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# Two Ethical Hurdles Facing the Osterloh-Frey Proposal

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**Abstract:** The proposal that Europe should sell the right to immigration to reflect the access to public goods raises two ethical objections. One draws on the proposition of Michael Sandel that there are things that ‘money can’t buy’. Public goods are the result of a reciprocal exchange of obligations within a community. As such, they are not transactions in a market and putting a price on them can inadvertently weaken their essentially moral nature. The other objection is that selling the right to immigrate would enable the elites of poor countries to exit their obligations to those left behind in their own societies. While potentially damaging poor societies by removing their most able people, it would create the comfortable illusion in Europe that we were being more generous to people from poor countries.

**Keywords:** immigration, public goods, refugees

## 1 Introduction

In their carefully researched and ethically honest article, Osterloh and Frey (2018) propose a simple economic solution to a central dilemma. European societies are democracies, and populations have clearly demonstrated resistance to further immigration, yet the pressures that drive extra-legal entry are liable to intensify. They propose that European countries should reconcile the desire of people from poor countries to become immigrants with the reluctance of citizens to let them do so, by selling the right to become a citizen. The ethical justification for charging for entry, is that immigrants benefit from the accumulated benefits of decades of reciprocity within Europe’s communities, to which they have not contributed.

The proposal is a welcome, balanced interjection into a discussion that has been characterized by cartoon-style ethics of ostentatious benevolence juxtaposed against suppressed anxieties. It offers mutual advantages that might potentially reconcile these opposing views. But its most valuable contribution is to

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disturb fault-lines that raise fundamental ethical objections to the premises of the entire debate.

I will discuss two ethical objections: is citizenship an appropriate entity for the market, and would selling citizenship meet our ethical duties to the global poor? I will conclude with a variant of their proposal which would genuinely achieve the reconciliation that to date has proved to be illusive.

## 2 Can Money Buy Community?

The moral limits to the market have been well-stated by Michael Sandel (2012). There are some things which are intrinsically inappropriate for a marketized solution. Should citizenship be one of them? The potential damage from mis-assigning a choice to the market has been well-illustrated by Sandel's example of the Israeli nursery. The behavioural problem was that some parents were bringing their children to the nursery late and this disrupted the task of initiating group play among the toddlers. Following elementary economic principles, an economist suggested introducing a fine for late arrival, and this was implemented. The result was disastrous: far from being reduced, the incidence of late arrivals exploded. Clearly, what was happening was that parents self-servingly interpreted the fine as a charge, creating an ethically neutral choice between prompt arrival and payment. Paying the charge proved to be less of a disincentive to late arrival than the previous inchoate sense that to do so was anti-social.

This is an issue that the Osterloh-Frey proposal inescapably needs to navigate: I will attempt to do so. Sandel's title implies that there is a potentially well-defined category of entities such as slavery and citizenship for which the market is intrinsically inappropriate. While I have some sympathy with this view, I think that social reality is more complicated. Humans are social animals, living in communities that form a common understanding of norms of behaviour through communication. The primary mode of communication is language crafted into narratives. As I will show, different narratives can radically shift the boundary between what is viable as a marketized transaction, and what is best left unpriced.

The conventional economic solution of the fine at the nursery was not merely a system by which compliance with a desired behaviour was achieved directly by a monitored incentive. It was embedded in a system in which a set of beliefs were communicated around a network by the narrative of a nodal actor (in that instance, the manager of the nursery). Seeing it as a form of belief system reveals both why it happened, and how it can be avoided. *Monitored incentives do not*

*directly undermine obligations: the damage is caused by the beliefs that accompany them.*

The critical beliefs concern identity and purpose. In the absence of a communications strategy to counter them, monitoring inadvertently signals distrust, thereby undermining shared identity, while incentives inadvertently convey that their purpose is a *payment that compensates for the burden of performing the action*. In combination these weaken obligation, leaving the actor free to decide that the desired action is too burdensome to be worth the reward. However, if the nodal actor communicates appropriate additional beliefs, the self-serving interpretation of the fine as a charge can be pre-empted.

Monitoring can be reconciled with the shared identity by explaining its purpose as being to detect the few non-compliers and deliver the justice that costly compliance by the majority demands. The traditional Christian teaching that an all-seeing God punishes transgressions with eternal damnation and rewards compliance with eternal life is the ultimate system of effective monitoring linked to high-powered incentives: more potent than the most astute investment bank. Yet it came with narratives that avoided misinterpretation. Monitoring was explained as a corollary of the benign characteristic that God cared for his people; the incentives were explained as embodying the just consequences of moral choices. The Faustian bargain was not presented as a socially acceptable option, and when the sale of indulgences threatened to make it so, the response was Luther.<sup>1</sup>

As Osterloh and Frey note, some European countries, such as Portugal and Malta, already sell citizenship. But their schemes are manifestly opportunistic instances of free-riding. As members of the Schengen scheme, their sale of citizenship is not the price charged for entry into their own societies, but licence to enter France and Germany. In other words, such sales exploit legal loopholes while being ethically equivalent to the activities of the people smuggling criminal businesses. Given Schengen, this tells us that the right purchased through the Osterloh-Frey proposition would need to be bounded to residence in the country which sold it.

More fundamentally, the rationale for the proposition is that in entering a society in which a web of reciprocal obligations has built and sustained a historically extraordinary enhancement to living standards, immigrants receive a huge bounty to which they have not contributed. Viewed from the perspective of a scholar who has spent a lifetime working on societies that have not yet succeeded in building equivalent webs of reciprocity, I completely concur with the proposition. Yet its implication is that to avoid inadvertently undermining the

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<sup>1</sup> I enlarge on the use of communication to build beliefs in Collier 2018.

web, immigrants must recognize these reciprocities and enter into them. As Osterloh and Frey argue, this imposes significant limits on multiculturalism. But a corollary is that the payment cannot be portrayed as *fulfilling the obligation* arising from immigration. Yet, since the default interpretation of any incentive is self-serving, as demonstrated by the nursery fine, this is the most likely interpretation unless it is pre-empted. As with the traditional Christian belief system, the payment on entry would need to be explained not as the payment *for* entry, but as the opening instalment of continuing obligations. Once couched in this form, the higher the payment the better. A token payment inadvertently carries the implication that both the accumulated benefits and the ongoing obligations are themselves modest; conversely, a high payment signals that both accumulated benefits and continuing obligations are substantial.

An implication is that any payment would need to be of the order of many thousands of Euro, as Osterloh and Frey suggest, though for a different reason. This leads naturally to the deeper issue of whether it would meet our obligations to the global poor?

### 3 What Are Our Ethical Duties to the Global Poor?

The influx of extra-legal entry to Europe is the result of two distinct phenomena: aspirational migration from poor countries, and the flight of refugees from disorder. A few brute numbers may help to ground the discussion. Per capita income in Germany is around eight times that of the average Nigerian, the main country-of-origin for aspirational migration. Per capita income in Jordan, the most generous host for Syrian refugees, is around double that of Syria. As is evident, the motivations for these phenomena are very different: Nigerian migrants to Europe are rationally trying to achieve a massive increase in their standard of living. As with all aspirational migration, this is socially highly selective, being predominantly young, male, educated, and relatively affluent. In contrast, Syrian refugees are, by definition, people who chose not to emigrate, but became displaced from their homes due to the mass breakdown of normal life. That Syrian refugees in Jordan were motivated by fear rather than the somewhat higher level of income, is evident from the demographic characteristics of the refugees in Jordan which are essentially identical to those of the pre-conflict Syrian population as a whole, reflecting the socially random pattern of violence. Half of those displaced resettled within Syria, the other half scattering around the three border countries of Jordan, Turkey and Lebanon. Despite being so distinct, the two groups have become conflated. Aspirational migrants have seized the opportunity posed by the mass

movement of refugees to Europe and the resulting breakdown of border controls, to gain easier entry. They have also chosen to go to the unsafe environment of a collapsed state, Libya, since it is the location-of-choice for people-smuggling organizations. Conversely, some refugees already in safe-haven in the countries neighbouring their home, have used the opportunity of the radically enhanced lifestyle offered by Europe, to become aspirational migrants, privileged by their status as refugees. Syrians are somewhat poorer than Nigerians so the incentive to move to Europe is even greater. This is evident from the highly selective pattern of Syrian movement to Germany: although less than five percent of Syrians came to Germany, the momentarily open door attracted over a third of all Syrians with tertiary education.

What are Europe's ethical duties towards the global poor and refugees? Towards the former, our duty is to assist these societies to converge on our own prosperity. In the 21<sup>st</sup> Century, only a minority of countries remain trapped in mass poverty, their people excruciatingly unproductive despite working hard. What they lack is the organizations that transform productivity through harnessing the elemental forces of scale and specialization. These organizations—firms—Europe has in abundance. Europe has a duty to induce our firms to create jobs in the poorest countries. For example, in 1980 the arrival of one foreign garment firm in Bangladesh ignited what is now a \$30bn export industry which has both raised living standards and transformed the status of women. The opportunity inadvertently provided by European border chaos has been seized by educated young men to emigrate extra-legally. This gives rise to the destructive narrative that their own society is hopeless: the sentiment 'Barcelona or death', which Osterloh and Frey note circulates in Senegal. Their example is particularly tragic since Senegal is a well-governed democracy with excellent prospects of sustaining rapid growth. Its government was among the first to take up the new G20 opportunity *Compact with Africa*, designed to attract European firms. Yet there is nothing that the Senegalese Government can do to counter the evident truth that in moving to Europe individual youths would become radically better-off.

Towards refugees, as Alex Betts and I argued in *Refuge* (Collier/Betts 2017), we have a duty of rescue. Its practical expression is to restore the best feasible approximation to normality. At its core, normality for a household is about the autonomy that comes from earning a living. Overwhelmingly, refugees are clustered in regional havens such as Jordan. The international model of providing camps in which accommodation and food are free but there are no employment opportunities is so degrading that a large majority of refugees bypass it, finding illegal employment in the cities. Europe's duty was to bring the money and firms that made it politically viable for havens like Jordan to permit refugees to work, an un-

dertaking that was entirely within our capacity. We failed to do so and have reaped the consequences.

How then do these ethical duties, neither of which Europe has adequately met, bear on the Osterloh-Frey proposal? It is evident that it risks inadvertently being counter-productive in two distinct respects. Foremost, it risks reinforcing the widespread delusion that Europe can fulfil its ethical duties to the global poor and to refugees by enabling a few million educated young men to leave their own societies. Returning to the concept of self-serving narratives, in embracing this delusion, the European liberal elite is absolving itself from the serious thought on public policies necessary to meet these duties. Yet they are the very people best-placed to design programs that would be both effective and politically feasible. Further, in putting a high price on immigration, it would reinforce the already considerable and adverse selectivity suffered by countries-of-origin. In forging a better future, Senegal cannot afford to lose its brightest and best. In luring them to transfer their wealth to us, while leaving their fellow citizens, Europe would be breaching the elementary moral rule 'though shall not tempt'.

## 4 Conclusion

Economics cannot be detached from ethics. Market-based solutions provide mutual benefits for those who enter into the opportunities created for new transactions but can inadvertently harm those who do not share in these opportunities.

The purpose of the proposal is to address the ethical problem that immigrants to Europe receive a massive benefit from a hard-won web of reciprocities built by the indigenous population over many decades, and to which they have not contributed. It aims to acknowledge this widely-perceived injustice by compensating the indigenous population, thereby defusing opposition to immigration. But in addressing one ethical problem it exacerbates another.

The core ethical weakness with the ingenious Osterloh-Frey proposal, is that the billion people living in countries-of-origin who would not be in a position to buy the right to come to Europe, would be damaged by the decisions of the highly selective millions who would emigrate. Many years ago, the eminent Indian economist Jadish Bhagwati proposed that an additional tax be levied on immigrants to Europe, the proceeds of which would accrue to the governments of their countries-of-origin. This ethically sound proposal was still-born, provoking the united opposition of the diasporas that would have paid it, and the host governments that would have levied it.

The form of migration that would reconcile the tensions between these apparently opposing ethical objectives is *circular*: low-skilled jobs at current European levels of wages would be opened to poor people, with travel costs fully covered, but with strictly enforced bounded duration. This would maximise the opportunities for very poor people to spend a period of their lives earning a decent income, far above that available in their own societies. In combination with the support for poor societies and refugees discussed above, it would provide the moral basis for the effective enforcement of borders that European citizens understandably expect.

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