

Liberal Democracy and Illiberal Immigrants

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I. Introduction

On March 8th, 2015, in the plaza in front of Taipei 101, Zhang Xiuye, a Chinese immigrant, was arrested by the Taipei City police on charges of verbally abusing the police and obstructing officers in discharge of their duties.¹ In a video posted to YouTube in January, 2015, Zhang Xiuye carried a national flag of the People's Republic of China and shouted and kicked at a police officer outside the Taipei 101 building. She yelled: 'I will keep persecuting the pigs no matter what'.² The plaza in front of Taipei 101 was significant in these events because Taipei 101 attracts a lot of Chinese tourists, and hence this plaza becomes the place where Falun Gong practitioners protest human rights violations in China. Zhang (who migrated to Taiwan for the purpose of marriage) is a member of the pro-unification Concentric Patriotism Association. Some members of this association have been accused of assaulting and insulting these Falun Gong practitioners.³ Due to these previous clashes, the mayor asked the Taipei City Police Department to maintain the public order there and protect the Falun Gong practitioners' freedom of expression.

In these controversies, Zhang, as a key member of the Concentric Patriotism Association, challenged not only the police but also the Falun Gong practitioners' freedom of expression, an indispensable value of liberal democracy. Can a liberal democratic state, such as Taiwan, justifiably deny entry to immigrants who do not subscribe to liberal democratic values and

¹ <http://www.taipeitimes.com/News/taiwan/archives/2015/03/10/2003613221>

² <http://www.taipeitimes.com/News/front/archives/2015/01/25/2003610017>

³ http://www.taiwannews.com.tw/etn/news_content.php?id=2699233

may threaten its liberal democratic institutions?⁴ Can the exclusion of such illiberal immigrants be justified for the purpose of preserving the political institutions of liberal democracies?

It is true that perhaps migrants choose to migrate to a specific country because they share the host country's social and political values (Tushnet 1995: 154). Many migrants from non-liberal societies want to move into liberal democracies because they appreciate the idea of liberal democracy (Carens 2013: 177). Nevertheless, migrants might move to liberal democracies for reasons other than the appreciation of liberal democracy. They may seek to enter a liberal democratic state for purposes of marriage, jobs, or family reunion. At the same time, some of these migrants may be hostile to liberal democracy, and their hostility may threaten the functioning of the host country's liberal institutions. Suppose that the host country's assessment of such hostility and threats is based on clear evidence and reasonable expectations (Carens 1987: 259), instead of 'groundless and frivolous fears' (Vattel 2008: I.XIX. §231). In this situation, can it justifiably deny the entry of illiberal immigrants?

Several writers argue that states should guard their own essential institutions (Nafziger 1983: 832) against the 'invading army' of immigrants (Hendrickson 1992: 217, 219).⁵ Some people worry that illiberal immigrants would threaten the survival and flourishing of liberal states' political institutions (Jefferson 1787; Mayo-Smith 1912; Whelan 1988) and favor closed borders to preserve the survival and flourishing of liberal democratic institutions (Abizadeh 2006: 3; Baubock 2009: 13-4; Bader 2005: 349).⁶ According to Joseph Carens, the denial of entry to illiberal immigrants would be justified if (and only if) 'one had good reason to believe that they would threaten the liberal character of the regime if admitted'

⁴ While this paper focuses on the issue of entry, I would argue that the following discussion has implications on the issues of residence and citizenship as well. Moreover, this paper is confined to long-term migrants and does not address short-term migrants such as tourists

⁵ Goodin disagrees with treating immigration as 'the functional equivalent of invasions by an occupying army' (1992: 259). On the opposite view, see Scanlan and Kent (1988: 69).

⁶ More generally, James Woodward argues that open borders would undermine the political character of liberal democratic states (1992).

(1992: 28-9).

On the other hand, some liberals disagree. Philip Cole views this restriction as incoherent in itself and inconsistent with the principle of moral equality of persons upheld by liberal democracies, because ‘citizens who pose such a threat are not expelled, but outsiders judged to pose the same threat are refused entry’ (2000: 144; 2012). The non-exclusion of illiberal citizens indicates that the exclusion of illiberal immigrants violates the principle of moral equality of persons. Liberal democracies treat illiberal citizens and illiberal immigrants unequally, despite the fact that they pose the same kind of threat to the values of liberal democracy.

In the next section, I introduce the argument for denying entry to illiberal immigrants in order to preserve liberal democracy. The most reasonable version of this argument suggests that the denial of entry to illiberal immigrants is justifiable if the admission of additional illiberal immigrants will exceed a liberal democratic state’s capacity to accommodate the illiberal people under its jurisdiction. In section three, I discuss Cole’s criticism of the preservation thesis, as mentioned above. While I sympathize with Cole’s criticism, I argue that the trouble with the preservation thesis lies in the idea that a liberal democracy *first* allows its own illiberal citizens to stay in its territory and *then* accept illiberal immigrants until the number of admitted illiberal immigrants reaches the ceiling of its accommodative capacity. In other words, the preservation thesis prioritizes illiberal citizens over illiberal immigrants with regard to their chance to enter and stay in a liberal democratic state. In section four, I examine three arguments to defend this priority assumption and argue that they fall victim to the problems of insufficiency and circularity. Section five is the conclusion.

II. The Preservation of Liberal Democracy

The main reason for excluding illiberal immigrants rests on their threats to liberal democracies. Given such threats, liberal democracies can deny entry to illiberal immigrants in

order to preserve the liberal democratic institutions of the host country. According to Carens, ‘the effect of immigration on the particular culture and history of the society would not be a relevant moral consideration, so long as there was no threat to basic liberal democratic values’ (1987: 262). Moreover, Thomas Christiano maintains that liberal democratic states can limit immigration ‘if such limitations are quite important to the maintenance or proper functioning of the democratic states, and having open immigration would constitute a serious threat to the democratic state’ (2008a: 955). Similarly, Michael Blake contends that liberal democracy is not a suicide pact, and ‘there is no good in holding fast in the name of diversity if it causes the annihilation of democratic practice’ (2014: 535). This line of argument consists of two steps. First, liberal democratic states are worthy of preservation. Second, allowing illiberal immigrants to enter might threaten the preservation of liberal democratic institutions. Taken together, these two steps suggest that liberal democratic states can justifiably deny entry to illiberal immigrants. I shall refer to this argument as the preservation thesis.

Concerning the first step, liberal democratic states are valuable for two reasons. The first reason is that liberal democracies protect their own citizens’ rights and liberties. A liberal democratic state has several features (Held 2006: 56-95; Cunningham 2002: 27-51). Its liberal aspect entails that citizens enjoy important civil rights, such as rights to life, liberty, security, privacy and a fair trial, to name a few. Citizens should not be subject to torture or arbitrary arrest and detention. Government should not arbitrarily deprive citizens of their property. Government should protect citizens’ basic liberties, such as freedom of movement, freedom of expression, freedom of thought and conscience, and freedom of association. At the same time, its democratic aspect indicates that citizens possess the right to participate in political affairs, directly or indirectly through their own representatives. They should have equal access to public services. Government should hold regular elections and grant universal suffrage to all its citizens. These liberal and democratic institutions limit governmental

interference and provide people with equal opportunities and liberties to pursue their life goals.

The second reason is that liberal democracies play an essential role in achieving cosmopolitan justice through establishing international institutions (Christiano 2008a: 952-3). First, they have successfully negotiated treaties with each other to govern their interactions in a variety of issue areas. Second, they are more likely to comply with international law either because they adhere to the rule of law or because interest groups prompt them to comply. Third, during international negotiations, democratic states represent various interests in their own societies. This representation renders international negotiations more democratic. In sum, these three features show that, through a process that accommodates and represents a variety of social interests, democratic states can establish and sustain international institutions to produce global public goods.

Regarding the second step, the preservation of liberal democratic institutions requires certain virtues of citizens (Bader 1997: 787). Citizens of liberal democracies should possess a disposition to peaceful dispute settlement through debate, instead of resorting to violence. They should be willing to participate in political debates and listen to other people's views. They should respect each other's rights. Other virtues include the willingness to accept the results of elections and majority decisions. Consequently, although immigrants may seek entry for specific purposes such as marriage, jobs, and family reunion, their commitment to liberal democracy still constitutes a relevant standard to evaluate their admission, since this standard is concerned with their daily life and their relationship with other people in the destined country. Now, once illiberal immigrants are admitted, they could jeopardize the functioning of a liberal democratic state in several ways. They might use violence to attack political and legal institutions, such as the courthouse, within the state. They can also advocate ideas and values hostile to liberal democracy. They might violate the laws that aim to protect citizens' rights and liberties, as the above case of Zhang Xiuye shows. They can

thwart other citizens' exercise of civil and political rights. All these actions challenge the values of liberal democracy and prevent liberal democratic states from fulfilling the tasks of protecting citizens' rights and liberties and of achieving cosmopolitan justice. As Henry Sidgwick notes, 'the efficient working of the political institutions of different States presupposes certain characteristics in the human beings to whom they are applied' (1897: 308). Liberal democracies can hardly sustain their own political institutions if they admit immigrants who do not embrace the values of liberal democracy.

To be sure, following John Rawls and J. S Mill, one can hope that, when exposed to the culture of liberal democracy over a long period of time, illiberal immigrants would learn the benefits of liberal democracy and be more likely to embrace liberal democracy (Rawls 1999: 192; Mill 1972: 1653-5). This process of assimilation, however, may fail, and liberal democracies would still have to address the challenge posed by illiberal immigrants.

In light of illiberal immigrants' threats to democratic and liberal institutions, liberal democratic states can justifiably deny entry to illiberal immigrants. The denial focuses on illiberal immigrants' actions rather than their beliefs. They are denied entry not because they hold political beliefs other than liberal democracy. Otherwise, the denial would contradict liberal democratic states' insistence on the freedom of thought and conscience. Instead, the preservation thesis is concerned with illiberal immigrants' actions that may endanger democratic and liberal institutions. By excluding illiberal immigrants, liberal democracies can guard their own democratic and liberal institutions against illiberal immigrants' actions that would endanger these institutions.

The preservation thesis contains two versions. The strong version holds that a liberal democracy should deny entry to all illiberal immigrants. In contrast, the weak version maintains that a liberal democracy can grant admission to some illiberal immigrants so long as the number of admitted illiberal immigrants does not exceed its capacity to accommodate the illiberal people under its jurisdiction (Bader 2005: 349). This weak version echoes Bruce

Ackerman's argument that '[t]he only reason for restricting immigration is to protect the ongoing process of liberal conversion itself', and the restriction ensures that the number of immigrants will not surpass the liberal state's 'assimilative capacity' to sustain its liberal democratic values and institutions (1980: 94-5). The following discussion will focus on the weak version. The strong version pushes too far because the denial of entry to all illiberal immigrants is unnecessary for the goal of preserving liberal democratic institutions. This goal will be compromised only when the number of admitted illiberal immigrants transcends a liberal democratic state's capacity of accommodation. Granting admission to a small number of illiberal immigrants would not challenge this goal. The weak version, therefore, is more reasonable than the strong version.

Before examining the preservation thesis in the next section, I should clarify the idea of liberal democracies' accommodative capacity here. This clarification is important because it shows that the preservation thesis does not necessarily lead to a restrictive immigration policy. According to the preservation thesis, when the number of admitted illiberal immigrants reaches the ceiling of a liberal democratic state's capacity to accommodate these illiberal immigrants, it can stop admitting illiberal immigrants. That is, a liberal democratic state only has a limited amount of resources to deal with illiberal immigrants' hostility to liberal democracy or to try to assimilate them. The ceiling, however, is not fixed for three reasons. To begin with, as illiberal immigrants' challenge to liberal democratic institutions amplifies, citizens committed to liberal democracy and their own government can strengthen the efforts and resources to counter-balance such a challenge. As a result, a liberal democratic state's accommodative capacity indeed can grow to tackle illiberal immigrants' challenge. Further, a liberal democratic state can boost its own accommodative capacity by granting admission to would-be immigrants who subscribe to the values of liberal democracy. A more inclusive immigration policy, therefore, can augment a liberal democratic state's accommodative capacity as well. Finally, some immigrants' resistance to liberal democratic institutions might

result from the host country's practices of discrimination against them (Bader 2005: 350). A liberal democracy can lessen illiberal immigrants' possible challenge by adopting more liberal and democratic policies towards immigrants. In short, all these three points indicate that proponents of the preservation thesis do not have to choose a restrictive immigration policy.

III. The Priority of Illiberal Citizens

For purposes of the present discussion, suppose that we assume a fixed ceiling of each liberal democratic state's accommodative capacity. The preservation thesis would then imply a restrictive immigration policy that grants admission to some illiberal immigrants (the admitted illiberal immigrants) until a host country reaches the ceiling of its accommodative capacity.

Under this circumstance, some illiberal immigrants will be excluded (the excluded illiberal immigrants). However, one issue arises here. Within liberal democracies, some citizens do not endorse the values of liberal democracy. Nonetheless, liberal democracies do not expel these illiberal citizens. If this is the case, liberal democracies seem to treat illiberal citizens and the excluded illiberal immigrants differently, even though both pose the same challenge for the preservation of liberal democracy. In this section, I shall explain why and how the non-exclusion of illiberal citizens creates a problem for the preservation thesis. Against the preservation thesis, Phillip Cole argues that liberal democracies violate the principle of moral equality of persons when they exclude illiberal immigrants but do not exclude their own illiberal citizens. I shall argue that Cole's criticism is misguided. The trouble for the preservation thesis is not that liberal democracies treat illiberal citizens and illiberal immigrants unequally. Instead, the problem is that they prioritize illiberal citizens, granting illiberal citizens the privilege of staying in liberal democracies while leaving illiberal immigrants to compete with each other for the limited opportunities to enter liberal

democracies.

Although some liberals side with the preservation thesis, Cole disagrees. He argues that the exclusion of illiberal immigrants is internally inconsistent because liberal democratic states do not expel their own illiberal citizens (2000: 144). Within liberal democracies, some citizens do not uphold the idea of liberal democracy. They might promote illiberal values, violently assault the liberal and democratic institutions, violate laws that protect other citizens' rights and liberties, and prevent other citizens from exercising their rights. These illiberal citizens pose similar threats to liberal and democratic institutions as illiberal immigrants do. Liberal democratic states, nevertheless, do not expel these illiberal citizens. Instead, liberal democratic states would enforce the law to restrict their actions that jeopardize the working of liberal and democratic institutions, by imposing fines on them or putting them in jail.⁷ In other words, liberal democratic states coerce illiberal citizens and illiberal immigrants differently.⁸ In the former case, liberal democratic states use the police and judicial systems in response to the threats of illiberal citizens. In the latter case, liberal democratic states employ immigration controls to contain the threats of illiberal immigrants. Consequently, if a liberal democratic state denies entry to illiberal immigrants, it would treat illiberal citizens and illiberal immigrants inconsistently, even though both pose similar threats. This inconsistent treatment violates a more general principle that a state's coercion of noncitizens 'is subject to the same requirement of political justification as the state's coercion of its own citizens' (Brilmayer 1989: 11).

This problem of inconsistency leads to a more fundamental objection. Liberal

⁷ I would not delve into the scope of permissible actions in liberal democratic states, since the problem of incoherence still exists, regardless of where to draw the line between permissible and impermissible actions within liberal democratic states. On the scope of permissible actions in liberal democratic states, see Ekele (2011).

⁸ David Miller argues that states use force against citizens in the form of compulsion while against foreigners in the form of deterrence (2010). Alternatively, Tugba Basaran notes that liberal democracies create 'the legal borders of policing' for the governance of migrants and 'the legal borders of rights' for that of citizens (2011: 7). Regarding these differences, a critic like Cole might ask: Why is this differential treatment justified in the very beginning?

democratic states uphold the moral equality of persons (Blake 2013: 2). This principle of moral equality entails that persons should not be treated differently, unless morally relevant reasons exist for differential treatment. As Thomas Pogge notes, ‘a commitment to the moral equality of all human beings grounds a defeasible presumption in favor of equal treatment’ (2013: 300). Now, if the goal is the preservation of liberal democratic institutions, and if illiberal citizens and illiberal immigrants pose similar threats to this goal, then treating them differently violates the principle of moral equality. Accordingly, liberals who espouse closed borders need to reconcile this policy of exclusion with their commitment to the moral equality of persons. Unfortunately, ‘[c]oercive borders appear to violate that central ethical commitment’ (Cole 2014: 503).

The equality objection is significant because it raises the issue of ‘transitional constraints’ (Valentini 2012: 661). Proponents of excluding illiberal immigrants hold that the preservation of liberal democracies constitutes a desirable goal. Under the non-ideal situation in which liberal democratic states face the threats from illiberal immigrants, liberal democratic states can justifiably exclude illiberal immigrants so as to achieve the goal of preserving liberal democracies. However, even if this goal is worthy of pursuing, its desirability does not sufficiently justify all the possible measures to pursue this goal (as just war theorists constantly stress). The justification of these measures further rests on whether they are feasible and morally permissible (Simmons 2010: 34).⁹ In the case of illiberal immigrant, excluding them would be a feasible measure to shield liberal democracies from their threats. Nonetheless, a critic like Cole would maintain that this exclusion is morally indefensible because it contradicts the moral equality of persons, a foundational principle defended by liberal democratic states.

Here, readers might wonder why liberals should concentrate on the constraint imposed by the principle of moral equality. After all, moral equality is only one of the various moral

⁹ On the idea of feasibility, see Gilabert (2012).

values embraced by liberal democratic states.¹⁰ However, this principle occupies an indispensable place in liberal democratic states. Moreover, this principle is shared by liberals and theorists of other paradigms (Kymlicka 2002: 4). Finally, this principle can be derived from a more general principle of justice which requires that one should treat like cases alike (Christiano 2008b: 20-2). Consequently, the discussion about illiberal immigrants cannot ignore the equality objection.

While I sympathize with Cole's criticism of the preservation thesis, his criticism seems to undermine the strong version of the preservation thesis, but not the weak version. According to the strong version, liberal democracies are permitted to exclude all illiberal immigrants so as to preserve liberal democratic institutions. This permission falls prey to Cole's equality objection because liberal democracies do not at the same time exclude their own illiberal citizens. In contrast, the weak version is immune to Cole's objection because it does not defend the comprehensive exclusion of illiberal immigrants. It grants admission to some illiberal immigrants (the admitted illiberal immigrants) but not the others (the excluded immigrants).

Despite the weak version's immunity to Cole's objection, it suffers from another difficulty. In the weak version, each liberal democracy can only accommodate or assimilate a limited number of illiberal people under its jurisdiction. But, how does a liberal democracy distribute the opportunities to enter its territory among the illiberal people, including illiberal citizens and illiberal immigrants? The weak version of the preservation thesis holds that a liberal democratic state *first* allows its own illiberal citizens to stay in its territory and *then* accept illiberal immigrants until the number of admitted illiberal immigrants reaches the ceiling of its accommodative capacity, leaving illiberal immigrants to compete with each other for admission. Nonetheless, why should it distribute the opportunities of entry and stay

¹⁰ James Hampshire (2013) argues that liberal democracies' immigration policy is shaped by four elements in the legitimation of liberal statehood: representative democracy, constitutionalism, capitalism, and nationhood. These four elements often generate conflicting imperatives for immigration policy.

in this order? Why should it prioritize its illiberal citizens in this way?

Put differently, and paraphrase Ackerman's dialogue between a liberal state and an illiberal immigrant (1980: 94): Why not expel some of the illiberal citizens and make room for illiberal immigrants? If liberal democracies aim to protect their own liberal democratic institutions from the challenge posed by an overwhelming number of illiberal people within their own territories, then the priority of illiberal citizens does not seem to constitute a necessary requirement to achieve this goal. The point of this question is not to suggest that liberal democracies should actually expel their own illiberal citizens. Instead, it seeks to reveal one assumption in the preservation thesis. This assumption maintains that, with the non-exclusion of illiberal citizens, liberal democracies prioritize illiberal citizens over illiberal immigrants when distributing the opportunities to enter their territories, even though both may jeopardize the stability of liberal democratic institutions in a similar manner. The priority assumption results in the weak version of the preservation thesis, which allows a liberal democratic state to deny entry to illiberal immigrants when accepting additional illiberal immigrants would surpass its accommodative capacity.

In sum, I agree with Cole that liberal democracies' policy of not excluding illiberal citizens creates a problem for the preservation thesis. Cole considers this problem as a matter of inconsistency and inequality. In this section, I argue that, more accurately speaking, this problem reflects the assumption that illiberal citizens possess the priority over illiberal immigrants with regard to the opportunity to enter and stay in the territories of liberal democracies.

IV. The Foundations of Not-Excluding Illiberal Citizens

Is the priority assumption justifiable? Why should liberal democracies first allow illiberal citizens to stay in their own homeland and then leave illiberal immigrants to compete with each other for the limited opportunities to enter? In this section, I examine three arguments to

defend illiberal citizens' entitlement to stay. The first argument emphasizes how the exclusion might imperil illiberal citizens' well-being. The second and third arguments underline the social and political ties between illiberal citizens and their own state. I argue that the first argument insufficiently buttresses the priority assumption, while the second and third arguments run into the problem of circularity.

A. Unreasonable Demands

The first argument establishes illiberal citizens' entitlement to stay by holding that a liberal democratic state would make 'unreasonable demands on its constituents if it required some of them to relinquish their citizen and leave the territory permanently' (Wellman 2011: 76). Arendt's idea about the right to have rights helps explain this argument (1968: 177). When illiberal citizens lose their political membership in their own state, they can no longer rely on their own state to protect their human rights. Considering the effects on the protection of human rights, the expulsion of illiberal citizens is not justifiable.

One might think that illiberal citizens contradict themselves by resisting the values of liberal democracy and at the same time demanding that liberal democracies should protect their right to have rights. Setting aside the issue of illiberal citizens' self-contradiction, I would argue that the argument of unreasonable demands does not fully establish illiberal citizens' entitlement to stay. Suppose that another state is willing to receive some of the illiberal citizens expelled from a liberal democratic state and guarantee the protection of their human rights. Under this circumstance, forcing these illiberal citizens to leave their homeland would not undermine their right to have rights. Consequently, this argument cannot sufficiently demonstrate that liberal democracies must offer their own illiberal citizens the entitlement to stay. More specifically, it cannot explain why illiberal citizens have the entitlement to stay in a particular liberal democratic state.

B. Social Ties

A more promising argument appeals to the social ties between illiberal citizens and the state and society in which they currently live. As Wellman notes, the eviction of a citizen ‘forcibly separates a person from her homeland and deprives of her of political membership’ (2011: 76). Along a similar line, writing on the issue of illiberal citizens and immigrants, Carens argues that, under most circumstances, the right to stay is more fundamental than the right to enter, because ‘[a]ll of the ties that one creates in the course of living in a place mean that one normally (though not always) has a much more vital interest in being able to stay where one is than in being able to get in somewhere new’ (1992: 29). This right to stay highlights people’s attachments to a particular state (Oberman 2015: 246). Living in a particular liberal democratic state, illiberal citizens form various ties and attachments with other people and religious, professional, and social groups. In addition to these social ties, they may develop a special feeling for their home country’s territory (Oberman 2011: 259), or more generally, natural environment. Given these various ties, the expulsion of illiberal citizens is not justifiable because it severs such social ties between them and their homeland.

The social ties argument is a past-oriented one, focusing on the existing relationships and interactions between illiberal citizens and their own state, society, and land. The past-oriented feature enables this argument to explicate why illiberal citizens should not be expelled from a particular liberal democratic state, even if other states are willing to grant admission to these illiberal citizens. Hence, it has the advantage of redressing the insufficiency problem inherent in the argument of unreasonable demands.

Notwithstanding this advantage, the social ties argument incurs the problem of circularity. To recapitulate, the preservation thesis prioritizes illiberal citizens over illiberal immigrants. Unlike a liberal democratic state’s own illiberal citizens who have the right not to be excluded, illiberal immigrants have to compete with each other for the limited opportunities to enter this country. Some of them eventually are denied entry. The social ties

argument seeks to use the social ties between the illiberal citizens and their homeland to defend their right not to be excluded. Moreover, without such social ties, some illiberal immigrants are eventually excluded.

However, the trouble with the social ties argument is that illiberal immigrants can hardly cultivate any ties with the liberal democratic state they seek to enter unless their admission is first granted. Without entering this country, they face tremendous difficulties in interacting with the residents and social groups there. They cannot establish any substantive relationships with the natural environment when they remain outsiders. This lack of social ties in turn becomes the reason why, unlike the illiberal citizens in the host country, some of them are excluded. In other words, the social ties approach has to assume that illiberal immigrants lack social ties with the host country due to their exclusion from this country, and then uses this lack of social ties to justify the exclusion of some illiberal immigrants. This whole explanation becomes circular because it relies on the denial of entry to illiberal immigrants to ground the denial of entry to some illiberal immigrants.¹¹

Put differently, suppose that in the very beginning illiberal immigrants have the right to enter a particular liberal democratic state they want to enter. This right enables them to cultivate various ties with the host country. Under this circumstance, the preservation thesis cannot apply the social ties argument to distinguish between illiberal citizens and illiberal immigrants. Without this distinction, the preservation thesis fails to prioritize illiberal citizens over illiberal immigrants. If this is the case, the success of the preservation thesis hinges on the fact that in the very beginning illiberal immigrants are excluded from the particular liberal democratic state they want to enter. Then, the preservation thesis can use this fact of exclusion to justify the exclusion of some illiberal immigrants from that particular liberal democratic state.

¹¹ Carens recognizes that the social ties argument deals with the issue of citizenship, not that of admission (2013: 162). But his writing on the admission of illiberal immigrants relies on this argument.

In response, proponents of the social ties argument might argue that, even though illiberal immigrants are outsiders, social ties can still exist between them and the country they want to enter. For example, lovers can use the internet to maintain their long-distance relationship. Social media applications enable people to interact with their friends and families in another country. This response, however, stands in tension with the social ties argument in two respects. First, it shows the symmetry between illiberal citizens and illiberal immigrants because the latter can keep social ties with the residents in the liberal democratic state in question as well. This symmetry abolishes the distinction between illiberal citizens and illiberal immigrants required for the success of the preservation thesis. Second, this response can justify the exclusion of illiberal citizens because the exclusion would not necessarily cut the social ties between them and their home country. As a result, for the sake of logical consistency, proponents of the social ties argument cannot embrace this response.

Setting aside the problem of logical consistency, the empirical validity of the above response is limited. Illiberal immigrants cannot establish social ties deeply and comprehensively with the residents within the country they want to enter, unless they actually live in that country. Despite the help of social media, many people still have the experience of gradually losing connections with their friends when moving to another country. Moreover, living in a society, a person not only interacts with her families and current friends but also has the opportunities to meet new friends or other people in her daily life. Outsiders do not have these opportunities.

C. Political Ties

A third reason why illiberal citizens are not excluded from their homeland focuses on their political ties to their homeland. Despite their hostility towards the values of liberal democracy, liberal democratic states do not adopt the policy of expulsion to address their hostility. Instead, liberal democratic states use their legal system to contain illiberal citizens'

disturbance. Why? In this sub-section, I first apply Ryan Pevnick's theory of associative ownership (2011) to provide one possible explanation and then demonstrate why this explanation confronts the problem of circularity as well.

Citizens cooperate with each other to establish political, social, and economic institutions such as basic infrastructure, pension programs, and social welfare. These institutions provide essential benefits and public goods to all citizens and secure their important needs. Since citizens, including illiberal citizens, put efforts to create these institutions, they acquire ownership over these institutions and public goods. Their ownership grounds their entitlement to enjoy the associative benefits, determine the direction of these domestic institutions, and decide who are entitled to membership. Among these institutions, the legal system is particularly relevant for the present discussion. When the government of a liberal democratic state enforces the law to deal with illiberal citizens' violation of liberal democratic norms, its legal system must respect illiberal citizens' rights, such as the right to a fair trial and the right to counsel, during the judicial process. In order to protect these rights, the government needs to devote resources to establishing judicial institutions and training judges, prosecutors, and police officers. These resources in turn result from citizens' labor and contributions.

Despite illiberal citizens' hostility toward liberal democracy, they should not be expelled because they retain their ownership over the public goods and domestic institutions created by their efforts. They pay taxes to establish and sustain various domestic institutions. The protection of rights they enjoy in the legal system stems from their contributions as well. Given their contributions, their hostility toward liberal democracy should not deprive them of their citizenship and their entitlement to enjoy these associational benefits. In contrast, since illiberal immigrants do not contribute to the creation of the legal system (and other domestic institutions) in the host country, they do not have the right not to be excluded.

One obvious question arises. Are illiberal citizens owners of these associational benefits?

In light of their hostility toward the values of liberal democracy, can we consider them as contributing to the creation and maintenance of various domestic institutions? For example, they might not respect other citizens' civil and political rights and hence violate the laws. They may refuse to pay taxes. Given these anti-liberal and anti-democratic actions, do they possess associative ownership over the associational benefits? Can we really apply Pevnick's theory to establish illiberal citizens' right not to be excluded?

The answer to these questions counts on the definition of 'contribution' in Pevnick's theory. Citizens' contributions to domestic institutions are not limited to their endorsement of liberal democratic institutions. Citizens can participate in the 'establishment and maintenance of an effective market' as well (Pevnick 2011: 38). Although illiberal citizens resist the values of liberal democracy, it is possible to imagine that they still engage in economic transactions and contribute to create and maintain essential economic institutions. As a result, with a broader interpretation of citizens' contributions to domestic institutions, Pevnick's theory is still relevant for the case of illiberal citizens.

Pevnick's theory, nevertheless, runs the danger of circularity in two respects. First, unless illiberal immigrants are admitted to a particular liberal democratic state, they can hardly contribute to the provision of the host country's important public goods (Higgins 2013: 171).¹² This problem of circularity resembles the one afflicting the social ties argument. I shall not repeat the same discussion.

Second, if illiberal immigrants are admitted, they can make the same contributions as illiberal citizens do. Then, why cannot the preservation thesis simply grant admission to illiberal immigrants? Why does it distinguish between illiberal citizens and illiberal immigrants if both can contribute to create and maintain essential domestic institutions?

Pevnick touches upon this question when discussing undocumented immigrants.

¹² Some critics of Pevnick contend that foreigners do make contributions as well (Fine 2013: 264; Higgins 2013: 169-70).

Proponents of undocumented immigrants might argue that, since undocumented immigrants contribute to the provision of essential public goods, their contributions gives rise to their entitlement to the host country's membership. Against this view, Pevnick argues that, before contributing to the provision of public goods, these undocumented immigrants should first seek consent from the current members of the host country. Otherwise, these undocumented immigrants would ignore 'the prior claim individuals have over the institutions that they create or have passed down to them' (Pevnick 2011: 166). That is, the current members' associative ownership over these domestic institutions also implies that they have the power to decide who can contribute to the provision of domestic public goods. Contributions alone cannot ground one's entitlement to membership.

Applying the above reasoning to the case of illiberal immigrants, proponents of Pevnick's theory can argue that illiberal immigrants cannot acquire their right to enter a liberal democratic state, even if they promise or are willing to cooperate with that country's citizens to provide public goods. Rather, they should first obtain the current citizens' approval for their contribution. This argument, however, encounters two difficulties. First, why does the current citizens' approval constitute a necessary condition for illiberal immigrants' contributions? Notice that the question here is not whether illiberal immigrants can consume the associational benefits provided by the current citizens. Instead, the question concerns whether illiberal immigrants can contribute to the provision of public goods. Accordingly, the answer cannot be that the current citizens possess ownership over these associational benefits. But Pevnick's theory seems to owe us an answer.¹³

Second, where does the current members' ownership over associational benefits stem from? Their ownership cannot result from their contributions, since we have seen that contributions alone fail to ground their entitlement to these associational benefits. Following Pevnick's discussion about undocumented immigrants, the answer might be that they are

¹³ For a similar criticism, see Wilcox (2012: 621-2).

permitted to make these contributions. But from whom do they receive the permission? Their ancestors? And from whom did their ancestors acquire the permission? Delving into this question seems to drive us into an infinite regress, and Pevnick's theory does not offer a satisfactory solution.

In sum, this section evaluates three arguments to establish the priority of illiberal citizens needed in the preservation thesis. These arguments can develop in two ways. On the one hand, we can focus on how the exclusion might jeopardize individuals' well-being. This approach, nonetheless, cannot sufficiently explain why illiberal citizens should not be excluded from a particular liberal democratic state. On the other hand, we can pay attention to the social and political ties between illiberal citizens and a particular liberal democratic state. This approach, unfortunately, suffers from the problem of circularity. It relies on the exclusion of illiberal immigrants to establish the priority of illiberal citizens and the exclusion of some illiberal immigrants.

V. Conclusion

In this paper, I examine the argument that liberal democracies can restrict the entry of illiberal immigrants so as to preserve the existence and functioning of liberal democratic institutions. The most reasonable version of this argument maintains that a liberal democratic state can accept illiberal immigrants so long as the acceptance will not exceed its capacity to accommodate the illiberal people under its jurisdiction. The preservation argument, however, assumes that liberal democracies should first allow their own illiberal citizens to stay in their own homeland and then leave illiberal immigrants to compete with each other for the limited opportunities to enter, even though illiberal citizens and illiberal immigrants pose the same challenge for the preservation of liberal democratic institutions. After exploring three arguments to defend illiberal citizens' entitlement to stay, I argue that these arguments cannot

avoid the problems of insufficiency and circularity. Consequently, the preservation thesis stands on a theoretically precarious ground.

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