

The Ethics of Migration Policy Dilemmas

Are Exit Controls for Women Migrant Workers Justified in Theory? A Response to [Patti Lenard](#) (2021)

Amy Reed-Sandoval

Amy Reed-Sandoval is an Assistant Professor of Philosophy at the University of Nevada, Las Vegas. She researches migration, Latinx, and Latin American philosophies, often from a feminist perspective.

Patti Tamara Lenard's highly informative and thought-provoking paper "Restricting emigration for their protection? Exit controls and the protection of (women) migrant workers" is a much-needed addition to the normative literature on gender and migration. She explores therein the ethics of bans on the emigration of migrant workers, particularly women, from South Asian states to Gulf States. Such bans, Lenard explains, have sometimes been enacted in response to abuses of South Asian migrants in "receiving nations" (including, but certainly not limited to, Gulf States). Their stated goal: to pressure "receiving nations" into implementing protections of temporary migrant workers from the "sending nation" that pursues the bans. They are usually enacted in the aftermath of high-profile instances of abuse of migrant workers, examples of which are shared by Lenard.

Lenard argues that such bans could be morally permissible—at least in theory. After all, it is the job of states to protect their citizens, and that is what the bans on emigration to particular states aim to do. The migrants in question, Lenard explains, are structurally vulnerable under the current organization of temporary labour migration schemes, and states do well both to recognize this and mitigate against it. Furthermore, Lenard suggests that such bans could be permissible even when their target is the emigration of women in particular ([Lenard 2021, 15](#)). Such gender-specific bans, Lenard argues, are based on a morally plausible "reason from gendered structural vulnerabilities" ([Lenard 2021, 9](#)), for they recognize that women are rendered particularly vulnerable under temporary labour migration schemes for myriad reasons.

Furthermore, Lenard points out that such bans do not violate the human right to exit enshrined in the International Covenant on Human Rights. This is because they are not bans on emigration tout court, but instead bans on emigration to particular states. Lenard cautions, however, that such bans are not justifiable if they are based on a gendered paternalism that "emphasize(s) the role of women as mothers, and their subservience to the men in their lives" ([Lenard 2021, 11](#)), and recognizes that they may seriously reduce the

mobility options of women.

Though such bans could be defended in theory, Lenard ultimately argues that they are not justified in practice under current social conditions. This is because it is not at all clear that the bans serve to protect vulnerable women from abuse. After all, many migrants facing hard circumstances will nevertheless migrate without legal permission to banned countries, and they will be rendered all the more vulnerable as a result of their ban-induced, irregular migration statuses. Furthermore, while some such bans have proven effective in some cases—prompting state action in “receiving nations” to protect temporary labour migrants—there is ample evidence that abuses of temporary labour migrants continue despite the agreements forged between the sending and receiving nations in question. On these grounds, Lenard ultimately argues against the permissibility of the bans, but maintains she would support them if they were largely effective in terms of protecting vulnerable women migrants.

There are a great many things to admire about this paper. First, Lenard’s analysis features a seamless combination of normative theorizing and empirical data; I learned a great deal from reading this work. Second, I very much appreciate her decision to consider this under-explored migration ethics via a non-ideal theory “lens” (indeed, this daunting ethical problem would not even be visible within an ideal theory framework). Third, Lenard’s argument is an important contribution to normative assessment of so-called South-South migration, which has received only limited attention in Anglo-American political philosophy of immigration (on this point, see [Reed-Sandoval and Díaz Cepeda 2021](#)).

Finally, Lenard’s nuanced conclusion brings to my mind what Serene Khader, employing the work of Amartya Sen, has called a “justice-enhancing prescription” for transnational feminist theorists and activists, as part of which “feminists should remember that strategy choices in specific contexts are partly case-specific judgements about how to improve conditions” ([Khader 2019, 44](#)). This aims to make the world better from a moral perspective, rather than focusing strictly, and often misguidedly, on making it ideal (see also [Sen 1999](#)). By arguing that the emigration bans in question could, in theory, be morally justified—but then showing why they are not under current conditions that render them harmful to vulnerable women—Lenard seems committed to enhancing justice, which is one of Khader’s requirements for anti-imperialist, transnational feminist praxis.

However, while I am very sympathetic to Lenard’s methodology, and the concrete policy position she endorses, I am only in partial agreement with her conclusion. This is because I am not fully convinced that emigration bans that target women in particular—either explicitly or in practice—could be morally justified, even if they were shown to be effective. I will outline here three worries in particular.

First, we have reason to be suspicious of any “constraint on action” (to borrow a term from [Cudd 2006](#))—and particularly those constraints that are state-sanctioned—that target women for “their own protection”. Of course, states are justified in adopting some paternalist practices vis-à-vis their citizens, like establishing a minimum age for alcohol consumption and mandating seatbelts. But gender-specific constraints, including emigration bans that target women, could harm women on a representational level by reinforcing widespread patriarchal ideas that they need special protections, are fragile, and ought to be kept in the private realm where they are “safe” from the outside world. Given the social context

in which they are drafted, bans could become what Debra Satz, in her discussion of the ethics of prostitution (1995), has called a “theatre of inequality”—one in which women are “represented” through public policy and social practice as inferior, naturally dependent, and perpetually child-like.

Of course, Lenard only argues that emigration bans targeting women could be justified, in theory, due to the realities of women’s gendered structural vulnerabilities: she explicitly rejects emigration bans that are based on what she terms “gendered paternalism”. Nevertheless, in our current, patriarchal social world, emigration bans targeting women could, in Satz’s words, reinforce “broad patterns of sex discrimination,” instantiating “the perception of women as socially inferior to men” (Satz 1995, 64). Again, this could hold true even if the bans prove effective in reducing the abuse of some migrants, through reinforcing pernicious ideas that women’s freedoms ought to be limited (by men) for their own protection.

A second worry is that allowing states to enact emigration bans that target women gives them far too much power, by granting moral legitimacy—perhaps even feminist legitimacy—to the adoption of a social policy that discriminates against women. Lenard has, of course, argued that states cannot enact sex-specific emigration bans on the basis of reasons that can be described in terms of “gendered paternalism”: that is, they cannot permissibly be enacted on the basis of beliefs that women should remain subservient to the men in their immediate families, or that certain types of work are “improper” for women (to name just two examples emerging from her discussion). Nevertheless, banning emigration for women on the basis of “gendered structural vulnerability” is a form of a gendered paternalism—albeit a comparatively benevolent one. Furthermore, once states are granted moral legitimacy to enact gendered paternalism in migration policy, it becomes far easier for them to “slip into” the more pernicious forms to which Lenard rightfully objects—and all under the guise of moral propriety and even feminism itself. In sum, emigration bans that explicitly target women could, even if effective, open the door to pernicious gendered paternalism in immigration law and public policy.

A third worry pertains to the role that opposition to sex/gender-specific emigration bans should play in transnational feminist theory and praxis. It is perplexing that sex-specific emigration bans fail to address the underlying causes of the hard circumstances in which the would-be migrants find themselves. Feminists should, once again, be sceptical of policies and practices that take options away from women “for their own good” without taking further steps to address the underlying inequalities that make emigration for temporary, low-wage, stigmatized labour a desirable option for many women in the first place. From a feminist perspective, we (particularly Western feminists) ought to approach this issue while bearing in mind Khader’s “imperialism-visibility prescription,” which requires us to “seek information about the roles global structures have played in causing the contemporary oppression of ‘other’ women” (Khader 2019, 43).

To be very clear, my claim is not that Lenard fails to acknowledge imperialism in her analysis. As mentioned previously, I conceive of this paper as an important effort to grapple with the ethical challenges at hand within a non-ideal theory framework that enables us to consider the emigration bans as they are enacted and experienced in our complex social world. Still, I am concerned by the fact that emigration bans seem to let dominant social actors and global gender injustices off the hook while constraining women’s options. This is additionally

worrying given that the vulnerable women in question are unlikely to be granted “seats at the table” before such policies are enacted in their names. In sum, I believe that gender-specific emigration bans present a significant challenge for transnational feminist work.

In conclusion, I should note that I am not, in fact, absolutely convinced that emigration bans targeting women could not be upheld in theory (that is, I am not convinced that Lenard is wrong). My goal has been, rather, to highlight some worries I have about such bans, and the roles they could play in perpetuating global gender injustice even if they are effective. I also wish to add that my first two worries, at least, could be assuaged through the adoption of strategic emigration bans to particular nations that do not target women in particular. Finally, I recognize that none of these considerations, if valid, would alter the conclusion that Lenard reaches in her article: namely, that in our current social world, such emigration bans are not morally permissible. I have raised the preceding concerns in hopes of furthering discussion of this important topic, and am grateful to Lenard for giving this under-explored issue some of the normative and feminist attention it so urgently needs.

References

- Cudd, Ann. 2006. *Analyzing Oppression*. New York: Oxford University Press.
- Khader, Serene. 2019. *Decolonizing Universalism: A Transnational Feminist Ethic*. New York: Oxford University Press.
- Lenard, Patti Tamara. 2021. “Restricting emigration for their protection? Exit controls and the protection of women (migrant) workers.” *Migration Studies*, mnab045, pp. 1–18.
- Reed-Sandoval, Amy, and Luis Díaz Cepeda. 2021. *Latin American Immigration Ethics*. Tucson: University of Arizona Press.
- Satz, Debra. 1995. “Markets in Women’s Sexual Labor.” *Ethics*, Vol. 106, No. 1, pp. 63-85.

About the “Dilemmas” project

This commentary contributes to the [‘Dilemmas’ project](#) at the EUI’s Migration Policy Centre. Dilemmas analyses and debates fundamental ethical dilemmas in policy-making on migration and refugee protection.

Suggested citation

Reed-Sandoval, A. (2022) ‘Are Exit Controls for Women Migrant Workers Justified in Theory? A Response for Patti Lenard (2021)’, Commentary for ‘The Ethics of Migration Policy Dilemmas’ project, Migration Policy Centre (MPC), European University Institute (EUI).

Migration Policy Centre

The Migration Policy Centre (MPC) at the European University Institute (EUI) conducts advanced research on the transnational governance of international migration, asylum and mobility. It provides new ideas, rigorous evidence and critical thinking to inform major European and global policy debates.

Contacts

Website: <https://www.migrationpolicycentre.eu/>

Twitter: @MPC_EUI

Facebook: Migration Policy Centre

E-mail: migration@eui.eu

Address: Convento di San Domenico
Via delle Fontanelle 19

I-50014 San Domenico di Fiesole (FI)