified form of Y, and Y is only justified when Z is present, then X is only justified when Z is present.
5. Therefore, immigration control is only justified when proportionality is present, and
6. Immigration enforcement is only justified if greater harm is correlated with greater benefits, all else being equal.

Let us start with our first two premises. To see why defensive harm must be proportional,

consider six factors which often justify defensive harm, but which are constrained by considerations of proportionality:

1. **Liability:** one reason harm can be justified is that the agent subject to harm has made themselves liable to harm by blamefully threatening to cause harm. For example, if a non-innocent X threatens to wrongfully kill an innocent agent Y by maiming Y's body, or stealing Y's rightful property which she relies on for survival, then Y can often use force (and likely lethal force) against X in self-defence (McMahan 2009; Quong 2020). However, force is impermissible if it is disproportionate. For example, if a non-innocent X threatens to wrongfully pinch Y, then Y can use force to prevent X's actions, but cannot permissibly kill X. More generally, the greater harm inflicted the greater benefit must arise, such that killing is unjust when merely to prevent a pinch.
2. **Responsibility:** according to one prominent view, even if X is innocent – perhaps she will unknowingly spread a virus to Y unless she is stopped – then Y can sometimes permissibly harm X if this is necessary to stop X. This is because X has a duty to ensure her body does not cause harm, and so a duty to bear more costs to prevent her body causing harm than the costs victims must bear. It is therefore often permissible to cause her harm to stop Y facing harm (Tadros 2011; Frowe 2014). However, it seems clear that there are proportionality constraints. Y is not permitted to kill X if contracting the virus will mean merely being ill for several weeks. Once again, greater harm requires greater benefits, and avoiding a few weeks of being ill is an insufficient benefit to justify killing an innocent person.
3. **Agent-relative prerogatives:** agents are generally permitted to discount the harms others experience against the harms they experience. For example, a single agent Y may be permitted to kill X to stop her from spreading a deadly virus to Y, even if a third party stranger Z is not permitted to kill X. This is at least partly because Y is permitted to prioritise her own life over others, even if Z is not permitted to prioritise another person's innocent life over another person's innocent life (Quong 2020; Steinhoff 2016). But while agents are generally permitted to discount the harms others experience against

the harms they experience, the discount is clearly limited (Dorsey 2005). For example, while Y is permitted to kill X to save her life partly because it is her own life she is saving, Y is not permitted to kill X to avoid a few weeks of illness. Doing so would lack proportionality.

4. Doing/allowing: In cases where a third party Z ought not prioritise innocent X over innocent Y, the reason Z ought not do so is partly because of the doing/allowing distinction: doing harm to an innocent person is worse than allowing harm to occur, and so Z causing harm to an innocent X is impermissible, even if this means allowing Y to die (Haque 2017; Hosein 2014; McGrath 2003). Yet, even allowing harm by inaction must be proportionate. Refraining from doing harm may still be wrong if by inaction one allows an even greater harm to take place or the same harm to befall more people. For example, letting an individual walk freely through a crowded party during a pandemic lacks proportionality, because allowing them to cause harm will lead to far more harm than stopping such an individual. Stopping them is therefore permissible, even if stopping entails doing them some minor harm.
5. Aggregate harm: relatedly, when Z killing or non-lethally harming X to save only Y is impermissible, killing or harming X may still be permissible if X poses a threat to a sufficiently large number of innocent individuals. This is because harming an innocent but threatening individual may be a lesser evil than letting a sufficiently large number of individuals face harm (McMahan 1994; Rodin 2011; Frowe 2018). But this general rule of aggregate harm has proportionality limits: even if Z can permissibly kill X if X poses a threat to a sufficiently large number of innocent individuals, she may not be permitted to kill X (especially if she is innocent) to merely save two individuals lives.
6. Associations: in cases where an innocent X threatens to unknowingly kill or harm only one innocent person Y, such that the aggregate justification above is missing, some claim that Z is still permitted to kill or harm X to save Y if Z has certain types of associations with Y, such as being Y's mother or close friend (Ferzan 2019; Lazar 2013). According to one version of this view, one relationship that grounds Z's right to kill or harm X

is that Y has hired Z to act on her behalf, especially if she is unable to act on her own behalf. For example, if Y has a disability that means she is unable to save herself, and hires Z as a bodyguard, then if a threatening innocent agent X comes upon Y then Z has unique grounds to harm X in necessary defence of Y, grounds which strangers do not have (Bazargan-Forward 2018; Frowe 2019). Here, too, there are proportionality constraints: even if Z can permissibly kill innocent but threatening X to prevent her killing Z's innocent association Y, Z cannot always permissibly kill any number of innocent agents to save Y. For example, Z cannot permissibly kill everyone spreading a virus to save Y, who has a particular condition which will mean she will likely die from the virus.

These six defence-related facts and their proportionality constraints are relevant for immigration, given our third premise: immigration control is generally justified only when it is a form of defence. If immigration control is generally only justified when it is a form of defence, and defence is only justified when proportional, then immigration control is only justified when proportional.

To see why immigration control is justified as a form of defence, and so must be proportional, consider how the six defence-related facts often serve as justifications for immigration control, and so why immigration control must be proportional:

1. **Liability:** According to a range of philosophers, sometimes a group of outsiders enter a state and act wrongly in doing so, either because they usurp locals' access to land they depend on for important necessities, which outsiders do not depend on for necessities, or because they intend to wrongly dominate locals (Ypi 2013; Valentini 2015). In such cases, it is widely accepted that locals have a right to limit the access of these outsiders (Waldron 1992; Stilz 2013, 2011). One understanding of this justification is related to liability: those who wrongly attempt to enter and usurp locals' access their land are liable to harm, and so using force to prevent their entrance is justified.

If liability at least partly explains why exclusion is justified, and harm against the liable must still be proportional, then the harm inflicted against liable migrants must still be proportional. Imagine a state is composed of individuals collectively and solely holding

a claim right to land which they depend on for important necessities, such as houses that are sufficiently large to be minimally comfortable, but they are not dependent on such houses for survival. Even if they can permissibly use some force against some number of migrants attempting to wrongly enter this land, they cannot permissibly kill any number of migrants to prevent their entrance on this land. Doing so would seem wrong because, though such migrants are liable to some harm, it does not seem they are liable to lethal harm.

2. Responsibility: it is perhaps universally accepted that it is permissible for states to use necessary force to prevent individuals from crossing borders during a pandemic (Oberman 2016; Carens 2013). This seems justified by appealing to an argument relating to responsibility: if agents have a duty to ensure their bodies do not cause harm, and so a duty to bear more costs to prevent their bodies causing harm than the costs victims must bear, then migrants attempting to enter a state which they will cause harm to via their bodies can be permissibly harmed to prevent their entrance. A similar claim might arise when migrants will bring with them other sorts of burdens (Kates and Pevnick 2014). For example, in 2009 Rwanda was heavily dependent on land for its citizens survival, and also struggling with food security. (Umubyeyi and Rukazambuga 2016; Vinck et al. 2009) It was perhaps permitted to limit inward migration to protect this food security, even if the migrants who sought entrance were not liable to harm in virtue of committing any wrong.

Here, too, there is a proportionality constraint. Even if migrants who will cause harm via their bodies can be permissibly excluded, lethally or even injuriously harming any number of migrants is likely wrong, especially if the benefits for citizens are not substantial. For example, if a million migrants entering a state will increase the odds of one million citizens contracting Covid-19 from 1/500 to 2/500, then lethally shooting at these migrants to prevent this increase in odds is wrong.

3. Agent-relative prerogatives: It is often implied in leading philosophical theories of immigration that states are justified in controlling their own immigration policies in a way

that third-party states are not. For example, those who claim states are permitted to control their borders during extreme scenarios (as during a pandemic) never claim that states are permitted to control other states' borders during such extreme circumstances (Oberman 2016; Carens 2013). Similarly, those who claim that states are permitted to prevent migrants from entering and changing the culture of the state do not claim that states are permitted to prevent migrants from entering another state to protect this other state's culture (Miller 2016; Wellman 2008). The reason that states ought to only control their own immigration policies may be because states are constitutive of individuals acting on their own behalf. Citizens therefore have agent-relative prerogatives to control immigration which effects themselves, even if they are not permitted to control immigration which effects others in another state. We are not particularly supportive of these arguments, but even if states are constitutive of citizens acting on their own agent-relative prerogative, the agent-relative prerogative does not permit prioritising oneself before others at any cost. If so, then citizens are not permitted to injuriously or lethally cause harm to any number of innocent migrants to protect citizens' welfare.

4. Doing/allowing: While the last three principles are sometimes appealed to in explaining why immigration control is justified, the doing/allowing distinction might explain why it is often not justified. For example, the idea that doing harm is worse than allowing harm could explain why many forms of lethal force at the border seem wrong, even if this is necessary to avoid letting a citizen die. For example, imagine a state lethally shoots at 100 migrants who will likely create a strain on resources that will mean temporarily less funding for cancer treatment, such that 100 lives will be cut short. Actively causing harm is worse than allowing harm, and so even with an agent-relative prerogative, such lethal force may be wrong.

However, if the doing/allowing distinction explains why immigration control is sometimes wrong, but the doing/allowing distinction is constrained by considerations of proportionality, then refraining from immigration control out of a concern for the doing/allowing distinction might be wrong when lacking proportionality. Sometimes doing harm is better than allowing harm when the harm done is far less than the harm

allowed. For example, the US and UK welcoming all tourists and visa holders during the Covid-19 pandemic may have lacked proportionality, because doing harm by preventing entrance was far better than allowing harm by permitting entrance.

5. Aggregate harm: The most uncontroversial claim amongst immigration ethicists is that immigration controls are justified when the total benefits for all outweigh the total harm for all. Javier Hidalgo, a strong proponent of open borders, explicitly justifies immigration restrictions in such cases (Hidalgo 2018), but others implicitly support restrictions in such cases as well (Stilz 2019; Carens 1987; Miller 2016). This seems grounded in the same general consideration relating to aggregate harm in self and other-defence.

However, the doing/allowing distinction partly explains why, even when the aggregate harm of permitting migration is greater than the aggregate harm of restricting migration, restricting migration may still lack proportionality if the harm of permitting migration is only slightly higher than the harm of preventing migration. Imagine a state lethally shoots at 100 migrants who will likely create a strain on resources that will mean temporarily less funding for cancer treatment, such that 105 lives will be cut short. Because doing harm is worse than allowing harm, doing harm is only proportionate if it averts far more harm than allowing harm, and 105 lives lost does not seem like far more harm than 100 lives killed.

6. Associations - Type 1: As noted in the general overview of association-based defences, if Z is an association of Y, she is permitted to impose greater harm on X to prevent him harming Y compared to the harm a stranger is permitted to impose on X. It follows that large associations may be permitted to act in each other's defence; imagine S, T, U, V, W, Y and Z are in an association. They can sometimes permissibly harm X when X threatens anyone from the association even if a non-association member would be acting impermissibly in harming X. This then raises the question of what sort of harms from X justify harm against X. As already noted, some claim that migrants entering a state impose potential or actual harm on the democratic functioning, culture, and economic welfare of the state's citizens, and this harm is sufficient to justify preventing

their entrance (Miller 2005, 2016). Less controversially, many claim that migration can be limited when this is necessary to protect the survival of a considerable number of citizens, as during a pandemic (Stilz 2019; Dummett 2001; Ferracioli 2014; Abizadeh 2016; Carens 1987). It is likely that, even if migrants have any of the above negative effects on some citizens (whether economic, health, and so forth) other citizens will not be harmed from these effects. This raises the question of how philosophers can justify immigration restrictions to protect some but not all citizens. One answer seems related to associations: citizens who are not harmed might claim that their association with those who are harmed justifies preventing migrants from entering even if such prevention harms migrants.

Even if harms that citizens are permitted to instigate for their co-nationals is greater than the harms non-associates are permitted to instigate, it is not infinitely high. Moreover, just like all defensive harm, the extent of defensive harm permitted varies depending on the benefits provided. For example, just as Z is not permitted to kill X to prevent him from pinching Y, and not permitted to kill an innocent person X from killing 100 associates, citizens are unlikely permitted (either directly or via their institutions) to kill migrants to merely prevent them from entering and slightly changing the culture of the state, or to prevent one less job for citizens.

7. Associations - Type 2: There is a related sort of association-based justification for immigration control, and this too relies on a type of defence-related argument. Some claim all legitimate states are permitted to control immigration solely because they are large associations, and members of associations just have a right to decide who they associate with, even migrants will have no negative effects on citizens (Wellman 2008). While this claim has been rebutted by others (Fine 2010; Carens 2013; Blake 2012), a less controversial version is that only particular sorts of associations have a special rights to control immigration (Simmons 2016). Margaret Moore limits associations with rights to control immigration to ones where a "large majority...are in a relationship with one another that involves a shared political commitment to establish rules and practices of self-determination" where the group has both "the political capacity to establish and

sustain institutions of political self-determination" and "they possess an objective history of political cooperation together" (Moore 2015). Similarly, Michael Blake defends the claim that, when states have obligations to protect the rights of their residents, they have a right to exclude new residents to avoid taking on obligations to protect additional individuals.(Blake 2013) One way of interpreting this as a type of association-based justification: just as certain associations take on obligations towards their members, and can reject new members to avoid taking on new obligations, states take on obligations towards their members, and so can reject new members.

The above is a type of defence-related justification: citizens are defending their right to choose who they associate with, and who they take on obligations for. As before, if defence must be proportionate, then such immigration control must be proportionate as well. For example, a state is not permitted to forcibly detain all refugees, merely to avoid associating with such refugees and taking on certain responsibilities arising when refugees can live freely within society. The benefits of avoiding such association do not seem to justify such widespread detention. At the very least, it cannot be presumed that any citizens' interests in choosing who they associate with justifies all harm to avoid such association.

In short: if immigration control is ever justified as a form of defensive harm (broadly construed as harm to life, culture, economy, and so forth), then immigration control is not justified when it violates principles of proportionality. Moreover, determining when proportionality is violated requires determining how much benefit arises for citizens and how much harm accrues for migrants, given that harm is disproportionate when it does not justify the benefits arising. This leads to the Benefit Principle: the more harmful the force used in enforcement, the greater the benefits must be, all else being equal.

This still raises the question of when precisely the harm imposed is not justified for the benefit arising. While it seems clearly wrong to kill many migrants to save one citizen's job, it remains unclear precisely how much harm justifies how much benefit. Nor is it clear what sorts of harm justify immigration control, because one's precise view of justified immigration control will impact the sorts of harms one believes violate proportionality. For example, if one

holds that immigration control is only justified when it undermines democratic functioning, but not merely when it changes the culture of the country, then one will view any force against migrants to preserve culture as too much harm to be justified, and so disproportionate.

While we do not provide a precise formulation of the level or type of harm which renders immigration control disproportionate, in cases where it seems intuitively the case that the harm imposed does not justify the benefit arising, then proponents of such harms hold a burden of proof. They must prove that the harms imposed are proportional, rather than just proving that benefits arise. For example, a state that uses indefinite detention to prevent a small reduction in the number of migrants arriving, in order to decrease the number of individuals wearing a hijab viewed as contrary to the state's culture, has a burden to demonstrate why the benefit of a slight increase in preserving culture justifies such a major harm. Similarly, a state that forces thousands of refugees into an enclosed camp during a pandemic, to reduce the risks of citizens contracting a virus by a minuscule amount, must demonstrate why the minuscule benefit justifies such a major harm.

And in cases where states engage in lethal harm to bring about some benefit for citizens, they have an especially weighty burden of proof. This is because of additional considerations which we now address.

3 The Lethal Force Principle

The Lethal Force principle holds that direct lethal force exercised against a migrant is never justified unless it is necessary to prevent the migrant from significantly threatening the life or basic necessities of innocent people.

In defending this principle, it is not enough to appeal to proportionality in a straightforward way, because even if a migrant poses no threat to the life or basic necessities of any citizens, she could pose a threat to the non-necessitous goods of many citizens, and some might feel that protection of the non-necessitous goods of many citizens justifies lethal harm against some migrants. A version of such a justification was articulated by Shri Mukhtar Abbas Naqvi, the Bharatiya Janata Party General Secretary in India, when explaining why he supported the country's shoot-to-kill policy at the Bangladeshi border:

The socio-economic and political manifestations of illegal immigration are seriously affecting the fabric of the country. Given the implications of continuing illegal infiltration into India, the BJP supports every move and effort including use of force, if the deemed fit, by the Government (Oztig 2020).

While Naqvi did not clarify what "socio-economic...manifestations" meant, if this referred to the quality of life of Indian citizens, then his claim is not unreasonable; we might suppose some non-lethal impact on enough citizens permits lethal force against some migrants. If it does not, a good theory will explain why.

We hold that lethal force is wrong because of considerations of fairness. Our appeal to fairness follows most theories of justice in holding that it is unfair to make someone who is already very badly off through no fault of their own even more badly off through no fault of their own. This is especially when they are made significantly worse off to merely help those who are significantly better-off (Rawls 2001; Parfit 1997; Hellman 2008). For example, it seems intuitively wrong for the state to only provide free medical care to those who are wealthy, letting those who are poor die from lack of care (Oberman 2020). Similarly, it would be wrong to give harsher punishments to criminals who are poor compared to other criminals, all else being equal (Lippert-Rasmussen 2014)

There is reason to suppose that policies involving lethal force involve such unfairness against migrants. Migrants choose to leave their home states for a variety of reasons, including access to basic necessities and healthcare or to escape instability and the threat of violence. These migrants are more likely to risk being killed by immigration enforcement while migrating (Fekete 2005, 2009; Gibney 2013) and are therefore disproportionately harmed by states with lethal force in order to prevent them from crossing state borders. In effect, such policies make people (i.e. migrants) who are already badly off, worse off. We see this in practice in existing policies in Egypt, where migrants fired upon by border guards were overwhelmingly refugees from Sudan (Oztig 2020), and in India, whose shoot-to-kill policy targeted impoverished migrants from Bangladesh (Watch 2010). Even in the European Union, where human rights are supposedly held to a higher standard, migrants killed in deportation proceedings have all been from especially low-income countries (Albahari 2017; Rygiel 2016).

Of course, all immigration enforcement can have the effect of making worse-off migrants

even more worse off: detaining migrants for even a short amount of time will harm make many worse-off migrants worse off from this detention. It remains the case that lethal enforcement has this effect in a more pronounced way. This is partly because lethal enforcement is less likely to deter those who face lethal risks in their home countries, given that they have greater reason to risk death in enforcement if they will face death at home. Lethal enforcement will therefore more likely harm those who badly off from such home-country risks. Moreover, lethal enforcement itself makes a migrant much worse off than non-lethal enforcement. Put another way: even if non-lethal immigration enforcement like detention is justified despite making the worse-off even more worse-off, lethal enforcement is unlikely justified because it makes the significantly worse off even more significantly worse-off. Put more precisely still: even if enforcement is justified when making the significantly worse-off only slightly worse-off, and making the slightly worse-off significantly worse-off, enforcement is unlikely justified when making the significantly worse off significantly more worse off. Lethal enforcement has this effect.

The above argument is not relevant when lethal force is used to deter better-off migrants. For such migrants, lethal force is unjustified for a different reason: it violates the necessity principle. This principle holds that harm which is not necessary to reach a given end is not justified, assuming there is an alternative lesser-harm which is just as effective and efficient at reaching the same end. Lethal force against better-off migrants is unlikely necessary, given that alternative enforcement measures - such as refusing to allow them to board a flight - seem just as effective and efficient.

The above observations can be summarised as such: the worse off migrants are, the more unfair it is to use lethal force to prevent their entrance, and the better off migrants are, the more likely lethal force is unnecessary to prevent their entrance.

The above focuses on lethal force against those who will not pose a risk to the life and basic necessities of citizens. When migrants do pose such a threat, as with terrorists, then the threat they intentionally pose likely makes them liable to harm; if they have chosen to harm citizens then experiencing harmful treatment needn't be unfair in the way that harming other worse-off migrants is unfair. Even when migrants have not chosen to harm citizens, citizens

might still be justified in using lethal force which is necessary to prevent their entrance, because citizens may have agent-relative prerogatives and associative permissions. An agrarian country that relies on very limited land, where an increase in migrants means a reduction in nutrients and calories for survival, may be justified in using lethal force against potential migrants when this is absolutely necessary for substantially reducing risks for citizens.

While substantially reducing risks may justify lethal force, only slightly reducing risks does not. When the risks posed are below a given threshold, imposing lethal force is wrong. For example, it would be wrong to lethally shoot a migrant who is arriving from a country with a high rate of Covid-19, whose arrival will risk spreading the virus. In such cases, the only slight increase in risk does not seem to justify violating principles of fairness for those who are worse-off, even if such threats are necessary to prevent migration.

The above analysis focuses on lethal force in enforcement, rather than non-lethal force which causes migrants to return to lethal conditions. This raises the question of whether, in instances where lethal force is wrong, non-lethal force is also wrong if it causes migrants to return to lethal conditions. Consider, for example, states which detain a migrant to compel them to leave to unsafe countries, as when Bangladesh detained Rohingya refugees to compel them to return to Myanmar in the 1990s (Abrar 1995) and Israel detained Darfur refugees to compel them to return to Sudan in the 2000s (Gerver 2018b). We might think that, in cases where lethal force is wrong because it makes the significantly worse-off even more significantly worse-off, compelling migrants to leave via non-lethal force is equally wrong if it makes them similarly worse-off.

Even if non-lethal force leading to lethal conditions is wrong, we think such "indirect force" (as we'll call it from now on) does not entail certain wrongs found in more direct lethal force.

One wrong unique to direct lethal force relates to the doing/allowing distinction. We presume doing harm is worse than allowing harm, and perhaps border officials are doing lethal harm when directly killing migrants, but merely allowing migrants to face lethal harm when using non-lethal enforcement to compel them to return to lethal conditions. Or, more precisely: while border officials partly do harm when using non-lethal force to compel migrants to return to lethal conditions, they do not do lethal harm, given that they are not the agents

actually ending the lives of migrants. To get a sense of the plausibility of this claim, imagine border officials detain a migrant with a pre-existing health condition from a country with especially high rates of Covid-19, and the migrant agrees to repatriate to avoid continued detention. It seems these border officials wrong this migrant less than had they injected her with Covid-19. There is something distinctly wrong about actively killing someone compared to non-lethally compelling them to return to an area where someone or something else will lethally kill them.

Even if one rejects this argument, there is a second distinct wrong in direct lethal force. This wrong relates to voluntariness, and the fact that decisions are made more voluntary if including more and better choices. A person who has the choice to remain in detention in a destination country or contract Covid-19 in their home country has more and better choices than someone whose only option is to contract Covid-19. Similarly, an individual whose choices are to be detained if she remains in a destination country or killed if she returns to her home country has more and better choices than an individual who has the choice of being killed if she remains and killed if she returns. If voluntariness comes in degrees in this manner, it also seems that someone with less voluntary choices is worse off than someone with more voluntary choices, all else being equal. This is partly because voluntariness seems important for freedom – someone who is forcibly injected with Covid-19 has less freedom than someone who has the choice of either being detained or contracting Covid-19 in their home country, even if both lack freedom.

The above observations concerning freedom relate to our argument concerning fairness. As we noted, migrants who face life-threatening risks in their home countries are more likely to migrate, and more likely to therefore face lethal enforcement in a world where lethal enforcement is enacted. Such migrants are worse in terms of freedom compared to a world where they will face only non-lethal detention if they attempt to migrate. Of course, they are very unfree either way, but the reduction in freedom arising from direct lethal force may be a reduction too much, given that such migrants are already worse off in terms of the risks they face at home. If it is distinctly wrong to make those already substantially worse off more substantially worse off, and direct lethal force makes them sufficiently more worse off to render

the lethal force distinctly unfair, then lethal force is distinctly unfair.

This is consistent with the claim that threatening migrants with detention or other injurious forms of enforcement is also impermissible, especially when they will face lethal or injurious conditions in their home countries. We will defend this by appealing to another principle in the next section. But we think that direct lethal force is distinctly wrong for the reasons articulated, and so think the Lethal Force Principle is distinctly important.

4 The Forced Migration Principle

The last section addressed migrants who leave their home countries because of extremely difficult conditions. This principle addresses such migrants more directly. It holds that states which use force against such migrants in immigration control are engaging in at least a pro-tanto wrong, even if such migrants have no right to enter the country. More specifically, such states engage in a pro-tanto wrong which they avoid for migrants who will face no harm in their home countries. This is because of a broader theory of liability: migrants forced to flee harm in their home countries are not liable to such force.

When we refer to force which a migrant is liable to experience, we refer to force which is justified in virtue of a wrongful choice that a migrant is blameworthy in making, as opposed to force justified from (1) a migrant's non-blameworthy responsibility, (2) aggregate benefits arising from enforcement, (3) citizens' agent-relative prerogatives, and (4) citizens' associative permissions. Liability to force matters in cases where these four other justifications are weak. In other words, when comparing two cases where these four other justifications are weak, the force justified against a migrant who would face harm in her home country is lower than the force justified against a migrant who would not face harm in her home country.

For example, compare two migrants: one would face no harm if she remained in her home country and she chooses to board a flight to a destination country with only low rates of Covid-19, risking an increase in prevalence in this country. The second migrant similarly boards a flight but would face persecution if she remained in her home country. For the first migrant, the slight increase in risks from Covid-19 may be enough to justify using force against her, both because she freely chooses to cross the border, and because of the other four factors:

she is responsible for any harm arising from her body, there are aggregate benefits, and there are associative and agent-relative prerogatives for citizens to protect themselves and each other. For the second migrant, the latter four factors also arise, but they may be insufficient to justify returning her home, given that she never made herself liable to harm. Put another way: even if no migrants have a right to increase the risks of Covid-19, migrants who would face persecution if they remained at home are forced to migrate, and if their choice is forced, they are not blameworthy for their choice. If they are not blameworthy, they are not liable to harm in virtue of a blameworthy choice, and so when the four alternative justifications are insufficient on their own to justify force, using force is wrong.

The above conclusion overlaps with one prominent view in immigration ethics, which holds that states have positive obligations to grant entrance to those fleeing persecution, and potentially to all those fleeing very harmful conditions in home countries. This view is derived from the claim that states have positive moral obligations towards the world's most vulnerable populations, either because they have humanitarian obligations towards this population, or because they indirectly contribute to their vulnerability, or because they ought to uphold basic human rights standards in a world where the state system has failed to do so (Cherem 2016; Lister 2013; Gibney 2004; Carens 2013; Owen 2016; Ferracioli 2014). We are not committed to the claim that states have positive obligations to admit the most vulnerable, as this article aims to be neutral as to which individuals states have an obligation to admit. Here we merely claim that, even if states have no positive duties - they needn't admit migrants who are vulnerable - they still act impermissibly in using force against especially vulnerable migrants, when such force is only justified against those who partake in blameworthy choices to cross borders.

Some might suppose that, if a state has no obligation to admit a given migrant because of the conditions they would face at home, but the state is obligated to use no force against such a migrant in deterring her from entering, then this state essentially does have a duty to admit this migrant. After all, it cannot act on its permission to not grant her entrance if it lacks permission to use force to prevent her entrance.

While it might be true that a state is not permitted to use force to prevent her entrance, this needn't imply it has a positive duty to grant her entrance. To claim a state has a positive duty

to grant entrance could imply that the state has a positive duty to fly an individual into the country. The state may have no such duty, but still be obligated to refrain from using active force against this migrant, given that this migrant is not liable to such active force.

Moreover, even if claiming the state has a duty to not use force against a given migrant is tantamount to claiming it has a duty to accept this migrant, this claim is still derived from a general principle concerning enforcement. Unlike theories which claim the state has obligations to admit vulnerable migrants because they are vulnerable, our theory grounds state's obligations to admit such migrants in duties to avoid harming those not liable to harm. If one is not convinced that states have special duties towards the most vulnerable as such, one might still be convinced that states have special duties to avoid harming those not liable to harm. And even if one is convinced that states have special duties towards the most vulnerable as such, one might still be convinced that states commit an additional wrong when using force to deter such vulnerable individuals, given their lack of liability.

5 The Availability Principle

Regardless of whether a migrant is liable to harm, the use of any force is never justified if non-forced forms of immigration control are available, all else being equal.

When discussing this principle, we use the word “force” to mean either physical interventions with short-term or long term harms, or non-physical interventions involving a pro-tanto wrong. An example of a physical intervention with harm would be detention, and an example of a non-physical intervention involving a pro-tanto wrong would be a racist state telling an unwanted ethnic minority that they are not welcome in the country, or paying them to leave the country.

Even if the latter types of interventions do not involve physical or psychological harm, they would be wrong in virtue of the demeaning message articulated or implied in such interventions. For example, in 2010 the openly-xenophobic British Nationalist Party proposed paying £50,000 to every non-White person in the UK. We take this as a form of “force,” as non-White residents were forcibly exposed to a discriminatory and offensive message (Gerver 2018a). Similarly, when Japan paid migrants from Brazil to repatriate in 2009 (Tabuchi 2009), the in-

tent of policymakers may have been to merely aid with repatriation, but the policy may have been interpreted by members of the public as a justifiably xenophobic measure to discourage the repatriation of Japanese-Brazilians, who were often viewed as unwanted members of society. If the public views payments in this light, and migrants do as well, then the unintended but demeaning message implied may make the intervention a type of force.

In both cases involving physical and non-physical force, if alternatives to force are available, these alternatives should be instituted, assuming all else is equal.

What are examples of alternatives where all else is equal? Payments like those offered by Japan could constitute non-force alternatives if offered with the intent to expand migrants' opportunities rather than to exclude outsiders, and with payments offered to all to avoid them being perceived as an attempt to exclude Brazilian-Japanese residents. Another alternative is aid. There are growing efforts to provide aid to low-income countries with the hope of improving conditions in these countries, reducing the incentives for emigration. So long as the aid is provided with the intent of improving conditions and livelihoods, and not intended or interpreted as a xenophobic reaction to migration, the aid needn't entail an offensive message. If this aid is an available alternative to force, with comparable costs and goals to the use of force, then utilising force to reach immigration goals would be wrong.

The above concerns force vs non-force, but force is relative. We therefore additionally propose the Relative Availability Principle. This holds that force which entails more serious pro-tanto wrongs is impermissible when force which entails less serious pro-tanto wrongs is available, all else being equal. For example, consider the following six forms of force:

1. Lethal deportation which is interpreted as racist or xenophobic.
2. Lethal deportation which is not interpreted or intended as xenophobic or racist.
3. Injurious deportation which is interpreted as racist or xenophobic.
4. Injurious deportation which is not interpreted or intended as xenophobic or racist.
5. Payments offered to all migrants agreeing to repatriate, where payments are interpreted as xenophobic or racist.

6. Payments offered to all migrants agreeing to repatriate, where payments are not intended nor interpreted as xenophobic or racist.

All six are forms of force, but force which is racist entails greater wrongs than force which is not, all else being equal. Force 1, 3, and 5 may therefore be wrong in a way that 2, 4, and 6 are not, such that 1 is wrong if 2 is possible, 3 is wrong if 4 is possible, and if 5 is wrong if 6 is possible. Moreover, lethal force seems generally more wrong than injurious force, and so 1 is wrong if 3 or 4 are possible, and if 2 is wrong if 4 is possible, all else being equal. We suspect both lethal and injurious force are more serious pro-tanto wrongs than voluntary payment schemes, and so 1 and 3 are wrong if 5 or 6 are possible, and 2 and 4 are wrong if 6 is possible.

This leaves open the question of injurious policies which are not interpreted as being racist or xenophobic entail greater pro-tanto wrongs than policies which are interpreted as being racist or xenophobic, but which entail no injury or death. This is an especially difficult question in cases where the injury might be psychological; imagine a state can reach justified immigration goals if it either detains migrants in a manner that might cause psychological distress, or if it provides payments interpreted as racist. If the former entails a greater pro-tanto wrong, then it is impermissible if the latter is possible, but it is not clear that the former does entail a greater pro-tanto wrong. Establishing whether it does requires a broader discussion of the wrong of discrimination as compared to other wrongs, a task which others have begun to address more generally, and within immigration in particular (Mendoza 2014; MacKay 2018; Lim 2017, 2018; Gibney 2020). Moreover, establishing when the Relative Availability Principle is more generally violated requires an even broader discussion on what is wrong in general, and what wrongs are more serious than other wrongs. For now, we can at least conclude that this principle is violated when a type of force which clearly involves wrongs is instituted rather than another type of force involving a less serious wrong, where all else is equal.

6 What is politically feasible?

The four principles we articulated specified the duties of states enforcing migration policies. States, however, don't exactly make decisions. The people who run states make decisions,

including policymakers in parliament passing legislation or enacting bylaws to reach immigration goals. Policymakers might concede that the final Availability Principle is easy enough to implement, as it does not entail any increase in unwanted migration, only requiring that the force used to bring about a reduction in migration is no more than necessary. But policymakers may claim they cannot implement versions of the Benefit, Lethal Force, and Forced Migration Principles, because the public desires a reduction in migration, and these policies would sometimes be necessary to reduce migration. Any policymakers trying to pass legislation or bylaws consistent with these principles might be quickly voted out of office, unable to implement such principles in practice. Even if such policymakers should try and pass such legislation as a symbolic gesture, they can have no duty to actually pass such legislation if public opinion makes this impossible.

This raises a question: is public opinion consistent with the four principles we defended? In this section we demonstrate that they are to an extent, at least with regards to enforcement procedures involving deportation and detention. In Sub-section 6.1 we describe seven hypothesis concerning the extent that the public's opinions are consistent with the principles we present. In Sub-section 6.2 we describe an original conjoint experiment we conducted to test these hypotheses, before spelling out our findings in Section 7 and the implications of these findings for policymakers' in Section 8.

6.1 Hypotheses

As noted in the discussion on the Availability Principles, when less force is possible then greater force is impermissible, all else being equal. Moreover, consistent with the Lethal Force Principle, lethal force is usually impermissible. We predict that citizens' opinions are sensitive to these principles, holding that enforcement leading to likely death is less reasonable than enforcement leading to likely bodily harm, which is worse than unknown harm, which is worse than no harm:

Hypothesis 1 *There is at least a weak inverse relationship between citizens' support for exclusion and the severity of the harm caused from force used to bring about this exclusion.*

While the above relates to harm in general, our second hypothesis relates to lethal harm in particular. As noted in Section 3, the Lethal Force principle holds that lethal force is always wrong unless instigated against a migrant posing a threat to the lives and basic necessities of citizens. We hypothesize that citizens will be far more likely to support lethal force if a migrant poses a threat to the lives and basic necessities of citizens, and far less likely to support such lethal force for migrants who pose no such threats. For example, if a migrant is on a terrorist watch list, has a criminal history, or has Covid-19, we predict that citizens will think it more reasonable to use lethal force compared to other categories of migrants. Moreover, given that being on a terrorist watch list is often viewed as indicative of being blameworthy for causing harm, and indicative of wishing to cause harm (Giner-Sorolla and Maitner 2013; Nolan 2008; Goodman-Delahunty, Martschuk, and Ockenden 2016), we predict that citizens will view such migrants as liable to harm, and so most supportive of using lethal force against such migrants:

Hypothesis 2 *Citizens will be more supportive of lethal force the more an immigrant is perceived as a threat to security and*

Hypothesis 3 *Citizens will most support the use of lethal force against a migrant on a terrorism watch list as compared to those with a criminal history and those infected with Covid-19.*

Our next two hypotheses are indirectly related to both the Benefit Principle and the Lethal Force Principle. As noted in our discussions of these principles, there is a distinction between doing harm and allowing harm. Because doing harm is worse than allowing harm, sometimes imposing harm on migrants is wrong even if this reduces comparable harm for citizens. For example, it is wrong to lethally shoot 100 migrants even if their presence will create a strain on resources, leading to lack of cancer treatment which shortens the lives of 101 citizens. The benefits for citizens would be insufficient to justify active harm against migrants, and so would be incompatible with the theory of proportionality underpinning the Benefit Principle. Moreover, as articulated in our defence of the Lethal Force Principle, active lethal force is a distinct type of wrong as compared to non-lethal force which causes a migrant to return to lethal conditions; such active lethal force is not justified for migrants posing no threat to the lives or necessities of citizens. We predict that citizens will be responsive to the doing/allowing

distinction relevant for both principles:

Hypothesis 4 *There is at least a weak inverse relationship between citizens' support for exclusion and the extent that force used to bring about this exclusion causes active harm, as opposed to passive harm or no known harm.*

and

Hypothesis 5 *A migrant posing a threat will be predictive of respondents thinking it reasonable to use active vs. merely passive or no harm.*

"Active harm" is:

- a. bodily injury due to detention/deportation
- b. death due to detention/deportation

"Passive harm" is:

- c. bodily injury due to reason for immigration, such as a migrant who will likely die from untreated illness if they return to their home country or remain in their home country
- d. death due to reason for immigration, as in (c).

In other words, while some limited force may be viewed as justified against migrants who will experience passive harm, such as denying a visa to a migrant who will experience deprivation in their home countries, it is unlikely that using direct lethal force against such migrants is viewed as usually justified, unless this migrant poses a threat to the lives and basic necessities of citizens.

Finally, as noted in the Forced Migration Principle, the harmful force permitted against a migrant who has no choice but to leave their home is less than the force permitted against a migrant who chooses to leave their home, with migrants who experience very harsh conditions in their home countries most clearly holding little other choice but to migrate. If citizens opinions are consistent with this principle, we would expect:

Hypothesis 6 *There is greater support for force against migrants who will face no harm if they live in their home countries as compared to migrants who will face harm if they live in their home countries.*

The above hypothesis focuses on the harm that migrants would face if they live in their home countries, rather than their motivations for leaving. Motivations were important for our Forced Migration Principle: some migrants are less liable to force not merely because of conditions in home countries, but because these conditions pressured them to leave, making their choices largely involuntary, and so less blameworthy. Our final hypothesis focuses on such involuntariness by focusing on migrants' subjective reasons for leaving their home countries, as opposed to just objective conditions in their home countries.

Hypothesis 7 *There is greater support for force against migrants whose reasons for migrating are related to severe harm in their home countries as compared to migrants whose reasons for migrating are unrelated to severe harm in their home countries.*

For simplicity, we refer to those migrating to avoid severe harm as "forced migrants" and those migrating for economic opportunity as "economic migrants." Note that those migrating because of severe poverty are viewed as forced migrants, rather than economic migrants, even if avoiding poverty is a type of economic opportunity.

6.2 Methodology

To test these hypotheses, we conducted an online survey amongst representative samples in the UK (Prolific Academic) and the US (Qualtrics), using experimental vignettes (Atzmuller and Steiner 2010; Hainmueller and Hopkins 2015; Turper 2017) to evaluate the extent that subjects support or oppose the use of violence in immigration control. Subjects were presented with five vignettes involving a fictional migrant who seeks to enter or remain in the United Kingdom/United States, with varying types and degrees of enforcement utilised to compel them to leave or prevent their entrance. Subjects were asked to decide the extent that denying this migrant the ability to enter or remain in the US/UK was unreasonable on a scale of 1 to 7 (reasonable to unreasonable, with a higher score on the outcome measure indicating disapproval of compelling them to leave/not enter, given the presented scenario.)

Between-respondent information treatment We have three experimental conditions based on the perceived likelihood of consequences of migration restrictions for migrants (though all

tasks still remain hypothetical). In Condition 1, participants are provided with certain information (*Certain*). In Condition 2, participants are provided with information that is probabilistic (low, high, or near certain chances of consequences or *Small chance, High chance, Near certain*). Finally, in Condition 3, participants are provided with no information about what happens to the migrant in the vignette (*No outcome information*).

Factorial vignette treatment We further randomly vary attributes of the immigration case in a single-profile factorial vignette. Respondents are shown

whether the migrant seeks to enter the UK/US (*Prospective*) or seeks to remain in the UK/US (*Retrospective*);

the migrant's gender.

the migrant's country of origin (collapsed by region, for the UK: Africa, Eastern Europe, Middle East, or Southeast Asia and for the US: Africa, Middle East, Eastern Europe, Central and South America, East Asia);¹

the migrant's reasons for attempting to enter the UK/US (Entering/wishing to remain in the UK/US to seek *Economic Opportunity*, to flee *Extreme Poverty*, to flee *Ethnic Persecution*, or to receive *Medical Treatment*;

the reasons for being denied a visa to live in the UK/US (they have a *Criminal Record*, they are *Unemployed*, their name is on a *Terror Watchlist*, *Immigration quotas* do not permit it, or they obtained a *COVID-19 Positive* test result;

the means of removal of the migrant (*Detention* or *Bar/Force Travel*);

and the potential consequences of removing the migrant (bodily *Harm* due to *Persecution, Malnutrition, Illness, or Custody*; *Death* due to *Persecution, Starvation, Illness, or Custody*; *Consequences Unknown*; *No Harm*).

We further elicit respondents' gender, education, income, humanitarian orientation (Feldman and Steenbergen 2001), reading the Mind in the Eyes task (Baron-Cohen et al. 2001), political ideology, votes in previous elections, attitudes towards immigration restrictions in general, and the preferred methods of immigration control (deportation, detaining, denial access of healthcare, blanket amnesty, limited amnesty, no immigration control).

¹Africa: Nigeria, Ethiopia, South Africa, Kenya; Eastern Europe: Poland, Romania, Russia, Ukraine; Middle East: Iran, Syria, UAE, Israel; Southeast Asia: India, Bangladesh, Pakistan, Myanmar; South and Central America: Venezuela, Nicaragua, Brazil, Mexico; East Asia: China, Philippines, Vietnam, Myanmar

7 Results

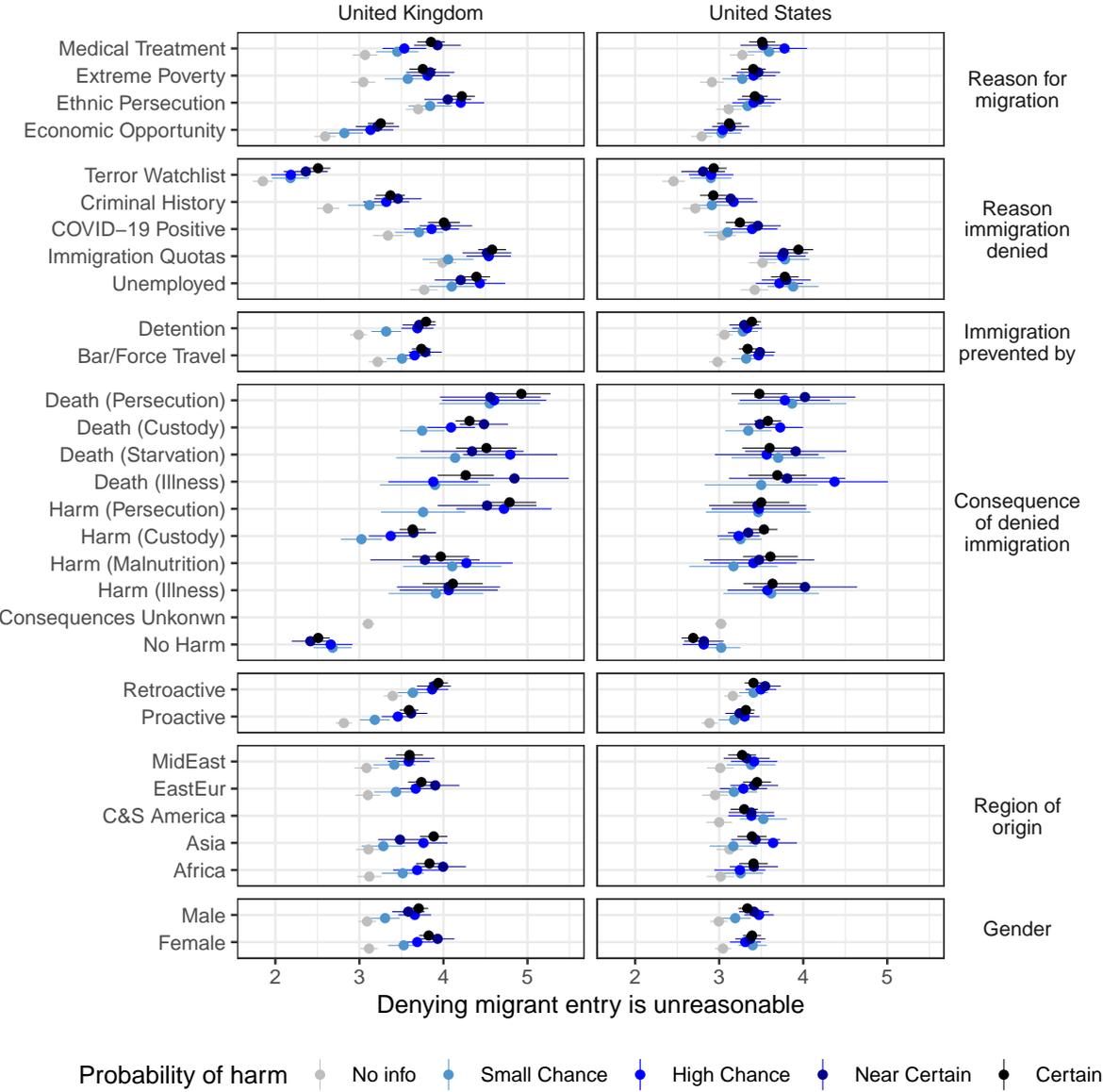
Before we describe findings concerning attitudes towards types of enforcement, and their relationship to the principles we formulated, it is worth noting two broad findings for context. First, respondents in the United Kingdom are significantly more likely to deem any scenario of a migrant being denied entry as unreasonable. On the 1-7 scale ranging from reasonable to unreasonable, UK respondents, on average, respond with a 3.50 (3.45,3.55) while US respondents give a lower 3.25 (3.23,3.29).² It may therefore be easier, in general, to pass legislation in the UK reducing enforcement more generally, and so easier to ensure enforcement is not harmful in a manner that violates the principles we set out.

Second, there was a general pattern concerning which migrants individuals thought it reasonable to exclude, regardless of enforcement: the most reasonably denied entry is judged to be one of a migrant who is on a terror watch list, followed by a migrant who will not experience any harm when returning to his/her country of origin. In particular, the marginal mean of the unreasonableness measure, averaging over the between-respondent information treatment, is 2.21 (2.13,2.28) in the UK and 2.75 (2.67,2.84). The marginal mean associated with a migrant who will not be exposed to any harm when returning home is 2.55 (2.45,2.64) and 2.79 (2.69,2.89) in the United Kingdom and the United States, respectively. Note the significant difference in marginal means between UK and US; UK respondents find those denials of immigration even more reasonable (thus the lowest score on the unreasonableness scale) than US respondents.

The averages just mentioned are represented in Figure 1 where we display marginal means of how unreasonable respondents deem to return the migrant in question, additionally splitting the sample by the between-respondent treatment that varies the probability that the migrant will experience harm upon return to his/her country of origin.

²Whenever we show a statistic we also provide 95% confidence bound based on standard errors of the statistics clustered at the respondent-level.

Figure 1: Marginal mean of how unreasonable it is to deny a given migrant entry to the country. We show 95% confidence bounds computed from standard errors clustered at the respondent-level. The figure omits the country of origin attribute (A full version of this figure is shown in Figure A.7 in the appendix).

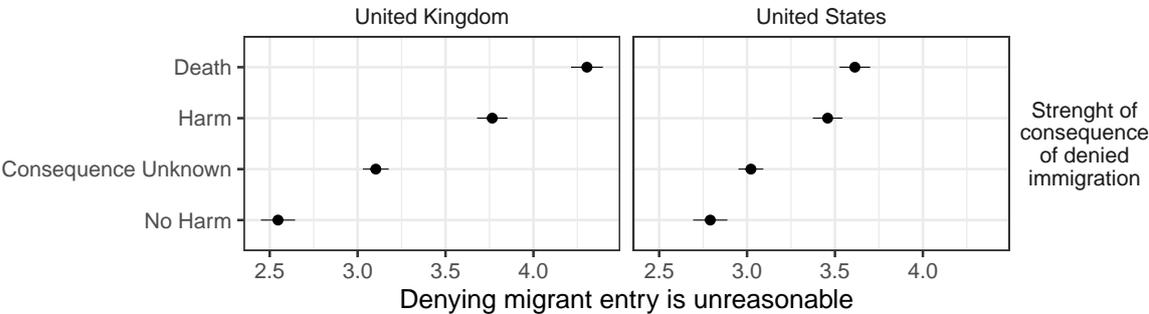


Below are our more specific findings relating to the principles we formulated:

Citizens are most deterred from supporting exclusion by the possibility of the migrant’s death. We found evidence in support of the first hypothesis, and so evidence of opinions consistent with both the Availability Principle and the Lethal Force Principle. Averaging over the between-respondent treatments, respondents hold it to be significantly more unrea-

sonable to return a migrant with the prospect of death than "just" non-lethal harm. Figure 2 shows a clear ordering in how reasonable or unreasonable respondents believe enforcement to be where the most reasonable denial of entry is associated with no harm, the second most reasonable with the situation where consequences are not known, the second most unreasonable when the migrant could expect harm upon his/her return, and the most unreasonable for a migrant who would be killed through deportation or when returning home.

Figure 2: Marginal mean of how unreasonable it is to deny a given migrant entry to the country by whether migrants would not be harmed, non-lethally harmed, or killed through deportation. We show 95% confidence bounds computed from standard errors clustered at the respondent-level.



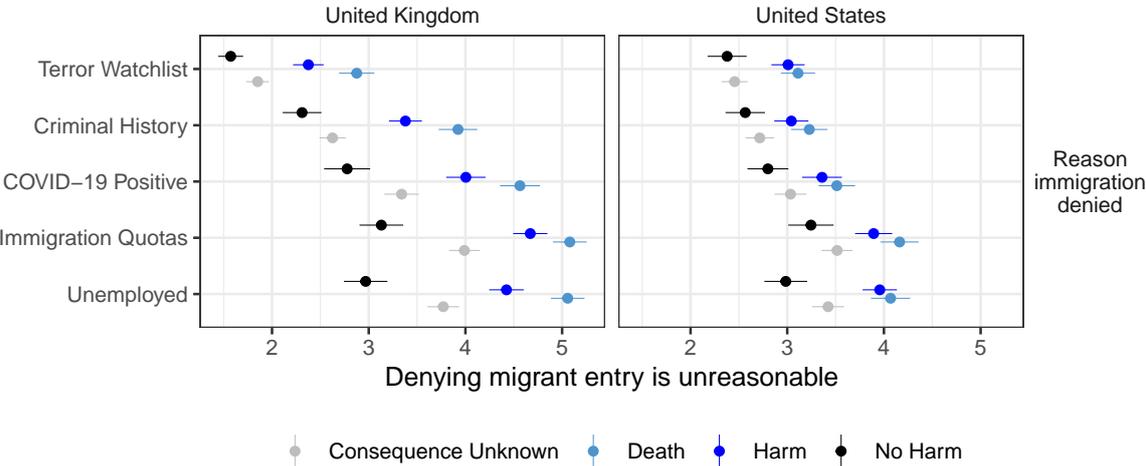
The greater the threat a migrant appears to pose, the more reasonable citizens find the use of lethal force. The Lethal Force Principle held that lethal force could be justified if the migrant posed a threat to the lives or necessities of citizens. Consistent with this principle and the second hypothesis, respondents distinguish between migrants who do and do not pose a threat to the host country. More specifically, lethal force against the first group migrants thought to pose a threat - including those on a terrorist watch list, those with a criminal history, and those with Covid-19 - are thought by respondents to be significantly more acceptable than for migrants who are unemployed or outside immigration quotas. Our third hypothesis was also confirmed: migrants on terror watch-list are significantly more likely to have their lethal enforcement be seen as reasonable than those who are said to have a criminal history or are tested positive for Covid-19.

As noted in the discussion of the Lethal Enforcement Principle, one reason it is more justified to use lethal force against those who pose a severe threat is that those who pose a severe

threat may be liable to harm which those who pose no threat are not liable to face. This general idea regarding liability seems to have been supported by respondents: not only were they more supportive of lethal force for those posing a threat, and for those on a terrorist watch list in particular, but they were more supportive of enforcement in general for those thought to pose a threat, and for those on a terrorist watch list in particular.

Figure 3 reports this pattern more strongly for the UK than the US sample but shows it to still be present in the latter.

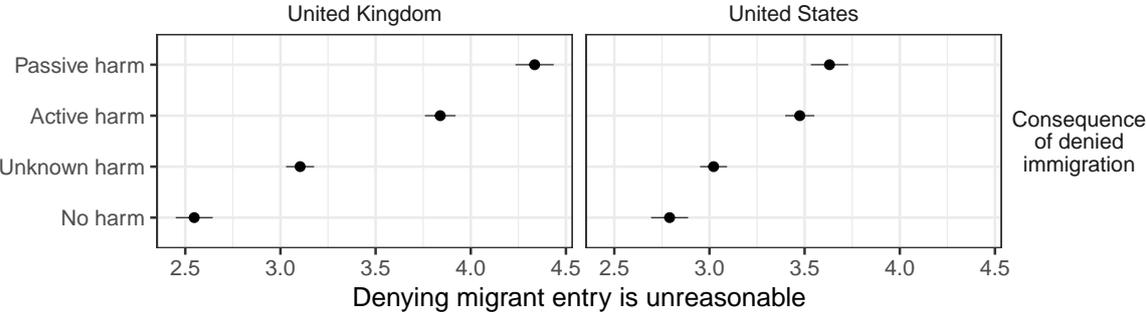
Figure 3: Marginal mean of how unreasonable it is to deny a given migrant entry to the country by the reason for which entry was denied and whether migrants would not be harmed, non-lethally harmed, or killed through deportation. We show 95% confidence bounds computed from standard errors clustered at the respondent-level.



The greater and more certain the potential from harm to a migrant upon returning to their home country, the less reasonable citizens find the exclusion. As we noted when describing our methods, in the experiment migrants were shown to either (a) not be harmed, (b) facing harm not known, (c) "passively" harmed by circumstances upon return (i.e., illness, malnutrition, starvation, persecution), or (d) "actively" harmed by the returning government through the act of deportation. Figure 4 shows a significant increase in respondents view that deportation is unreasonable from when migrants would not be harmed, to when no information exist whether they would be harmed to "active harm," to "passive harm."

In other words, respondents are significantly more likely to support returning such a mi-

Figure 4: Marginal mean of how unreasonable it is to deny a given migrant entry to the country by whether migrants would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm"). We show 95% confidence bounds computed from standard errors clustered at the respondent-level.



grant if they are not harmed, over any other scenario, but least likely when they would be object to harmful conditions upon return ("passive harm").³

This result concerning passive harm is contrary to our fourth hypothesis; respondents thought cases where border officials harmed migrants was more reasonable than when migrants were harmed in their home countries. This seemed perplexing at first: if doing harm is worse than allowing harm, which we presumed when describing the Benefit and Lethal Force Principles, then a border official actively doing harm against a migrant is worse than a migrant facing harm in their home countries. However, this finding is also consistent with our sixth hypothesis. Our sixth hypothesis, consistent with the Forced Migration Principle, was that there would be greater support for force against migrants who would face no harm in their home countries. It would follow that respondents, when learning that a migrant would face no harm if they returned, would be more supportive of actively utilising enforcement against them, thinking such harm especially reasonable. Such migrants may be viewed as more liable to "defensive harm." In contrast, when a migrant would face harm in their home countries, respondents would be less supportive of using active enforcement against them, thinking it highly unreasonable for such migrants to be forced to return. The end result would be that

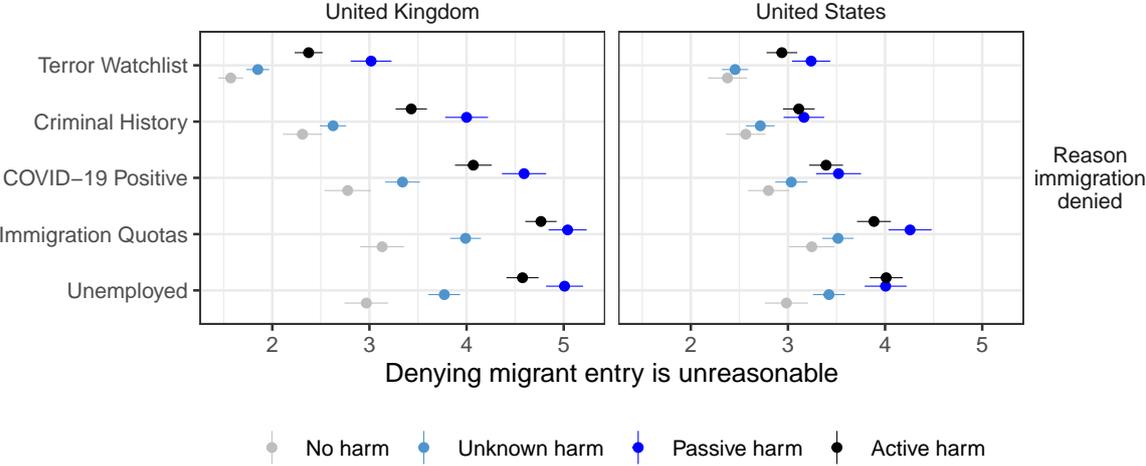
³Whenever we claim a significant result, we build this statement on the hypothesis test over the size of the coefficient on an indicator of the groups of comparison (here the type of harm inflicted on migrants as a consequence of denied entry with "No harm" as baseline category) in a regression of unreasonableness of denying entry on all attribute levels as shown in Figure 1, an indicator for the between-subject probability of harm treatment condition, vignette number, and sample fixed effects. We say a hypothesis test returns a significant result if we are able to reject the null hypothesis of a zero coefficient at $\alpha = .05$. We cluster standard errors at the respondent-level.

respondents would think cases with "active harm" were more reasonable than cases with "passive harm." In other words, respondents' opinions regarding active vs. passive harm were not necessarily indicative of their opinions being inconsistent with the Benefit and Lethal Force Principles; they could simply be indicative of their opinions being consistent with the Forced Migration Principle.

Citizens do not find the active harm of threatening migrants more or less reasonable than the active harm of non-threatening migrants. The distinction between active vs. passive harm is relevant for the fifth hypothesis as well, which held that there would be more support for active harm against those posing a threat, in contrast with more passive harm. While the difference in support for deportation between cases with "passive" vs "active harm" is slightly larger for more threatening migrants (those on a terror watch-list, those with criminal history, and those who were tested positive for Covid-19) than migrants who were denied for reasons of filled immigration quota or because they were unemployed, the level of threat does not significantly affect how predictive the type of harm is on respondents' assessment of how unreasonable denying entry is. Figure 5 illustrates that the difference in marginal mean between "active" vs "passive" harm is not significantly different at different levels of threat from the migrant. In other words, we found no support of our fifth hypothesis, which held that citizens would be more supportive of active harm versus mere passive harm for migrants posing a threat as compared to other migrants. This, as with the finding relating to hypothesis 4, could be consistent with the sixth hypothesis. If migrants who would face harm in their home countries are less liable to defensive harm, then respondents may feel that even migrants who pose a threat ought not be subject to defensive harm by border officials. Respondents may therefore feel it especially unreasonable to use force which will lead to harm in migrants' home countries. In other words, responses seem consistent with the Forced Migration Principle even for migrants posing a threat.

Citizens find exclusion involving harmful force more reasonable if the migrants' reasons for migrating are unrelated to harms in their home countries. Figure 6 displays the marginal mean of how unreasonable exclusion is seen by the reason because of which the

Figure 5: Marginal mean of how unreasonable it is to deny a given migrant entry to the country by the reason for which entry was denied and by whether migrants would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm"). We show 95% confidence bounds computed from standard errors clustered at the respondent-level.

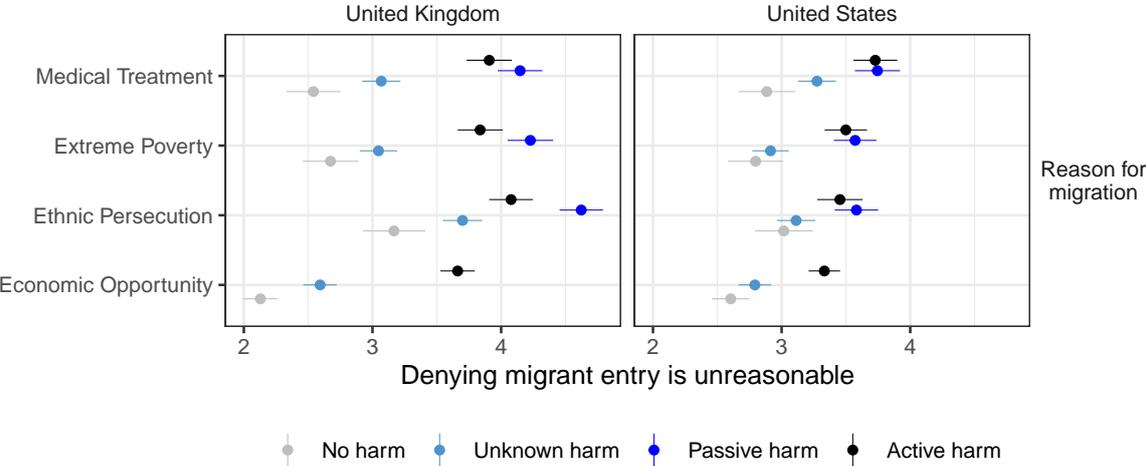


migrant came to the country and the level of harm from enforcement (no harm, unknown harm, passive harm, or active harm).

Consistent with the seventh hypothesis, citizens are more likely to view enforcement with known or unknown harms as unreasonable (whether "active" harms from enforcement or "passive" harm from conditions in home countries) when the migrants' reasons for migrating are related to extreme harm in their home countries. As a reminder, this refers to those migrating to avoid ethnic persecution, extreme poverty, and medical needs ("forced migrants"), in contrast to those migrating for non-essential economic opportunity ("economic migrants").

It is worth noting that, in both the US and the UK, the difference in perceived reasonableness for economic migrants facing no harm in enforcement versus perceived reasonableness for economic migrants facing harm in enforcement was no greater than the difference in reasonableness for forced migrants facing no harm in enforcement versus perceived reasonableness for forced migrants facing harm in enforcement. In other words, respondents simply thought it (a) less reasonable to use any enforcement against forced migrants as against economic migrants, and (b) less reasonable to use harmful enforcement than non-harmful enforcement against both forced migrants and economic migrants. This is consistent with our

Figure 6: Marginal mean of how unreasonable it is to deny a given migrant entry to the country by the reason why the migrated and whether migrants would not be harmed, non-lethally harmed, or killed through deportation. We show 95% confidence bounds computed from standard errors clustered at the respondent-level.



next finding, which was particularly surprising.

Some citizens find denying entry reasonable for migrants seeking non-necessitous economic opportunities even when the migrant experiences harm during enforcement or at home after enforcement.

The support in the UK for excluding migrants who came for economic opportunity but will experience harm is significantly larger than migrants who left for medical treatment, ethnic persecution, or extreme poverty. For example, respondents were more likely to view deportation of a migrant coming for economic opportunity as reasonable as compared to the deportation of a refugee fleeing persecution, even if both the economic migrant and refugee would face likely death in their home countries after returning. The U.S. sample does not show such a pattern. This finding in the UK may arise because respondents felt that a migrant was not forced to leave initially if they left for economic opportunity, and are therefore liable to more harm during enforcement and after return. This finding could be interpreted as consistent with our seventh hypothesis, because such migrants were not initially forced to leave, and could be interpreted as consistent with the Forced Migration Principle, because if such migrants were not forced to leave then they are more liable to harm. However, if economic migrants will likely face harm in their home countries if faced

with enforcement, then even if these harms are not their reasons for migrating, it still seems they are essentially "forced migrants." At the very least, further ethical analysis is necessary to determine if such economic migrants ought to be treated differently, to determine if the public's attitudes are consistent with what justice requires.

8 Some implications for policymakers

As noted, the public is somewhat sensitive to distinctions between greater and lesser force, lethal and non-lethal force, and migrants who pose a threat and those who do not. The public's sensitivity to these distinctions is consistent with the four principles we articulated. If the public's opinions are at least somewhat consistent with the principles we articulated, these principles may be at least somewhat politically feasible. If they are, then policymakers ought to try and implement them in practice. More specifically, they ought to bring state's policies closer to what justice requires.

We lack the room to fully articulate every potential policy change, but here are some policies reforms which seem politically feasible.

Consider, first, policy reforms relating to the Forced Migration Principle. This principle held that enforcement against those forced to leave their home countries is wrong, a sentiment held by respondents in our survey, and a sentiment rarely found in policies surrounding migrants seeking medical care abroad.

Today, while a migrant in the UK and US can appeal deportation on medical grounds (Exter 2020; Bindman, Maingay, and Szmukler 2003), many fail to successfully appeal if they have ongoing medical needs (Gibson 2005), and nor can an individual outside of the UK or US appeal the denial of a visa on medical grounds. Indeed, migrants are often denied a visa precisely because of medical conditions, rather than offered a visa to help alleviate their medical conditions: migrants are required to prove they do not have tuberculosis before entering the UK (Aldridge et al. 2014), and were any such migrants to attempt to enter the UK to access life-threatening medical care they would soon face violent enforcement (Exter 2020). More generally, enforcement involves detention: while the UK was still a member of the EU, it funded detention centres in Libya via the Emergency Trust Fund for Africa, and this resulted in mi-

grants dying from illnesses in these detention centres. Those holding pre-existing medical conditions were especially likely to face death and especially unlikely to obtain visas for the UK (Baldwin-Edwards and Lutterbeck 2019; Beşer and Elfeitori 2018; Pottie et al. 2015). Even refugees who seek resettlement to the UK and US are often barred from such resettlement if they suffer from medical conditions or disabilities (Mirza 2010). These policies are both inconsistent with the principle we set forth, and also highly unpopular, and so a good contender for being successfully discontinued.

A similar claim can be made regarding prolonged detention of migrants more generally, when such migrants have fled severe and life-threatening poverty or persecution. For example, the UK support for detention in Libya includes support for the detention of refugees to prevent them from reaching Europe (Lemberg-Pedersen 2017). Detention which compels migrants to either return to life-threatening condition, or to remain in such conditions, is both inconsistent with the Forced Migration Principle and highly unpopular. At least, it is unpopular for survey respondents exposed to specific cases of migrants detained (and we shall elaborate on this qualification shortly). If the lack of popularity is indicative of the feasibility of reforms to discontinue such detention, and policymakers have a duty to implement what is both minimally just and feasible, then policymakers have a duty to discontinue such detention.

Policy reforms consistent with the Lethal Force Principle are slightly more complex; we only asked respondents about death in detention and during deportation, and many migrants are killed while trying to migrate (Tinti and Reitano 2018). However, the externalisation policies described above - where migrants are killed abroad in detention centres funded by the UK - are clearly in violation of both this principle and unpopular. Moreover, if respondents oppose enforcement involving death from detention and deportation, they likely oppose enforcement involving death from hunger and thirst, common when migrants along the US-Mexico border are unable to easily enter US territory (Slack and Martinez 2019). Indeed, existing surveys suggest general opposition to many US border policies (Kim, Kim, and Altema McNeely 2020), and this is likely partly because of the mortality rate arising from such policies. If opposition to lethal force extends to opposition to enforcement leading to death from thirst and starvation near the border, then policymakers ought to discontinue such enforcement policies. Doing so

is not only what justice requires, but feasible in practice.

Policymakers are likely able to make further reforms, helping shift enforcement closer to what is required by the Benefit Principle. Consider recent efforts to block the entrance of migrants during Covid-19 (Kluge et al. 2020; Owen 2020; Guadagno 2020). While blocking entrance may slow down the spread of the virus, it prevents even refugees from entering, and the relatively small decrease in the spread of the virus unlikely justifies a major risk for refugees forced to live in unsafe countries. UK survey respondents somewhat agreed, feeling it unreasonable to use enforcement against migrants when doing so would lead to their death or injury, with respondents only slightly more supportive of such enforcement for migrants with Covid-19. In the UK, it may therefore be feasible for policymakers, even during a pandemic, to refrain from enforcement against who would face harmful conditions in their home countries. If this is both feasible for policymakers and what justice requires, than policymakers likely have a duty to do so; they cannot claim enforcement against migrants must continue due to public support for curbing the spread of Covid-19, given public support for less harmful enforcement.

At least, the survey we conducted provides evidence of public support for less harmful enforcement. Such evidence is still tentative, given one important way our survey was limited: we asked respondents about specific cases of enforcement, and even if respondents think individual enforcement is not reasonable, they might still support such enforcement on the aggregate. For example, a respondent who views it as unreasonable to use enforcement against a Covid-19 positive migrant attempting to enter the UK might still think enforcement against thousands of migrants is reasonable because of opposition to thousands of migrants arriving in the UK, either due to opposition to major increases in migration in general, or because of the aggregate effects of such an increase (whether during a pandemic or otherwise). To fully understand what is considered reasonable, further experiments are necessary.

Moreover, further experiments can help establish the extent of social desirability bias. Respondents may have claimed a given enforcement was unreasonable, because of the harm instigated against a non-labile migrant, but still be unwilling to vote for policymakers who actually try minimizing harms against non-labile migrants. If such respondents are unwilling

to re-elect policymakers attempting to institute such reforms, such reforms may be politically infeasible after all. Establishing when and whether this is the case would require further experiments which can account for such biases, including those utilising list experiments and implicit bias tests.

Regardless of what is precisely feasible, we can at least conclude this: especially harmful enforcement is less popular than less-harmful enforcement, and this opinion is distinct from the claim that immigration is popular in general. Given opposition to harmful enforcement in cases where migrants pose no threat, policymakers are likely able to introduce less-harmful forms of enforcement in broader immigration policies. Such reforms may be both possible in practice, and consistent with what justice requires.

9 Conclusion

This paper addressed when and whether certain types of immigration enforcement are consistent with requirements of justice. We argued that current justifications for immigration control in general appeal to theories justifiable harm in defence, and harm in defence must be proportionate, necessary, and sensitive to principles of liability. Harm in enforcement must therefore be proportionate, necessary, and sensitive to principles of liability. We presented four principles in enforcement which are sensitive these considerations of proportionality, necessity, and liability, and set out to determine how popular these four principles were. We did so by running a conjoint experiment, presenting subjects with vignettes of migrants facing varying levels of harm, migrating to avoid different types of harm, and seemingly posing different types of threat to harm. We learned that respondents' opinions were consistent with the principles we formulated. This suggests that policymakers may find it feasible to implement reforms which are consistent with these principles.

References

- Aalberg, Toril, Shanto Iyengar, and Solomon Messing. 2012. "Who is a 'Deserving' Immigrant?" *An Experimental Study of Norwegian Attitudes*, *Scandinavian Political Studies* 35 (2).
- Abizadeh, Arash. 2016. "The Special-obligations Challenge to More Open Borders". In *Migration in Political Theory*, ed. by Sarah Fine and Lea Ypi. Oxford: Oxford University Press.
- Abrar, Chowdhury R. 1995. "Repatriation of Rohingya refugees". *UNHCR's Regional Consultation on Refugee and Migratory Movements, Colombo*.
- Albahari, Maurizio. 2017. "Death and the modern State: making borders and sovereignty at the southern edges of Europe".
- Aldridge, Robert W, et al. 2014. "Pre-entry screening programmes for tuberculosis in migrants to low-incidence countries: a systematic review and meta-analysis". *The Lancet Infectious Diseases* 14 (12): 1240–1249.
- Atzmuller, Christiane, and Peter M. Steiner. 2010. "Experimental Vignette Studies in Survey Research". *Methodology* 6 (2): 128–138.
- Baldwin-Edwards, Martin, and Derek Lutterbeck. 2019. "Coping with the Libyan migration crisis". *Journal of Ethnic and Migration Studies* 45 (12): 2241–2257.
- Baron-Cohen, Simon, et al. 2001. "The "Reading the Mind in the Eyes" Test revised version: a study with normal adults, and adults with Asperger syndrome or high-functioning autism". *The Journal of Child Psychology and Psychiatry and Allied Disciplines* 42 (2): 241–251.
- Bazargan-Forward, Saba. 2018. "Vesting Agent-Relative Permissions in a Proxy". *Law and Philosophy* 37 (6): 671–695.
- Beşer, Mehmet Enes, and Fatimah Elfeitori. 2018. *Libya Detention Centres: A State of Impunity*.
- Bindman, Jonathan, Samantha Maingay, and George Szmukler. 2003. "The Human Rights Act and mental health legislation". *The British Journal of Psychiatry* 182 (2): 91–94.
- Blake, Michael. 2012. "Immigration, association, and antidiscrimination". *Ethics* 122 (4): 748–762.
- . 2013. "Immigration, jurisdiction, and exclusion". *Philosophy & Public Affairs* 41 (2): 103–130.
- Blitz, Brad K, Rosemary Sales, and Lisa Marzano. 2005. "Non-voluntary return? The politics of return to Afghanistan". *Political Studies* 53 (1): 182–200.
- Carens, Joseph. 1987. "Aliens and Citizens: The case for open borders". *Review of Politics* 49 (2).
- . 2013. *The ethics of immigration*. Oxford University Press.
- Cherem, Max. 2016. "Refugee rights: Against expanding the definition of a "refugee" and unilateral protection elsewhere". *Journal of Political Philosophy* 24 (2): 183–205.
- Citrin, Jack, et al. 1997. "Public Opinion Toward Immigration Reform: The Role of Economic Motivations". *Journal of Politics* 59:858–81.
- Corlett, David. 2005. *Following them home: the fate of the returned asylum seekers*. Black Inc.
- Dorsey, Dale. 2005. "Moral failure and agent-relative prerogatives". *Journal of philosophical research* 30 (Supplement): 309–319.
- Dummett, Michael AE. 2001. *On immigration and refugees*. Vol. 133. Routledge London.

- Dustmann, Christian, and Ian Preston. 2007. "Racial and Economic Factors in Attitudes to Immigration". *BE Journal of Economic Analysis Policy* 7 (1): 1–39.
- Exter, André den. 2020. "Strasbourg Medical Expulsion Rulings: Beyond the Deathbed Requirement". *European Journal of Health Law* 27 (2): 115–124.
- Facchini, Giovanni, and Anna Maria Mayda. 2009. "Does the Welfare State Affect Individual Attitudes toward Immigrants? Evidence across Countries". *Review of Economics and Statistics* 91 (2): 295–314.
- Fekete, Liz. 2009. "Europe's Shame: a report on 105 deaths linked to racism or government migration and asylum policies". *European Race Bulletin* (London).
- . 2005. "The deportation machine: Europe, asylum and human rights". *Race & Class* 47 (1): 64–78.
- Feldman, Stanley, and Marco R Steenbergen. 2001. "The humanitarian foundation of public support for social welfare". *American Journal of Political Science*: 658–677.
- Ferracioli, Luara. 2014. "The appeal and danger of a new refugee convention". *Social Theory and Practice*: 123–144.
- Ferzan, Kimberly Kessler. 2019. "Deontological distinction in war". *Ethics* 129 (4): 603–624.
- Fine, Sarah. 2010. "Freedom of association is not the answer". *Ethics* 120 (2): 338–356.
- Frowe, Helen. 2014. *Defensive killing*. OUP Oxford.
- . 2019. "If You'll Be My Bodyguard: Agreements to Save and the Duty to Minimize Harm". *Ethics* 129 (2): 204–229.
- . 2018. "Lesser-evil justifications for harming: why we're required to turn the trolley". *The Philosophical Quarterly* 68 (272): 460–480.
- Gerver, Mollie. 2018a. "Paying Refugees to Leave". *Political Studies* 65 (3): 3–22.
- . 2018b. *The ethics and practice of refugee repatriation*. Edinburgh University Press.
- Gibney, Matthew J. 2020. "Denationalisation and discrimination". *Journal of Ethnic and Migration Studies* 46 (12): 2551–2568.
- . 2013. "Is deportation a form of forced migration?" *Refugee Survey Quarterly* 32 (2): 116–129.
- . 2004. *The ethics and politics of asylum: Liberal democracy and the response to refugees*. Cambridge University Press.
- Gibson, Katie. 2005. "UK: House of Lords upholds deportation order." *HIV/AIDS policy & law review* 10 (2): 48–49.
- Giner-Sorolla, Roger, and Angela T Maitner. 2013. "Angry at the unjust, scared of the powerful: Emotional responses to terrorist threat". *Personality and Social Psychology Bulletin* 39 (8): 1069–1082.
- Goodman-Delahunty, Jane, Natalie Martschuk, and Elizabeth Ockenden. 2016. "Effects of terrorist charges and threatening conduct on mock jurors' decisions". *Psychiatry, psychology and law* 23 (5): 696–708.
- Guadagno, Lorenzo. 2020. "Migrants and the COVID-19 pandemic: An initial analysis". *International Organization for Migration, Migration Research Series*, no. 60.

- Hainmueller, Jens, and Dominik Hangartner. 2013. "Who Gets a Swiss Passport? A Natural Experiment in Immigrant Discrimination". *American Political Science Review* 107 (1): 159–87.
- Hainmueller, Jens, and Michael J. Hiscox. 2010. "Attitudes toward Highly Skilled and Low-Skilled Immigration: Evidence from a Survey Experiment". *American Political Science Review* 104 (1): 61–84.
- Hainmueller, Jens, and Daniel J. Hopkins. 2015. "The Hidden American Immigration Consensus: A Conjoint Analysis of Attitudes Towards Immigrants". *American Journal of Political Science* 59 (3): 529–548.
- Haque, Adil Ahmad. 2017. *Law and morality at war*. Oxford University Press.
- Harell, Allison, et al. 2012. "The Impact of Economic and Cultural Cues on Support for Immigration in Canada and the United States". *Canadian Journal of Political Science* 45 (3): 499–530.
- Hayter, Teresa. 2000. *Open Borders: The Case Against Immigration Controls*. London: Pluto Press.
- Hellman, Deborah. 2008. *When is discrimination wrong?* Harvard University Press.
- Hidalgo, Javier S. 2018. *Unjust borders: Individuals and the ethics of immigration*. Routledge.
- Hosein, Adam Omar. 2014. "Doing, allowing, and the state". *Law and Philosophy* 33 (2): 235–264.
- Johnston, Christopher D., Benjamin J. Newman, and Yamil Velez. 2015. "Ethnic Change, Personality, and Polarization over Immigration in the American Public". *Public Opinion Quarterly* 79 (3): 662–686.
- Kates, Michael, and Ryan Pevnick. 2014. "Immigration, jurisdiction, and history". *Philosophy & Public Affairs* 42 (2): 179–194.
- Kim, Dongkyu, Mi-son Kim, and Natasha Altema McNeely. 2020. "A Comparative Analysis of the Attitudes toward the US-Mexico Border Policy: Evaluating Perspectives on Border Security and Building a Wall in the Rio Grande Valley, National Hispanic and General US Populations". *Hispanic Journal of Behavioral Sciences*: 0739986320953803.
- Kluge, Hans Henri P, et al. 2020. "Refugee and migrant health in the COVID-19 response". *The Lancet* 395 (10232): 1237–1239.
- Lazar, Seth. 2013. "Associative duties and the ethics of killing in war". *Journal of Practical Ethics* 1 (1).
- Lemberg-Pedersen, Martin. 2017. "Effective protection or effective combat? EU border control and North Africa". In *Eurafrican borders and migration management*, 29–60. Springer.
- Lim, Desiree. 2017. "Selecting Immigrants by Skill: A Case of Wrongful Discrimination?" *Social Theory and Practice* 43 (2): 369–396.
- . 2018. "The indirect gender discrimination of skill-selective immigration policies". *Critical Review of International Social and Political Philosophy*.
- Lippert-Rasmussen, Kasper. 2014. *Born free and equal?: a philosophical inquiry into the nature of discrimination*. Oxford University Press.
- Lister, Matthew. 2020. "Enforcing immigration law". *Philosophy Compass* 15 (3): e12653.
- . 2013. "Who are refugees?" *Law and Philosophy* 32 (5): 645–671.

- MacKay, Douglas. 2018. "Immigrant selection, health requirements, and disability discrimination". *J. Ethics & Soc. Phil.* 14:44.
- Mayda, Anna Maria. 2006. "Who Is Against Immigrants? A Cross-Country Investigation of Individual Attitudes towards Immigrants". *Review of Economics and Statistics* 88 (3): 30.
- McGrath, Sarah. 2003. "Causation and the making/allowing distinction". *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* 114 (1/2): 81–106.
- McMahan, Jeff. 2009. *Killing in war*. Oxford University Press.
- . 1994. "Self-defense and the problem of the innocent attacker". *Ethics* 104 (2): 252–290.
- Mendoza, José Jorge. 2014. "Discrimination and the presumptive rights of immigrants". *Critical Philosophy of Race* 2 (1): 68–83.
- . 2015. "Enforcement matters: Reframing the philosophical debate over immigration". *The Journal of Speculative Philosophy* 29 (1): 73–90.
- Miller, David. 2005. "Immigration: The Case for Its Limits". In *Contemporary Debates in Applied Ethics*, ed. by A. Cohen and C. Wellman. Malden, MA: Blackwell Publishing.
- . 2016. *Strangers in Our Midst: The political philosophy of immigration*. Cambridge: Harvard University Press.
- Mirza, Mansha. 2010. "Resettlement for disabled refugees". *Forced Migration Review*, no. 35: 30.
- Moore, Margaret. 2015. *A political theory of territory*. Oxford University Press.
- Newman, Benjamin J., et al. 2015. "Easing the Heavy Hand: Humanitarian Concern, Empathy, and Opinion on Immigration". *British Journal of Political Science* 45 (3): 583–607.
- Nolan, Mark. 2008. "Chapter Six Lay Perceptions of Terrorist Acts and Counter-Terrorism Responses: Role of Motive, Offence Construal, Siege Mentality and Human Rights". *Fresh Perspectives on the 'War on Terror'*: 85.
- Oberman, Kieran. 2016. "Immigration as a Human Right". In *Sarah Fine and Lea Ypi, Migration in Political Theory: The Ethics of Movement and Membership*, ed. by in (eds. Oxford: Oxford University Press.
- . 2020. "Refugee Discrimination—The Good, the Bad, and the Pragmatic". *Journal of Applied Philosophy*.
- Owen, David. 2016. "In loco civitatis: on the normative structure of the international refugee regime". *Migration in Political Theory (Oxford University Press, 2016)*: 269–290.
- . 2020. "Open Borders and the COVID-19 Pandemic". *Democratic Theory* 7 (2): 152–159.
- Oztig, Lacin Idil. 2020. "Pakistan's Border Policies and Security Dynamics Along the Pakistan–Afghanistan Border". *Journal of Borderlands Studies* 35 (2): 211–226.
- Parfit, Derek. 1997. *Equality and Priority Ratio: New Series* 10, 202–221.
- Paz, Moria. 2016. "Between the Kingdom and the Desert Sun: Human Rights, Immigration, and Border Walls". *Berkeley J. Int'l L.* 34:1.
- . 2017. "The Law of Walls". *European Journal of International Law* 28 (2): 601–624.
- Pickering, Sharon, and Leanne Weber. 2013. "Policing transversal borders". *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*: 93–110.
- Pottie, Kevin, et al. 2015. "Access to healthcare for the most vulnerable migrants: a humanitarian crisis". *Conflict and health* 9 (1): 1–3.

- Quillian, L. 1995. "Prejudice as a Response to Perceived Group Threat: Population Composition and Anti-immigrant and Racial Prejudice". *American Sociological Review* 60:586–611.
- Quong, Jonathan. 2020. *The Morality of Defensive Force*. Oxford University Press.
- Rabin, Nina. 2018. "Understanding secondary immigration enforcement: Immigrant youth and family separation in a border county". *JL & Educ.* 47:1.
- Rawls, John. 2001. *Justice as fairness: A restatement*. Harvard University Press.
- Rodin, David. 2011. "Justifying harm". *Ethics* 122 (1): 74–110.
- Rygiel, Kim. 2016. "Dying to live: Migrant deaths and citizenship politics along European borders: Transgressions, disruptions, and mobilizations". *Citizenship Studies* 20 (5): 545–560.
- Scheve, Kenneth, and Matthew Slaughter. 2001. "Labor Market Competition and Individual Preferences over Immigration Policy". *Review of Economics and Statistics* 83 (1): 133–45.
- Schildkraut, Deborah. 2011. *Americanism in the Twenty-First Century: Public Opinion in the Age of Immigration*. New York: Cambridge University Press.
- Silverman, Stephanie J. 2014. "Detaining immigrants and asylum seekers: a normative introduction". *Critical review of international social and political philosophy* 17 (5): 600–617.
- Simmons, A John. 2016. *Boundaries of authority*. Oxford University Press.
- Slack, Jeremy, and Daniel E Martinez. 2019. "The geography of migrant death: violence on the US-Mexico Border". In *Handbook on Critical Geographies of Migration*. Edward Elgar Publishing.
- Sniderman, Paul M., et al. 2002. *The Outsider: Prejudice and Politics in Italy*. Princeton, NJ: Princeton University Press.
- Sniderman, Paul, Louk Hagendoorn, and Markus Prior. 2004. "Predisposing Factors and Situational Triggers: Exclusionary Reactions to Immigrant Minorities". *American Political Science Review* 98 (1): 35–49.
- Steinhoff, Uwe. 2016. "Self-defense as claim right, liberty, and act-specific agent-relative prerogative". *Law and Philosophy* 35 (2): 193–209.
- Stilz, Anna. 2011. "Nations, states, and territory". *Ethics* 121 (3): 572–601.
- . 2013. "Occupancy rights and the wrong of removal". *Philosophy & Public Affairs* 41 (4): 324–356.
- . 2019. *Territorial sovereignty: A philosophical exploration*. Oxford University Press.
- Tabuchi, Hiroko. 2009. "Japan pays foreign workers to go home". *The New York Times* 22.
- Tadros, Victor. 2011. *The ends of harm: The moral foundations of criminal law*. OUP Oxford.
- Tinti, Peter, and Tuesday Reitano. 2018. *Migrant, refugee, smuggler, saviour*. Oxford University Press.
- Turper, Sedef. 2017. "Fearing what? Vignette experiments on anti-immigrant sentiments". *Journal of Ethnic and Migration Studies* 43 (11): 1792–1812.
- Umubyeyi, S, and NDTM Rukazambuga. 2016. "Small scale farmers' knowledge on grain losses from bean bruchid, pesticides safe use and implication on food security and safety in Huye District, Rwanda". *Rwanda Journal* 1 (1S).
- Valentini, Laura. 2015. "On the distinctive procedural wrong of colonialism". *Philosophy & Public Affairs* 43 (4): 312–331.

- Vinck, Patrick, et al. 2009. *Rwanda: Comprehensive Food Security and Vulnerability Analysis and Nutrition Survey*. NISR, National Institute of Statistics of Rwanda.
- Waldron, Jeremy. 1992. "Superseding historic injustice". *Ethics* 103 (1): 4–28.
- Watch, Human Rights. 2010. "Trigger Happy Excessive Use of Force by Indian troops".
- Webber, Frances. 2011. "How voluntary are voluntary returns?" *Race & Class* 52 (4): 98–107.
- Wellman, Christopher. 2008. "Immigration and Freedom of Association". *Ethics* 119:109–141.
- Wright, Matthew, and Citrin Jack. 2011. "Saved by the Stars and Stripes? Images of Protest, Salience of Threat, and Immigration Attitudes". *American Politics Research* 39 (2): 323–43.
- Ypi, Lea. 2013. "What's wrong with colonialism". *Philosophy & Public Affairs* 41 (2): 158–191.

A Statistical appendix

A.1 Summary statistics

A.2 Additional analysis

Figure A.7: Marginal mean of how unreasonable it is to deny a given migrant entry to the country. We show 95% confidence bounds computed from standard errors clustered at the respondent-level. The figure omits the country of origin attribute

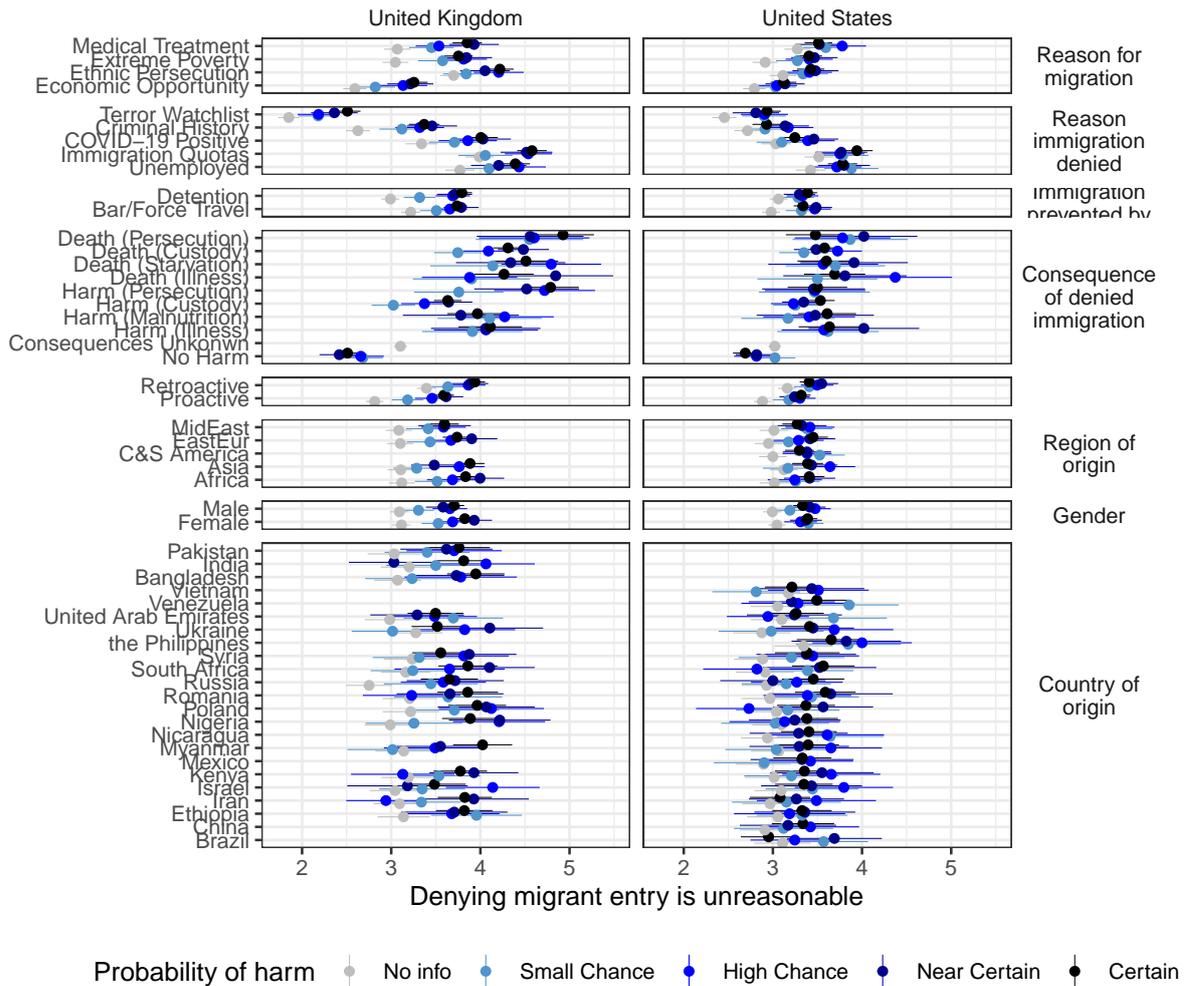


Table A.1

	<i>Dependent variable:</i>
	Support for exclusion
Unknown harm	0.504*** (0.075)
Active harm	0.982*** (0.047)
Passive harm	1.161*** (0.054)
Ethnic Persecution	0.527*** (0.044)
Extreme Poverty	0.252*** (0.042)
Medical Treatment	0.379*** (0.043)
Immigration Quotas	0.120** (0.048)
COVID-19 Positive	-0.436*** (0.052)
Criminal History	-0.899*** (0.049)
Terror Watchlist	-1.414*** (0.049)
Detention	-0.038 (0.030)
High Chance	0.127* (0.066)
Near Certain	0.188*** (0.063)
Certain	0.186*** (0.070)
No outcome information	
Retroactive	0.337*** (0.030)
Asia	-0.007 (0.043)
Central/South America	-0.062 (0.057)
Eastern Europe	-0.055 (0.044)
Middle East	-0.084* (0.043)
Male	-0.072** (0.029)
United States sample	-0.233*** (0.050)
Vignette 2	0.162*** (0.033)
Vignette 3	0.153*** (0.035)
Vignette 4	0.171*** (0.035)
Vignette 5	0.065* (0.036)
Constant	2.743*** (0.086)
Observations	17,646
R ²	0.142
Adjusted R ²	0.141
Residual Std. Error	1.940 (df = 17620)
F Statistic	116.441*** (df = 25; 17620)
<i>Note:</i>	*p<0.1; **p<0.05; ***p<0.01