

# Proportional Immigration Enforcement

Tuesday 13<sup>th</sup> December, 2022

## Abstract

This article considers how much harm is justified in reaching a given immigration goal. Political philosophers generally overlook this question, focusing on whether states have a right to exclude immigrants in general, rather than whether certain means of exclusion are justified. For example, even if excluding new migrants during a pandemic is justified, shooting at migrants attempting to enter is likely an unjustified means of exclusion. We argue that harm against migrants in immigration enforcement must be proportional. Whether harm is proportional is dependent on the level of harm migrants experience relative to the harm immigration control averts; whether migrants are forced to migrate; whether the harm against migrants is intended; and whether the harm is instigated directly by a state vs. a non-state actor. We demonstrate that these claims regarding enforcement have implications for justice in immigration currently overlooked. Moreover, these claims are supported in a sample of citizens of the UK and US, despite general opposition to increasing migration in both countries. Drawing on an original experiment focusing on enforcement, novel in evaluating whether the public's opinions are consistent with the requirements of immigration justice, we demonstrate that opinions on enforcement are consistent with sub-principles of proportionality we present.

Keywords: Proportionality, Immigration, Refugees, Experimental Philosophy

Support for this research was provided by British Academy/Leverhulme Small Research Grant SRG1920101032

Supplementary material for this article is available in the appendix in the online edition.

Replication files are available in the JOP Dataverse (<https://dataverse.harvard.edu/dataverse/jop>). The empirical analysis has been successfully replicated by the JOP replication analyst.

The studies have been pre-registered. Pre-analysis plans for study 1 can be found here: <https://osf.io/3a4hx>, 2 here: <https://osf.io/mxjq8>, and 3 here: <https://osf.io/2yk6m>.

# 1 Introduction

Immigration enforcement comes in diverse forms. States raid migrants' homes while they sleep (Paik 2020), force migrants onto planes (Gibney 2013), detain migrants until they leave (Shachar 2020), and detain smugglers so that fewer migrants can enter (Silverman 2014). They shoot at migrants crossing borders (Ghosh 2019), fine airlines transporting migrants on carriers (Bloom and Risse 2014), pay foreign militias to stop migrants from migrating further (Baird 2017), and pay foreign governments to detain migrants on their territories (Shachar 2020).

Despite the diversity of immigration enforcement, this topic has been largely overlooked within political philosophy. Philosophers instead focus on whether force in general is justified. For example, some philosophers claim that force limiting immigration is justified because immigration may undermine trust between citizens (Miller 2016), or citizens' ability to determine who they associate with (Wellman 2008). Such philosophers largely overlook which enforcement is justified, such as whether lethal force to exclude migrants is justified to protect trust or freedom of association for citizens. Or consider philosophers opposing immigration restrictions except in extreme cases, as when excluding migrants slows down the spread of a pandemic (Hidalgo 2018; Carens 2013). Here, too, enforcement is relevant but overlooked: it is not clear what harms are justified against migrants attempting to cross borders during pandemics.

Despite gaps in literature on enforcement, a growing number of philosophers have begun tackling this topic, defending a central claim: states must limit harm from immigration control to "morally acceptable levels" (Mendoza 2015 at 104). For example, extreme violence at the border and indefinite detention are unjustified (Mendoza 2015; Lister 2020; Silverman 2014; Hosein 2019; Cohen 2020; Brock 2020; Blake 2019). Though extreme harms have been addressed, these analyses do not provide general principles for when harm is unjustified across a range of cases.

In this article, we present one such general principle: that of *proportionality*.

The principle of proportionality holds that an act which involves far greater harm than justified for a given end is morally impermissible. For example, the death penalty for those who commit theft is wrong, as the end of deterrence does not justify the means of death. We argue, like others, that the ends of immigration deterrence do not justify states inflicting especially severe harm. However, we further demonstrate that establishing more precisely when enforcement is disproportionate requires assessing not only the level of harm, but whether those subject to harm are responsible

for their migration choices, whether the harm is intended, and whether the harm is inflicted by an intervening agent other than the state. We defend these and related claims in the next section.

We then address a related question: whether policymakers have a duty to pass immigration legislation consistent with proportionality-related principles. Some policymakers may have no such duty, given popular opposition. In particular, they may be unable to pass such legislation being voted out of office, or if co-parliamentarians sensitive to public opinion deny support. This phenomenon of public opposition constraining policymakers' options is well-documented (Ford, Jennings, and Somerville 2015; Christenson and Kriner 2020), but receives little attention in discussions on immigration ethics.<sup>1</sup> If this phenomenon is at play - if proportional enforcement is unpopular - policymakers may be unable to complete the legislative process, thus holding no duty to do so.

We aim to establish if there really is widespread opposition to proportional immigration enforcement. To do so, we could not just analyse existing poll results on immigration. Polls rarely ask citizens about enforcement, instead focusing on general opposition to immigration or types of immigrants. For example, studies indicate that citizens oppose admitting unskilled migrants or those with criminal backgrounds (Hainmueller and Hopkins 2015; Turper 2017). They do not address whether citizens who support excluding these migrants support all means of exclusion.

Given the limits of existing surveys, we conducted original vignette experiments to understand citizen's opinions on enforcement, and whether they align with a principle of proportionality.

In combining philosophical and empirical research, this article contributes to both discussions on immigration ethics, expanding the debate to formulate principles for enforcement, and on the public's opinions on immigration, expanding the discussion to include opinions on enforcement as distinct from immigration goals. Moreover, in providing the first article evaluating if the public's opinions are consistent with a principle of immigration justice, we evaluate the extent that conclusions from normative theorists face a feasibility constraint arising from the public. We find little evidence of this constraint: citizens' stated opinions are roughly consistent with the principle we present. If so, policymakers may have duties to pass legislation consistent with this principle.

---

<sup>1</sup>For an excellent exception, see Hidalgo 2018 *ibid* at pp. 92-113 and 185-207.

## 2 Proportionality

It is widely accepted that harm inflicted in immigration enforcement must be necessary to reach justified immigration goals. Even those claiming states are permitted to block all migrants from entering might agree that states should refrain from harm that is not necessary to reach this end. In contrast to this principle of necessity, the principle of proportionality holds that harm necessary to reach justified goals can still be wrong if the harm is substantial enough. We address this principle here, first setting out some general assumptions, and then five specific considerations for determining proportionality in immigration enforcement.

**Some basic assumptions** We assume that every theory of immigration ethics ought to recognize that, even when a state has a right to exclude a given group of individuals to avert certain harm for citizens, there is a limit to the injurious or lethal harm it is permitted to inflict in proportion to the harm averted.

This claim is consistent with the claim that immigration control can at times be justified even when there is no harm averted. For example, some claim that states have a right to control immigration in a way similar to individuals having a right to control collective property (Pevnick 2011). Just as individuals owning and living on their farm have a right to inflict some harm to prevent trespassers who will not inflict any harm on the farm's owners, states can inflict some harm on would-be immigrants to prevent entrance which will not inflict any harm on citizens. We call the harm states may be permitted to inflict to prevent non-harmful entrance the "baseline harm." One's broader theory of states' rights will impact the baseline harm one accepts, but regardless of what this baseline is, anything above the baseline requires that harm be averted as to be justified, and the more harm caused the more harm must be averted as to be justified.<sup>2</sup>

When we write "harm caused" we hold another assumption: a state causes harm if using or threatening coercive force which foreseeably contributes to death, injury, or serious illness. For example, while we do not address cases where the government builds a wall without issuing any threats to those climbing over, the moment the government mans the wall with armed guards who

---

<sup>2</sup>This assumption is consistent with broader theories of proportionality. For example, it is broadly accepted that if someone trespasses without causing the owners any harm, the owners are permitted to inflict some harm necessary to prevent the trespasser from remaining, such as some injury, but anything above this baseline harm requires that harm be averted. If the baseline harm only includes an injury, then lethally shooting at the trespasser is only justified to avert harm, and this harm must be substantial enough to justify the lethal shot; if the trespasser is attempting to steal some roses from the lawn, lethally shooting at her is disproportional, but if she is attempting to injure the occupant, lethally shooting at her may be proportional.

threaten to shoot those crossing, the government engages in the threat of force, and lethal and injurious harms arising from this threat constitutes harm.<sup>3</sup> Such harm must be proportionate.

The claim that harm involving death, injury, or illness must be proportionate is broad enough to account for competing theories of states' rights vis-à-vis migrants. For example, some claim states have a right against migrants entering to protect citizens' freedom of association; just as groups of individuals are permitted to prevent the entrance of individuals into their clubs, on the grounds that having control over entrance protects the freedom of association of club members, citizens of a state are permitted to prevent the entrance of migrants into the state, on the grounds that having control over entrance protects the freedom of association of citizens (Wellman 2008). This theory ought to recognize that, while there is a baseline of harm that the state may inflict on immigrants to protect freedom of association, anything above this baseline is only permitted to prevent harm, and the more injurious and lethal harm caused the more harm must be prevented.

Or consider theories which hold that a state has a right to exclude migrants to protect the sense of trust between citizens (Miller 2016). This theory ought to recognize that there is a limit to the harm the state has a right to impose to protect trust. Similarly, consider the theory that the state has a right to prevent migrants' entrance because citizens have a right to protect certain cultural practices (Stilz 2019). Here, too, there is a baseline limit to the harm states can inflict to bring about this specific end, and the infliction of harm above this baseline is only justified if the harm averted is substantial enough.

The above statements are of course imprecise in one way: they do not specify just how much harm is justified for reaching a given end. Theorists likely disagree over how much harm is justified to reach a given end, because they disagree as to how much preventing a given harm, or just protecting a given right, has value; those who think freedom of association is extremely valuable would permit greater baseline harm to protect this value as compared to those who think freedom of association has only minor or no value. In this sense, disagreements over precise ratios of permissible harm caused to harm averted are similar to disagreements found in other debates on proportionality, such as debates over how much harm homeowners can inflict on trespassers; those

---

<sup>3</sup>Our assumption that a wall is insufficient for coercion is consistent with David Miller's view (Miller 2010). We do not necessarily endorse this view, which has been rejected by others who view a wall as a type of coercion (Hidalgo 2018; Abizadeh 2017); however, we wish to limit our discussions to types of enforcement that uncontroversially involve coercion. We also limit our discussion to coercion leading to death, injury or illness because this is the sort of coercion individuals have a right to not experience unless such harm is proportional.

viewing the right to property as significant will feel homeowners are permitted to inflict greater harm than those viewing this right as minor.<sup>4</sup>

Though there will be disagreement over relevant harms and their weight, the principle of proportionality still provides insight which a broad range of individuals can accept. This is partly because sometimes there is agreement that an act is grossly disproportionate, as when a state lethally shoots a large number of migrants attempting to cross a border to prevent a slight and temporary slow down of the economy. When an act is grossly disproportionate, we can ask why it is grossly disproportionate, which requires examining the factors impacting proportionality, a task we pursue in the next sub-sections. This task has philosophical value, insofar as understanding why we hold certain views has value.<sup>5</sup> Moreover, sometimes when there is agreement that enforcement is grossly disproportionate, we can ask whether related forms of enforcement are also disproportionate, questions with far less obvious answers. For example, when nearly all agree that lethal force against migrants lacks proportionality, we can then ask whether paying another state to host migrants is similarly disproportionate if this results in migrants dying in detention. Answering this question requires a broader discussion on the role of indirect harm, a question we shall tackle in the next sub-sections.

Though our approach is to focus on the general contours of proportionality, leaving open precisely what ends states can permissibly achieve via enforcement, we will draw upon examples involving ends that are widely accepted as permissible to achieve. For example, we will describe immigration controls which prevent the spreading of a pandemic, and presume - as even advocates of open borders do (Hidalgo 2018; Carens 2013) - that the state has a right to prevent the entrance

---

<sup>4</sup>Moreover, disagreement over the relevant harms and rights may be *reasonable*. When there is reasonable disagreement in democracy, states may be permitted to impose objectively wrong policies. For example, perhaps there is reasonable disagreement as to whether excluding migrants to protect culture is justified, and the majority determines it is. The government using immigration enforcement to protect culture may be acting morally wrongly in an objective sense, but acting permissibly because it can claim it was reasonable to think it was morally right, and the majority agrees. If this is correct, then to determine if the government acts permissibly in inflicting a certain level of harm in proportion to harm averted, we must first determine if the harm averted is the sort a reasonable person would agree it is permissible to avert, and further determine if the majority agree with this assessment.

<sup>5</sup>This value may have practical import: it may help voters realise that they agree harms inflicted are wrong, despite disagreeing on related topics. For example, voters focusing on whether excluding migrants is justified to protect culture may realise that, even if they disagree about this topic, they can agree that the state is not permitted to lethally or injuriously harm any number of non-labile migrants to protect culture; there is a cap, a cap which is not recognized in many of today's policies. This can create an impetus to change these policies, creating coalitions between citizens which might otherwise not exist.

of at least some migrants to prevent this spread. We then consider what factors increase the harm the state is permitted to inflict in such cases; whether, for example, the state is permitted to inflict more harm if a migrant voluntarily moves during a pandemic, as opposed to being forced to move.

This approach – of recognizing disagreements over precise rights and harms that can be averted, while focusing on harms that are widely accepted as those which states have a right to avert – is similar to the approach taken by philosophers of war. While some such philosophers consider which harms states can avert - whether, for example, the state is permitted to use harmful violence to protect cultural artifacts (Frowe and Matravers 2019) - many bracket off this question. They instead focus on harms nearly everyone agrees states may avert, such as harms from invading soldiers killing innocent civilians, and then consider what impacts the level of harm permitted as a ratio of harm averted (McMahan 2018; Tadros 2011; Burri 2021; Otsuka 1994; Quong 2020). We take the same approach with immigration, focusing on cases where there is agreement that harm can be averted, and considering what factors impact harm permitted via immigration control.

**Liability** The first factor impacting harm permitted is liability: harm permitted against liable agents relative to harm averted is greater than harm permitted against non-liable agents relative to harm averted. We assume that a necessary condition for being liable is being responsible for posing a threat (McMahan 2009b; Otsuka 1994, 2016; Gordon-Solmon 2018; Ferzan 2012; Duff 2007).<sup>6</sup> For example, if a thief tries to steal a stranger’s wallet, they are liable to considerable defensive harm from the stranger - far more harm than someone about to accidentally knock the stranger’s wallet into the river - because they are morally responsible for the threat they pose.<sup>7</sup>

If responsibility is a necessary condition for liability, a person is not liable to harm if not responsible for a choice which imposes a threat. For example, imagine X is pushed into a pit through no fault of her own, about to lethally crush Y sitting at the bottom, and Y can only save himself if he takes out his ray gun and evaporates X (Nozick 1974). X is not liable to being killed, given that she never engaged in any choice, and so is not responsible for a choice which causes a threat.

Though X is not liable to being killed, it might still be permissible for Y to impose this harm. This is because Y may have an all-things-considered justification for imposing harm on even a

---

<sup>6</sup>Some (such as McMahan) additionally claim that moral responsibility for an unjust threat is sufficient for liability, but even many who do not think it is sufficient think it is necessary.

<sup>7</sup>This view is contentious, in that some view responsibility as not necessary for liability (Burri 2021; Tadros 2011; Frowe 2014). However, we demonstrate in Appendix E that one prominent alternative view, which does not view responsibility as necessary for liability, implies a similar conclusion to the one we defend.

non-labile agent, given that he has an agent-relative prerogative to prioritise his own life (Quong 2020; Ferzan 2012). We shall elaborate on this in the next sub-section, but even when harm is permissible against non-labile agents, the harm caused relative to harm averted must be less than had the agent been liable, all else being equal (Ferzan 2012 at 675 and McMahan 2009b). In other words, the proportion of permissible harm caused relative to harm averted increases when the agent is liable. For example, if X is pushed into a pit and about to crush Y, non-lethally breaking Y's leg, then it is not clear that Y is permitted to kill X to save her leg, but may be if X intentionally jumped into the pit to break Y's leg.<sup>8</sup>

The above concerns those who make no choice at all; X is pushed into the pit and has no choice at all. Sometimes an agent makes a choice, but it is involuntary because under duress. Other times, an agent makes a choice that is semi-voluntary, because the duress is less extreme, as when someone is threatened with moderate and temporary injury unless they act a particular way. Voluntariness is a matter of degree, and the more voluntary one's choice is, the more harm one is liable to experience relative to the harm averted. For example, compare a case where a third party threatens to detain X for several weeks unless she tries to break Y's leg, and a case where the third party threatens to detain X for several years unless she tries to break Y's leg. X is liable to face more harm from Y in the first case as compared to the second.<sup>9</sup>

This view of liability has implications for immigration enforcement. The level of permissible harm from enforcement, relative to harm averted, varies depending on the level of responsibility that migrants hold when posing a threat. If those whose choices are more voluntary are generally more responsible, then when comparing two migrants posing similar threats, voluntary migrants can be permissibly harmed to a greater degree than involuntary migrants.

Choices are involuntary, we presume, when the result of coercion, as when a migrant is threatened with persecution if they remain in their home countries, or when their basic needs are unmet,

---

<sup>8</sup>In some cases the difference in proportions won't kick in because the harm inflicted is minor, as when one can inflict only very minor harm to save one's own or another's life; in such cases liability seems irrelevant. However, liability still impacts ratios: the maximum harm which is proportionate is greater for liable agents, even if such maximum harm would be all-things-considered impermissible in virtue of being unnecessary, because minor harm will suffice.

<sup>9</sup>Similarly, because voluntariness increases permissible harm relative to harm averted, when two agents threaten to cause different levels of harm, sometimes they can be liable to the same harm if their levels of voluntariness differ as well. For example, compare a third party threatening to detain X for several years unless she breaks both of Y's legs, and the third party threatening to detain X for several weeks unless she breaks one of Y's legs. X in both cases may be liable to the same level of harm because, though the harm averted is greater in the first case as compared to the second, the level of voluntariness is higher in the second case as compared to the first.



as when a migrant will starve if they remain in their home countries.<sup>10</sup> As with the discussion on voluntariness above, voluntariness is a matter of degree, such that the less voluntary a choice, the less responsible a migrant is for their choices, and the less harm they are liable to experience relative to the harm averted.

For example, compare two migrants: one faces no harm in her home country and chooses to board a flight to a country with lower rates of Covid-19, risking transmitting the disease on arrival. The second similarly boards a flight but will face persecution if she remains in her home country. For the first migrant, using harmful force against her is likely justified because she freely chooses to cross the border, and because of the risks she poses for the residents of the state she enters. The second migrant also risks transmitting Covid-19, but that alone may be insufficient to justify returning her home or detaining her, given that she never made herself liable to harm.<sup>11</sup> 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 thus not responsible for their decisions. If they are not responsible, then they are not liable to the same level of harm as compared to a voluntary migrant posing the same risks.

The above principle of liability is applicable across a range of general views on immigration. Consider philosophers who claim that a state is permitted to exclude outsiders seeking to wrongly dominate the local population, as when colonists seek to enter a state (Stilz 2019). In such cases, the level of harm in enforcement which is permitted is impacted by the voluntariness of those who attempt to enter. For example, the harm permitted against colonists is likely greater than against many others, given that colonists generally enter voluntarily.

Or consider the claim that states are permitted to temporarily limit inward migration when this is necessary to protect a considerable number of citizens, as when a sudden increase in migration undermines food security for many (Stilz 2019; Ferracioli 2014; Carens 2013). In such cases, the level of permissible harm in enforcement is greater if against someone voluntarily attempting to cross a border in a manner that contributes to food insecurity, as compared to someone forced to

---

<sup>10</sup>Valeria Ottolenni and Tiziana Terresi provide an excellent defence of these conditions for voluntariness in migration choices (Ottolenni and Terresi 2013).

<sup>11</sup>It may be permissible to require that she return home if conditions have sufficiently improved in her home country, such that returning is now safe. This is because, if return is genuinely safe, she may no longer be forced to remain outside of her home country, and so is potentially responsible for remaining in the host country she has entered. However, she may also have independent justifications for remaining. For example, Rebecca Buxton argues that compelling forced migrants to repatriate is wrong, given that they have already been displaced once (Buxton 2020).

enter the state.

Finally, consider the claim that migrants 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 2016; Macedo 2007). Others claim, as noted in the last section, that limiting migrants' entrance is justified because states are large associations, and associations have a right to decide who they associate with (Wellman 2008). While this claim has been disputed (Fine 2010; Carens 2013), a less controversial version is that only particular sorts of associations have special rights to control immigration, such as those where most citizens have a shared political commitment to establish rules and practices of self-determination (Moore 2015), or where the state is fulfilling its duties to protect the basic rights of residents. When the state protects the basic rights of residents, argues Michael Blake, this creates duties for citizens towards all those who live in the state. Citizens have a right to not have such duties imposed on them, and so a right to not admit new migrants (Blake 2019 at 59). Regardless of the truth of the above claims, if restricting entrance is justified to protect associations or goods arising from associations (such as democratic functioning, or the rights of citizens to not have duties imposed on them), then one relevant consideration for establishing the level of harm permitted is liability: greater harm from enforcement relative to harm averted is permitted against migrants voluntarily crossing a border in a manner that undermines associations or the goods arising from such associations. Such migrants are liable to harm, and so greater harm is justified as compared to those whose choices are involuntary.<sup>12</sup>

The above conclusions overlap with one prominent view in immigration ethics: states have positive obligations to grant entrance to those forced to leave home countries, because they have positive humanitarian obligations towards vulnerable migrants, and because they ought to uphold basic human rights in a world where the state system has failed to do so (Lister 2013; Carens 2013; Owen 2016; Ferracioli 2014). However, our claim is related but distinct: regardless of whether states have positive obligations to admit the vulnerable, they still act wrongly in using certain harmful force against individuals forced to migrate, even when such harmful force would be justified if against those not forced to migrate.

If the above is true, the importance of liability has a further implication. Forced migrants,

---

<sup>12</sup>Blake notes that, though states have a right to control immigration to avoid imposing new duties on citizens, the good of citizens avoiding new duties is not absolute, and significant harms from immigration enforcement can render enforcement wrong (Blake 2019 at 23 and 50). Our observation builds on his, but specifies that harms can be discounted for liable migrants.

many philosophers claim, do not all have equal claims to asylum. For example, some philosophers claim states ought to prioritise admitting refugees who are fleeing injustices before those fleeing other harms (Hosein 2019).<sup>13</sup> Others claim states should prioritise refugees based on who would benefit from asylum, or benefit citizens if given asylum (Gerver 2020; Miller 2019). Even if states act permissibly in prioritising some forced migrants for admission before others, states can act wrongly in utilizing harm against those forced migrants who are not prioritised, given that they are not liable to harm. In other words, even if states have no obligation to admit a given forced migrant, they can still hold a duty to not harm this migrant in preventing their entrance.

This last claim might seem surprising. Surely, some might suppose, if a state has no obligation to admit a given forced migrant, but can be obligated to use no harmful enforcement against her in deterring her from entering, then this state essentially does have a duty to admit this forced migrant. This supposition would be false. A state not being permitted to use harmful enforcement against a migrant needn't imply having a positive duty to admit this migrant. To have a positive duty could imply a duty to help her leave her home country, such as by flying her into safety. The state may have no such duty, but still be obligated to refrain from using active force which involves more harm than she is liable to experience.<sup>14</sup>

**The Agent-Relative Prerogative** The second consideration for determining proportionality concerns the "agent-relative prerogative". This refers to humans' moral prerogative to discount to an extent the harms others face against harms they face, including when others face harms they are not liable to experience (Ferzan 2012; Quong 2020; Steinhoff 2016; Haque 2017; Hosein 2014; McGrath 2003). For example, if an ambulance driver (through no fault of his own) is about to veer to the side of the road and kill a pedestrian, and the pedestrian can only save her life by killing the driver, it seems she is permitted to do so. One explanation for why is that she has an agent-relative prerogative to discount the innocent life of another as against her own (Quong 2020).

Even if one rejects the agent-relative prerogative in general, one might still claim that citizens can often prioritise their own interests in public policy. In particular, many philosophers claim that the state system as a whole is legitimate when better at protecting a range of rights than alternative

---

<sup>13</sup>It is worth noting that some, such as Matthew Lister (2013), claim those fleeing persecution have specific and special claims to asylum, but not that such individuals ought to necessarily be prioritised over others forced to migrate, at least when it comes to temporary protection.

<sup>14</sup>The analysis in this sub-section rests on a particular view of liability. For an alternative view, and why this alternative view leads to a similar conclusion to that above, see Appendix E.

systems, and a state system is particularly effective at protecting rights when each state has the responsibility to protect the rights of state citizens, rather than the rights of citizens living in other states (Blake 2019; Brock 2020; Owen 2016). This implies that citizens are entitled to protect their own and co-nationals' rights over the rights of those who live abroad in a range of cases, as when citizens utilise finite medical funding to prioritise cancer treatment for citizens over sending money for cancer treatment abroad.

If citizens are permitted to prioritise their own interests, at least when it comes to certain rights, then in determining proportionality citizens needn't simply weigh the harms they are averting against the harms they are causing; they can discount the harms they are causing would-be migrants as compared to the harms citizens would otherwise experience. Sometimes they can do so because the harms that would-be migrants experience are not the sort that citizens have a duty to protect in general. For example, citizens might have no duty to protect non-citizens and non-residents' access to jobs within the state's market, if this conflicts with citizens' ability to prioritise their own material and moral interests. Or less controversially, in cases where citizens' basic interests are at stake, they can prioritise to an extent these basic interests over the basic interests of would-be migrants.

For example, New Zealand refused to admit individuals during the height of the Covid-19 pandemic, deporting individuals from the airport if they attempted to enter (Duncan 2020). It is likely this policy caused harm to non-citizen friends and family who could not visit New Zealand. Moreover, some non-New Zealanders with underlying health conditions living in countries with high rates of Covid-19 may have benefited if allowed to enter, assuming the number admitted fell below a given threshold, such that rates of infection did not significantly increase. Even if New Zealand's immigration enforcement caused serious harm to these non-residents relative to the harm averted for citizens, these harms against non-residents could permissibly be discounted to an extent.<sup>15</sup>

---

<sup>15</sup>Though citizens can prioritise their own interests, it is worth noting that the extent citizens can do so, and the sorts of interests they can prioritise, are impacted by one's broader theory of citizens' rights. For example, we noted that Blake defends the view that citizens have a right to control immigration to avoid taking on duties of ensuring newcomers have basic rights protected. He thinks citizens can deport migrants to a country where they will lack some non-basic rights to avoid the moral harm of citizens having duties they do not wish to have (Blake 2019). It follows that, even if migrants' material harm in being deported is worse than citizens' moral harm of being forced to take on duties, citizens are still justified in engaging in deportation, because they can prioritise their own interests over others. In contrast, those opposing Blake's broader claims would argue that the harm of being forced to accept duties is not the sort that citizens can appeal to, and so they cannot discount the harms that deported migrants experience as compared to the interests that citizens have in avoiding new duties. In this sense, the important details of when citizens

**Doctrine of Double Effect** The Doctrine of Double Effect (DDE) holds that causing harm as an intended means to reach a given end is worse than causing harm as an unintended side effect to reaching this end (Walzer 1991; Foot 1967). This claim is often made in the context of war: bombing a military stockpile so that civilian bystanders die from the debris, encouraging an early end to a war, is worse than bombing the stockpile in a manner that unintentionally causes civilian deaths. There is something worse about intentionally causing civilian deaths as a means to ending the war.

Not all philosophers accept DDE (Bennett 1995; Thomson 1999), but if DDE is accepted, an implication is that harming migrants to deter their migration may be unjust even if causing harm as an unintended side-effect would be just. For example, a state may act permissibly in failing to immediately fly in the parent of an unaccompanied minor, asking the minor to wait for three months due to resource constraints, but acts impermissible in forcing the child to be separated from her parent in order to encourage them to leave the state or deter others from arriving. The use of harm as an intended means to reach immigration goals is either impermissible, or at least requires far more benefit as compared to harm which is an unintended side effect.

Or consider again New Zealand's policy of blocking migrants from boarding a flight to stop the spread of Covid-19, likely harming some would-be migrants who could not escape high rates of Covid-19 in their home countries. New Zealand did not institute this policy so that more individuals abroad would contract Covid-19, and so this harm ought to be discounted as compared to harms which states instigate in order for migrants to remain absent from the state. An example of the latter might be a state intentionally withdrawing medical aid abroad so that fewer migrants have the health and well-being necessary to migrate.<sup>16</sup> This might be unjust even if similar harms not intended to deter migrants would be permissible.

**The Doctrine of Doing/Allowing** A fourth consideration is the Doctrine of Doing/Allowing (DDA): doing harm to an innocent person is worse than allowing harm to occur, and so doing harm can lack proportionality even if this averts slightly greater harm (Haque 2017; Hosein 2014; can prioritise their own interests will be contested. Despite this contestation, we can at least accept this conclusions: when it comes to cases where nearly everyone agrees that citizens can utilise harmful force to avoid harms arising from migration, citizens are permitted to discount the harms arising from enforcement as compared to the harms they seek to avert via enforcement. While there will be disagreement over how much they can discount these harms, some discount is warranted.

<sup>16</sup>While we know of no state that implements such a policy, there is evidence that aid can increase the rate of migration, and evidence that states try to provide aid in a manner that minimizes migration (Clemens and Postel 2018); it is not implausible that states may distribute their aid in a manner that, in some cases, is intended to cause harm to reduce migration.

McGrath 2003). For example, it is worse to forcibly inject a migrant with Covid-19 as a means of deterrence than to allow them to enter and cause two citizens to contract Covid-19.

Or consider a more realistic example: in 2022 the US accepted a ceiling of no more than 125,000 refugees a year for resettlement (Lorenz 2022), and perhaps this number – or some number – is set because resettling more than this amount would take away funds from other needs, such as infrastructure, education, and welfare provisions. This policy means millions face life-risking harm in refugee camps and urban centres in transit countries. The policy could be proportionate, but if the US were to shoot in the direction of all asylum seekers attempting to enter, leading to millions being killed, this would lack proportionality.<sup>17</sup>

The doing/allowing distinction becomes more complex when interacting with the agent-relative prerogative. Citizens may claim that they are permitted to do greater harm to migrants to prevent the allowing of lesser harm to citizens, because citizens have an agent-relative prerogative. Consider the Indian policy of shooting in the direction of migrants arriving from Bangladesh. The Indian government claims that some such migrants will smuggle cattle into Bangladesh, harming the Indian economy (Ghosh 2019). If the number of Indian citizens who would be harmed if more migrants entered were equivalent to the number of migrants harmed under today's policy, and the harms were equivalent, the government might claim it was justified in doing harm to migrants to prevent harm from being allowed to occur to Indian citizens, because citizens can prioritise their own livelihoods. However, even if this is true, doing harm still holds greater weight than allowing harm when all else is equal, or when the harms are substantial. For example, the Indian government's policy of actively killing migrants attempting to enter is likely wrong, even if allowing migrants to die in other countries may be justified. Or, at the very least, there is some number of migrants that a government is not permitted to kill to protect some number of citizens, and this number of migrants is less than the number of migrants that the government is permitted to let die to protect these same number of citizens.

**Intervening Agency** Intervening agency occurs when a principal agent causally contributes to another agent - the "intervening agent" - freely acting a particular way. Some hold that harms from intervening agents can often be discounted in proportionality calculations (Frowe 2014; Rodin

---

<sup>17</sup>Of course, the US probably won't shoot in the direction of all asylum seekers attempting to enter, but it does shoot in the direction of some (Cohen 2020), and preventing their entrance may not entail sufficient benefits to justify the deaths that arise, even if deaths from a failure to resettle refugees is justified.

2014; Walzer 2009). For example, EU member states provide funds to Libya to stop migrants from attempting to reach Europe (Lemberg-Pedersen 2017). If the EU does not encourage Libya to use especially violent enforcement but it nonetheless does, the harm from Libya's enforcement can be discounted by the EU. This is especially true if the EU ensures that Libya need not engage in violent enforcement to prevent migrants without visas from arriving in Europe.

If this theory of intervening agency is compelling, one might similarly claim that states ought to discount harms from smugglers. For example, a state detaining a migrant may be acting disproportionately, but perhaps not if the state denies a visa and the migrant then pays a smuggler who detains her during the journey: the fact that the direct harm came from the smuggler means it can be discounted.

Some might reject the above theory. This is partly because some might reject the claim that intervening agency matters at all (Tadros 2016). However, even if one accepts the theory of intervening agency in general, the theory ought to be modified when applied to forced migration. If a government denies a forced migrant any option to arrive via legal routes, knowing that the migrant will then be forced to try boarding a boat via a harmful smuggler, the government places the migrant in a position where she has little other choice than to try paying a smuggler. The government is therefore engaging in actions that force the migrant to face the smugglers' harms, rather than merely engaging in actions that lead to another agent forcing the migrant to face these harms. For this reason, the government cannot discount these harms as much as the harms intervening agents inflict on voluntary migrants.

Though the government cannot discount harms from intervening agents against involuntary migrants as much as harms from intervening agents against voluntary migrants, perhaps the government can discount harms from intervening agents against involuntary migrants compared to direct harms against involuntary migrants. Whether it can depends on whether the government's own actions necessitate the intervening agent acting as it does. For example, if the EU's payments to Libya necessitate the Libyan government detaining migrants, in that the Libyan government could not obtain these payments unless it engaged in detention - perhaps because detention is the only way to deter onward migration - then the EU could not discount the harms from Libya in determining if the EU's policies are proportionate. In many cases involving smugglers, it could be that the government's actions of denying a visa, or even threatening to imprison a smuggler, do not

necessitate the smugglers' engaging in the harm they engage in, as when smugglers sell migrants into slavery to obtain greater funds; in such cases the government can discount the harms, even if it cannot discount them as much as for voluntary migrants harmed by smugglers.

There remain cases where harms are not from intervening agents, but from nature, as when a migrant is denied a visa and so crosses a border clandestinely, resulting in harsh desert conditions along the journey. We might feel that this migrant's own assumption of risk - assuming her migration is voluntary - is enough to discount the harm she faces in calculating proportionality. For example, a government starving a migrant lacks proportionality, but a government denying a visa, leading a migrant to voluntarily take a journey leading to starvation, might be proportional.

Indeed, for voluntary migrants nature can often be discounted more than harm from smugglers. This is because harm from nature is not itself wrongful, as nature cannot commit a wrong, and perhaps it is worse to be wrongly harmed than to just be harmed.<sup>18</sup> Or, at least, it is worse to create a state of affairs with wrongful harm compared to a state of affairs with mere harm. For example, it is worse to create a state of affairs where many are murdered as opposed to a state of affairs where the same number die in a tornado (McMahan 2009a). If so, then wrongful harms should count for more in proportionality considerations as opposed to non-wrongful harms, and so wrongful harms from smugglers should count for more in proportionality considerations than harms from nature.

For forced migrants harmed from nature, the story is different: a forced migrant denied a visa is forced into a position where she must take an unsafe clandestine rout to avoid harm in her home country. However, perhaps the government can still discount harm from nature as compared to harm from smugglers in such cases. When a forced migrant is harmed by a smuggler, she is wronged both from the government which denies her a visa and forces her to pay for a smuggler, and from the smuggler himself. In contrast, when a forced migrant will only face harm from nature, she is only wronged by the government which denies her a visa, as nature is not an agent that can commit a wrong. Perhaps it is worse to be wronged by two agents (the government and a smuggler), rather than just one (the government). This because a world with more agents committing a wrong may be morally inferior to a world with fewer agents committing a wrong. For example, a world where many individuals stone a woman to death is worse than a world where only one individual stones a woman to death; in the former more agents express unjust views and act on these views. If

---

<sup>18</sup>This is because, in being wrongly harmed, the victim's rights are not respected. It is bad to have others not respect our rights, if only because we would rather wrongdoers not obtain the satisfaction of treating us this way (Tadros 2011).



this is true, it is worse to force a refugee into a position where she will be wronged by an intervening agent as compared to forcing a refugee into a position where she will be harmed by nature. While this seems plausible, we are not entirely confident of this conclusion. For now, we simply conclude that harms from nature should be discounted for voluntary migrants.

**Intervening Agency and Carrier Sanctions** Airlines are a type of intervening agent subject to carrier sanctions. If they board individuals without a visa, they will be fined by the state they transport individuals to, and so they refuse to board such individuals. Carrier sanctions' harms are sometimes minimal compared to governments contributing to militias' or smugglers' actions, but even when harms are substantial - as when migrants who cannot board flights are killed in home countries - some might suppose carrier sanctions cannot lack proportionality because they do not involve coercive force. We assume (as stipulated in the first sub-section) that the proportionality principle constrains coercive force in particular.

The claim that carrier sanctions do not involve coercive force has been defended by Blake (2019), who asks us to imagine the only carrier in a town going out of business, such that refugees in this town lack the means to cross an ocean. These refugees would not be subject to coercion from any carrier. If so, argues Blake, refugees do not seem subject to coercion if they lack the means to board a ship or flight due to government regulations of carriers. It is true that the carriers are subject to coercion themselves - they will be fined if they let refugees board without visas - but just because they are subject to coercion it does not follow that the refugees are coerced as well. The coercion, he writes, "does not seem transitive" (p. 103). While Blake holds that carrier sanctions harming refugees are unjust, this is because the government has a duty to provide refugees the means to escape, and not because the government itself coerces refugees via carrier sanctions (p. 113-115).

Despite this argument, we think carrier sanctions do involve the government coercively harming refugees. If so, then even if one thinks the government has no duty to provide refugees the means to migrate, one can still reject carrier sanctions that lack proportionality.

The reason carrier sanctions involve government coercion is that, unlike carriers going out of business, carriers subject to sanctions will threaten to detain migrants that attempt to board a flight without visas.<sup>19</sup> More importantly, carriers engage in these threats because they are subject to the government's threat; they must stop migrants from boarding flights to avoid the government's

---

<sup>19</sup>For more on such threats, see Bloom and Risse (2014) and Baird and Spijkerboer (2019).

fine. Assuming the government's aim of threatening fines is for the airline to issue threats that stop migrants from boarding carriers, and assuming that a comparable direct government threat towards migrants would constitute coercion, we ought to presume that the government coerces migrants when threatening carriers. For example, if we presume the government engages in coercion against refugees if threatening to detain them should they cross the border, the government engages in coercion against refugees if it threatens to harm an airline should it not detain refugees who try crossing a boarder via its flights.

The reason we accept this is because of a broader principle: when X threatens to use force against Y unless Y threatens to use force against Z, and X is aware that threatening Y makes it the case that Y threatens Z where Y otherwise would not, then X causally contributes to coercion in a manner that requires special justification, different than the justification we must give when we fail to help others. For example, if Xina threatens to take Yulia's money unless Yulia threatens to harm Zack should Zack enter her home, and Xina can foresee that Yulia will threaten Zack as a result and would have otherwise welcomed him in, then Xina contributes to Yulia's coercion. She therefore acts wrongly if this coercion lacks proportionality. It would lack proportionality, for example, if Yulia can only stop Zack from entering her home by lethally shooting him, and would have otherwise welcomed him in.

We think this is clearly true if Yulia would have a duty to let Zack in were it not for Xina's threat. If Yulia would have a duty to let Zack in if costs were low, but costs become high with Xina's threat, then Xina clearly causes the coercion that Yulia inflicts. However, even if Yulia would have no such duty either way, Xina still contributes to coercion. Such is the case if letting Zack in would entail supererogatory risks for Yulia because a gang trying to kill Zack might follow him in and harm her as well, and she is normally willing to take these risks, but is not willing to take these risks if she also faces Xina's threat. The causal role of Xina's threat matters in Xina's relationship with Zack; she is not merely denying him help, but causing it to be the case that Yulia blocks him from entering. If Yulia blocking his entrance causes enough harm - for example, she shoots at him or he is killed from the gang - this harm could render Xina's actions disproportionate.<sup>20</sup>

---

<sup>20</sup>There is one obvious difference between Xina and governments; individuals like Xina don't generally have a right to take money from people, while governments do have a right to take people's money in the form of fines and taxes. However, even if governments have rights to tax and fine in general, they still must justify their taxation and fines. If fines are coercive, and if coercion is only justified when involving proportional harm, then the governments' fines via carrier sanctions are only justified if they involve proportional harm.

If coercion is transitive in this way, then a government coercing carriers who then coerce migrants as a result constitutes the government coercing migrants. If coercion must be proportional, carrier sanctions must be proportional.

If they must be proportional, there is then a further question: whether harm from sanctions can still be discounted as compared to direct harm. Similar to our claim in the last sub-section, whether it can depends on whether sanctions necessitate the harm carriers inflict. For example, if carriers detain migrants, but detention is not necessary for the airlines avoiding fines - they could turn migrants away without detention - then harm from detention itself can be discounted by the government. In contrast, when the government issues a sanction which necessities that carriers implement a given harm to avoid the fine, the causal relationship between the government and the carrier's actions is stronger, and the case for discounting the harm weaker.<sup>21</sup>

### **3 Public opinion as a potential roadblock**

The principles we articulated specified the considerations states ought to account for in creating proportional immigration enforcement. States, however, do not make decisions; the people who run states make decisions, including elected policymakers passing legislation. Policymakers might claim they cannot pass legislation consistent with principles of proportionality, as they would be quickly voted out of office if they attempted to do so, either unable to complete the legislative process or their legislation quickly overturned.

This worry is not only theoretical; extensive literature indicates that a major roadblock for policymakers attempting to pass legislation is public opposition (e.g., Ford, Jennings, and Somerville 2015; Klarevas 2002; Busemeyer, Lergetporer, and Woessmann 2018). While far from the only roadblock - even popular legislation can be impossible to pass (Achen et al. 2017) - it is one policymakers might appeal to in explaining why their hands are tied. In particular, they might note public opposition to increasing immigration in general (Hidalgo 2018), and opposition to admitting certain types of migrants in particular (Hainmueller and Hopkins 2015; Turper 2017).

While it might seem that citizens would not support the principles we articulated, this is not necessarily the case. Citizens preferring fewer immigrants may still oppose certain types of enforcement. In this section we present hypotheses which, if supported by evidence, would indicate that the public's views on enforcement align with sub-principles of proportionality articulated in

---

<sup>21</sup>For further discussion on carrier sanctions, and other forms of immigration control, see Appendix E and F.

the last section. We then describe a series of experiments we conducted to test these hypothesis in the US and UK, two countries with especially harmful enforcement (Cohen 2020; Gibney 2013) and widespread opposition to increasing rates of immigration (Blinder and Allen 2016; Jones 2020).

**Hypotheses** As argued, forced migrants are not liable to harm, and so the harm they experience holds greater weight in proportionality calculations as compared to the harm suffered from liable agents. If citizens' views are consistent with this claim, we would expect that: *There is less acceptance for the use of force against migrants whose motives for migrating are related to severe harm they would face in their home countries, as compared to migrants whose motives for migrating are unrelated to harm in their home countries (Hypothesis 1).*

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

The above focuses on migrants' motives for migrating, but actual harm in home countries matters as well: the extent that migrants will face harm at home impacts the extent that they are actually forced to leave, and this will impact the extent that enforcement against them is justified. We therefore hypothesize: *There is greater acceptance among citizens for the use of force against migrants who do not face harmful circumstances in their home countries, as compared to migrants who do face such harm (Hypothesis 2).*

Our third hypothesis relates to harm a migrant might create. 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 harmful enforcement compared to other categories of migrants. This is because such migrants presumably will threaten to cause more harm, and so it is more likely that harm from enforcement is proportional to the threat averted. We therefore hypothesize: *The greater the threat a migrant appears to pose, the more reasonable citizens find the use of any harmful enforcement (Hypothesis 3).*

If citizens are sensitive to proportionality in general, it further follows that they would distinguish between different levels of harm in general. They would hold that, when comparing between cases of enforcement against the same migrant, 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. In other words: *Citizens will be less accepting of migrant exclusion the more*

*severe the harm caused by force used to enact it (Hypothesis 4).*

Our next hypotheses relate to the Doctrine of Doing/Allowing (DDA) and the Doctrine of Double Effect (DDE). When determining proportionality, the benefit from doing harm must be greater than the benefit from allowing harm, all else being equal. Moreover, harm intended as a means to reach a goal is more difficult to justify than harm that is an unintended side effect of trying to reach a goal. Both of these doctrines imply that harm instigated directly against migrants to encourage them to leave, such as prolonged detention, is more difficult to justify than harm which migrants will experience in their home countries as a side effect of being compelled to leave, such as contracting Covid-19 in their home countries because they cannot obtain a visa. In the first case, which we term "active harm", the state does harm to migrants as a means of compelling them to leave. In the second case, which we term "passive harm", the state allows harm to occur as an unintended side-effect of compelling the migrants to leave or not enter.

Of course, "doing harm" (DDA) and "harm as a means" (DDE) often come apart, but in real and familiar cases of enforcement, doing harm often corresponds with harm as a means to discourage migration. For example, when a state detains a migrant (a kind of "doing harm") it generally also detains the migrant as a means of encouraging them to repatriate or deter new migrants from arriving (a kind of "harm as a means"). Given that doing harm and harm as a means tend to occur simultaneously in the context of migration, we collapse both into the same category of "active harm", as compared to "passive harm."<sup>22</sup>

We predict citizens are sensitive to the distinction between active and passive harm, and thus sensitive to DDA and DDE: *Citizens will be less accepting of exclusion when the force used to enact it entails active harm, compared to passive harm, no harm, or unknown harm (Hypothesis 5).*

Though DDA and DDE explain the wrongness of some acts, neither imply that doing harm as a means to a benefit is always wrong: it can be right to avert a substantial threat. Citizens might be sensitive to this claim, and so more likely to support doing harm as a means to a benefit ("active harm") if a migrant poses a threat: *The greater the potential threat posed by a migrant, the more accepting citizens will be of exclusions brought about by active harm (Hypothesis 6).*

Our next two hypotheses concern the claim that harm inflicted by intervening agents can be

---

<sup>22</sup>"Active harm" includes bodily injury or death due to detention/deportation while "passive harm" is a side effect rather than the intentions of the enforcement authorities, including bodily injury or death due to reason for immigration, such as a migrant who will die from untreated illness if returning to or remaining in their home country.

discounted, at least for voluntary migrants. We hypothesize that citizens will agree with this claim as applied to smugglers and airline security in other countries, viewing harm inflicted from smugglers and airline security as discounted when migrants are voluntarily migrating (i.e. those migrating for non-necessitous economic opportunities): *Citizens will support enforcement leading to harm from smugglers more than enforcement involving harm directly from the state when the harm is against those migrating for non-necessitous economic opportunities (Hypothesis 7) and Citizens will support enforcement leading to harm from airport security abroad more than enforcement involving harm directly from the state, when the harm is against those migrating for non-necessitous economic opportunities (Hypothesis 8).*

Our next hypothesis concerns nature. As we argued, harms from nature can be discounted in proportionality considerations when migrants are voluntarily migrating, as these migrants do not experience a wrongful harm: *Citizens will support enforcement leading to harm from nature, as compared to harm from direct government actions or smugglers, when the harm is against those migrating for non-necessitous economic opportunities (Hypothesis 9).*

**Survey instrument and experimental design** To test these hypotheses, we conducted three online surveys on samples of the adult population of the UK (Study 1: Prolific Academic, 2020) and the US (Study 2: Qualtrics, 2020; Study 3: Qualtrics, 2021), embedding within each survey a series of experimental vignettes.<sup>23</sup> In each study, subjects were randomly assigned factorial vignettes featuring unnamed fictional migrants seeking to enter or remain in the UK (study 1) or the US (study 2 and 3). Vignettes varied in degree of enforcement utilised to compel the migrants to leave or not remain, the agent which utilised enforcement, and whether the enforcement occurred at the border or in their home countries (See Table 1). For example, some migrants experienced harm when being shot at along the border, while others experienced harm when denied a visa and abused by smugglers. We additionally varied migrants' reasons for migrating or attempting to migrate, and whether they sought to enter or remain in the UK/US, as well as the migrant's gender (study 1 and 2) and country of origin (all studies).<sup>24</sup>

Importantly, study 3 presented respondents with a group of migrants, in contrast to a single

---

<sup>23</sup>For more on what experimental vignettes are, see Appendix D.

<sup>24</sup>We were required to limit full randomization in some ways to maintain coherence of the vignette. For rationale of limits, see Section A.3. For exemplifying realizations of the factorial vignettes, see figures A.1-A.3. Since every combination of attributes was possible, we are able to obtain estimates of respondents reactions even to combinations that do not realize in our sample (Hainmueller, Hopkins, and Yamamoto 2014).

migrant as in study 1 and 2, since it has been shown that subjects respond differently to being given the experience of a single individual than a very large group (Ye et al. 2020).<sup>25</sup>

After being presented with a given vignette, for our outcome measure respondents were asked to decide whether denying the migrant(s) in the vignette the ability to enter or remain in the US/UK was reasonable (On a 7-point scale from extremely unreasonable to extremely reasonable in study 1 and 2) or whether they support the government’s action (On a 5-point scale from strongly oppose to strongly support in study 3). We examine our hypotheses by comparing the marginal means of the outcome measures across relevant attribute values.<sup>26</sup> We state that a comparison of marginal means returns is a significant difference when the regression coefficient on the indicator variable distinguishing groups of observations characterized by those different attribute values is significantly different from zero at  $p < .05$ .<sup>27</sup> Hypotheses 1-6 are evaluated with evidence collected in study 1 and 2, with checks of robustness of findings carried out using observations from study 3. Hypotheses 7-9 are tested facilitating data from study 3. Figures shown display 95% confidence bounds from standard errors clustered at the respondent-level.

## 4 Empirical results

We collected observations on 1745 respondents in study 1, 1839 in study 2, and 4035 in study 3, obtaining the following key findings:

**Respondents found exclusion involving harmful force more reasonable if the migrant’s reasons for migrating were unrelated to harms in their home countries.** As evidence in support of Hypothesis 1, respondents were less likely to support enforcement with both known or unknown harms when migrants’ reasons for migrating were related to harm in their home countries than when they were unrelated to harm in their home countries. Those migrating because of harm in their home countries include those migrating for reasons of ethnic persecu-

---

<sup>25</sup>We find that the results from study 1 and 2 replicate in study 3 (see Section B.2.2), except for stronger support for passive over active harm from enforcement in study 3 whereas active harm was seen as more reasonable than passive harm in study 1 and 2; we discuss this distinct result in the main text Section 4. For robustness, we also administered experimental treatments in a between-respondent design, varying the level of certainty about the information about what happens to the migrant in the vignette (study 1 and 2) as well as the region from which the migrant originated (all studies); we present results pooling observations across these treatments (See Figure B.2 in the appendix).

<sup>26</sup>We take the mean of our outcome measure for the group of respondents that saw a particular attribute value averaging over all other attributes (Pre-analysis plans for study 1 can be found at <https://osf.io/3a4hx>, 2 at <https://osf.io/mxjq8>, and 3 at <https://osf.io/2yk6mhere>

<sup>27</sup>See regression Tables B.2-B.8 in the appendix for results reported in main text. Regressions are run separately by study for the attribute levels shown by different shading in the respective figures and include a variable vignette number with standard errors clustered at the respondent-level (recall every respondent sees 5 immigration cases).

Table 1: List of attributes and attribute values relevant for empirically testing. Study 1 and 2 present a profile of a single migrant, study 3 one of a group of migrants.

	Study 1: UK (2020), Study 2: US (2020)	Study 3: US (2021)
<b>Number of migrants</b>		Ten, Fifty, About 100, About 500, About 1,000, About 2,500
<b>Reasons for migrating</b>	Economic Opportunity, Extreme Poverty, Ethnic Persecution, Medical Treatment	
<b>Reasons for denial of visa</b>	Criminal Record, Unemployed, On Terror Watchlist, Filled Immigration Quotas, COVID-19 Positive	
<b>Method of migrant removal</b>	Detention, Bar/Force Travel	Detain and deport at border, instruct airlines in countries of origin to prevent them from boarding flights
<b>Number of affected migrants</b>	A few isolated, less than a quarter of these, about half of these, more than three quarters of these	
<b>Consequences of migrant removal</b>	Harm OR death due to persecution in home countries, malnutrition in home countries, illness in home countries;  Consequences unknown; No harm	Harm OR death due to detention by government, detention by airport security in home countries, ethnic persecution in home countries, severe malnutrition/starvation in home countries, untreated illness in home countries, by smugglers when re-attempting to enter the US, on the journeys when re-attempting to enter the US;  No harm

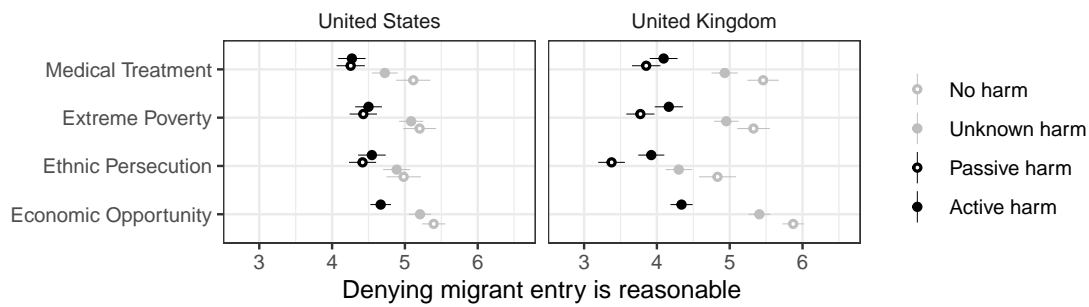
tion, extreme poverty, and medical needs ("forced migrants"), as compared to those migrating for non-essential economic opportunity ("economic migrants"). Figure 1 displays the marginal mean of participants' perceptions of reasonableness broken down by the reason that the migrant in the vignette came to the US/UK and the form of harm resulting from enforcement (no harm, unknown harm, passive harm, or active harm).<sup>28</sup>

Enforcement was also viewed as less reasonable when migrants would face harm in their home

<sup>28</sup>Recall that there is no permutation in which economic migrants were subject to passive harm (i.e. passive death or injury), though migrants fleeing extreme poverty can experience passive harm. In the UK, any kind of harm from enforcement (black and solid gray markers) is seen as significantly less reasonable than no harm from enforcement (gray hollow markers) for all reasons to migrate. In the US, though all known harm is seen as significantly less reasonable for all reasons to migrate than no harm or unknown harm, respondents perceived situations where harm was unknown to be less reasonable when migrants were migrating to avoid extreme poverty and ethnic prosecution at home, as opposed to (non-necessitous) economic opportunity. Regardless, at every given level of harm in enforcement, there is a kind of harm against those migrating to avoid harm in their home country that is seen as significantly less reasonable than harm against those who left their home country because of non-desperate economic conditions. In both countries, the difference in perceived reasonableness for *economic* migrants facing no harm versus harm in enforcement was no greater than the difference in reasonableness for *forced* migrants facing no harm versus harm in enforcement. A test on this difference-in-differences returns no significance in both samples ( $\beta = 0.90$ ,  $\beta = 0.13$ ,  $\beta = 0.14$  and  $\beta = 0.54$ ,  $\beta = -0.62$ ,  $\beta = -0.07$ , respectively). Respondents simply thought it less reasonable to use any enforcement against forced versus economic migrants and to use harmful enforcement than non-harmful enforcement against both forced and economic migrants.



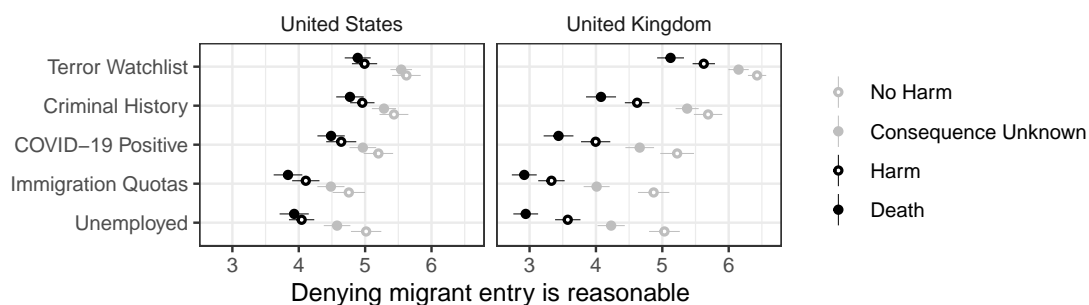
Figure 1: Marginal mean of how reasonable it is to deny a given migrant entry to the country by the reason why they migrated and whether they would not be harmed, non-lethally harmed, or killed through deportation.



countries ("passive harm") as compared to migrants who would face no such harm. This is consistent with our second hypothesis, and further evidence of public sensitivity to liability: if those who would actually face harm in their home countries are forced to migrate, and if those forced to migrate are less liable to harm during enforcement, then respondents sensitive to this observation would view enforcement as less reasonable for these migrants as compared to those who would face no harm in their home countries.

**The greater the threat a migrant appears to pose, the more reasonable respondents found the use of any harmful enforcement.** In some cases harm is justified against agents regardless of whether they are liable to harm, if harm against these agents would prevent sufficiently greater harm. Respondents' views were sensitive to this claim, consistent with Hypothesis 3. They were significantly more supportive of all enforcement resulting in unknown harm, harm, or death for those thought to pose a threat - including those on a terrorist watch list, those with a criminal history, and those with Covid-19 - as compared to migrants who are denied a visa because they do not have employment or are outside immigration quotas (See Figure 2).

Figure 2: Marginal mean of how reasonable it is to deny a given migrant entry to the country by the reason for which entry was denied and whether they would not be harmed, non-lethally harmed, or killed through deportation.

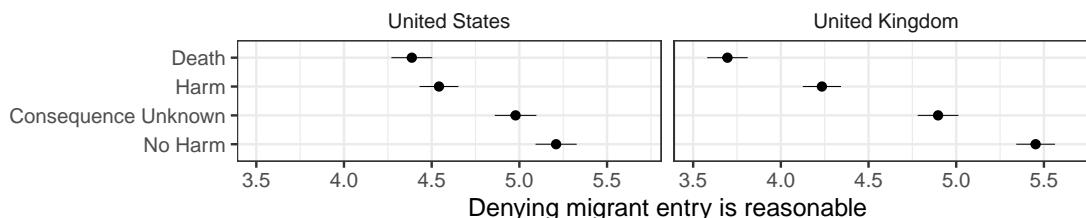


**In general, the more harm caused by enforcement, the less respondents view enforcement as reasonable.** More generally, consistent with our Hypothesis 4, respondents seem sensitive to the level of harm imposed on all migrants, holding it to be significantly less reasonable to return a migrant with the prospect of death than "just" non-lethal harm.<sup>29</sup> Figure 3 shows that the

<sup>29</sup>Similar findings were found for migrants denied a visa, but where the enforcement was not specified. We note

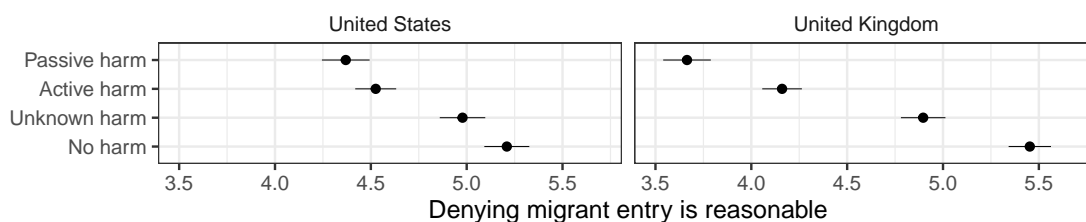
most reasonable denial of entry is associated with no harm, the second most reasonable is where consequences are not known, the second most unreasonable is when the migrant could expect some type of harm upon his/her return, and the most unreasonable is when a migrant would be killed through deportation or when returning home.

Figure 3: Marginal mean of how reasonable it is to deny a given migrant entry to the country by whether they would not be harmed, non-lethally harmed, or killed through deportation.



**Considering groups of migrants, respondents viewed enforcement with known passive harm as more reasonable than known active harm.** Hypothesis 5 posited that respondents' views were consistent with DDE and DDA: both DDE and DDA suggest "active harm" (doing harm as a means to prevent migration) is worse than "passive harm" (letting harm occur to a migrant as an unintended side-effect). In the experiment "passive" harm included all harm from circumstances in home countries (i.e., illness, malnutrition, starvation, persecution) and "active" harm is harm by the returning government through deportation or detention. In study 3, where each vignette included multiple migrants, including some variants with thousands of migrants, subjects viewed enforcement as more reasonable when harm was passive as opposed to active.<sup>30</sup> However, this finding did not arise in the first two studies, and the opposite finding arose in the UK, where active harm was viewed as significantly more reasonable than passive harm. Figure 4 shows a significant decline in respondents' view that enforcement is reasonable when migrants face "passive harm" vs. "active harm" in the UK.

Figure 4: Marginal mean of how reasonable it is to deny a given migrant entry to the country by whether they would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm").

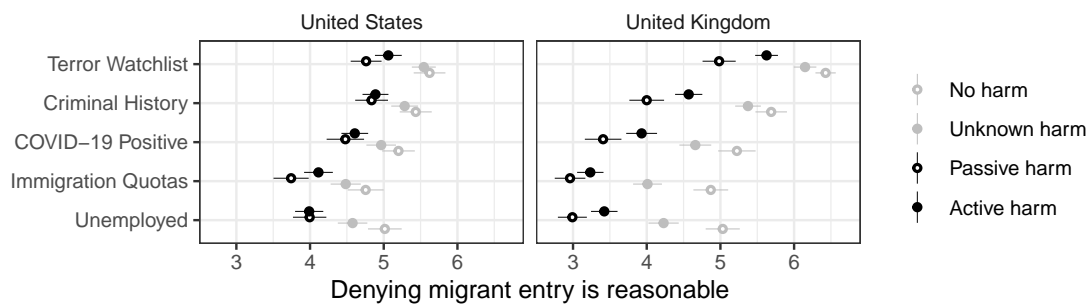


in Appendix E that perhaps simply denying a visa must confirm with principles of proportionality, and the fact that respondents distinguished between harm arising from a visa denial where no enforcement was specified suggests respondents may agree.

<sup>30</sup>See Figure B.8 in the appendix.

**Respondents find active harm significantly more reasonable for migrants posing a threat as compared to active harm for migrants not posing a threat.** While we found no evidence of DDE and DDA in general in study 1 and 2, we did find evidence of DDE and DDA for migrants posing a threat in all three studies. As noted above, doing harm as a means to a benefit (which generally violates both DDE and DDA) can be justified against those posing a sufficiently large threat. Consistent with this claim, and Hypothesis 6, respondents were significantly more likely to view active harm in enforcement as justified when the migrant posed a threat, as compared to active harm against those not posing a threat. Figure 5 illustrates that there is no significant difference in marginal mean between "active" vs "passive" harm at different levels of threat from the migrant, but that support for "active" harm against those posing a threat is greater than "active" harm against those not posing a threat.

Figure 5: Marginal mean of how reasonable it is to deny a given migrant entry to the country by the reason for which entry was denied and by whether they would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm").



**Most of the above findings were replicated in the study where subjects were given cases with many migrants.** Nearly all of our findings concerning liability were replicated in Study 3, where subjects were presented with cases of many migrants facing enforcement. Subjects were not only more supportive of enforcement against those posing a threat as compared to those not posing a threat, they were more supportive of enforcement against voluntary migrants as compared to forced migrants. This was true not only for forced migrants fleeing persecution, but forced migrants fleeing poor medical care or extreme poverty. The one exception was for enforcement involving passive harm – harm only experienced in the home countries – against migrants leaving behind extreme poverty. While there was more support for enforcement involving passive harm against voluntary migrants as compared to passive harm against those migrating to avoid extreme poverty, this difference was not statistically significant.<sup>31</sup> Subjects were also sensitive to other proportionality considerations, expressing less support for enforcement leading to death as

<sup>31</sup>See Figure B.5 and B.6 in the appendix.

compared to enforcement leading to injury, which they supported less than enforcement leading to no known harm. This was true both for those posing no threat, and those posing a threat (terrorist watch lists, criminal history, or testing positive for Covid-19).

**Most of the above findings were replicated across differing views on immigration in general.** Prior to the experiment, subjects were asked their views on immigration in general, including whether they supported the claims that (a) citizens ought to always be prioritised, and/or (b) there are too many immigrants in the US/UK. Our findings held even for those supporting one or both of these claims. In the final survey in the US, we additionally asked respondents whether they thought migration undermined US culture, harmed the US economy, strained public services, and/or was causing terrorists to enter the country. These questions somewhat mirrored potential justifications for why immigration control may be in general justified, in that some justifications for immigration control could be that migrants undermine culture, or strain public services, etc. We learned that our findings held for those who agreed with any of these claims.<sup>32</sup>

**For forced migrants, subjects were more supportive of enforcement leading to death from nature as compared to enforcement leading to death from direct government actions.** We hypothesized that subjects would be less supportive of enforcement involving the wrong of a smuggler or government harming a migrant, as compared to harms from nature. Our Hypothesis 9 was that this would be true for voluntary migrants, as voluntary migrants who are harmed by nature are not victims of a wrongful harm, given that they assumed the risks of their journeys and nature cannot commit a wrong, but they can still be victims of wrongful harm from smugglers and the government. Our findings somewhat support this hypothesis. We learned that subjects were significantly more supportive of lethal enforcement against voluntary migrants when the death arose from nature as compared to a smuggler, but only slightly more supportive of enforcement leading to death from nature as compared to direct government actions. Importantly, for forced migrants they were significantly more supportive of enforcement involving lethal harm from nature as compared to the government, even though we suggested that this distinction is less compelling for forced migrants (See Figure 6).<sup>33</sup>

There was no evidence at all of our Hypothesis 7. Subjects made no distinction between harm

---

<sup>32</sup>See Figures C.12-C.14 in the appendix. Ideally, we would have asked subjects whether they felt these claims were good justifications for controlling immigration, and included further questions concerning what rights citizens and migrants hold in general. We intend to do so in future research.

<sup>33</sup>For tests of Hypotheses 7-9 also see Table B.8 in the appendix.

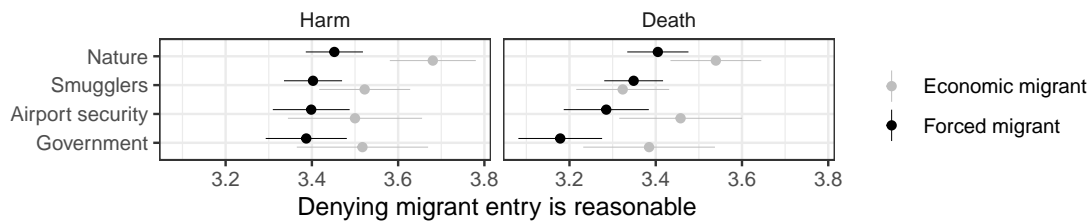
from smugglers and harm from direct government action when it comes to voluntary migrants, only making this distinction for forced migrants, and only for lethal harm. It was precisely for forced migrants where we suggested such a distinction is philosophically less compelling. However, we did suggest in our philosophical analysis that the government can discount harms against forced migrants from intervening agents to an extent, including smugglers, so long as the government's actions do not necessitate the intervening agent committing the harm she does. Perhaps respondents felt the government's actions of denying visas do not necessitate smugglers inflicting the harms they inflict, and so the harms from smugglers can be discounted. For example, if smugglers kill forced migrants, it does not seem that the government's policies of denying visas necessitate that the smugglers engage in these actions, even if the government can foresee that its policies have these effects on many migrants.

**Subjects made no distinction between enforcement leading to harm directly from the government and enforcement leading to harm from airlines via government carrier sanctions.** We suggested that some philosophical theories of intervening agency would imply that harms from airlines could be discounted, especially for voluntary migrants, and hypothesized that respondents would agree (Hypothesis 8). This hypothesis was not confirmed; subjects made no distinction between harm from airlines caused by government carrier sanctions and harms directly inflicted by the government. Instead, subjects only seemed sensitive to whether there was death and injury, whether the harm was active or passive, and whether the migrant was forcibly or voluntarily attempting to migrate. However, in retrospect we realised that, unlike with smugglers, respondents may have felt that the harms from airlines were necessitated by the government's policy; in other words, airlines would be fined by the government unless they inflicted the harms they inflicted (because this was the only way airlines could stop migrants from boarding flights and thus avoid fines). We argued that when this occurs, the government ought not discount the harm from carrier sanctions compared to direct government harm. Respondents' answers were consistent with this specific claim.

## **5 Ethical implications for policymakers**

Before addressing implications of our findings, it is worth addressing a limitation: subjects may not have expressed their true views. This phenomenon is common in general, as when UK voters claim they would not vote Conservative but do. When this phenomenon occurs in research, it is called

Figure 6: Marginal mean of support for government action against migrant by source of harm and whether they migrated voluntarily or were forced.



"social desirability bias": subjects express views they feel are socially desirable, or which they feel confirm experimenters' hypotheses, without actually holding these views. Our study somewhat countered this problem by utilising factorial vignettes, shown to reduce social desirability bias as compared to simply asking respondents if they support general policies (Hainmueller, Hopkins, and Yamamoto 2014). Future research could further counter this bias by randomizing more attributes, such that respondents are less aware of which attributes researchers predict impact responses (Horiuchi, Markovich, and Yamamoto 2021).

Even if bias is avoided, there is a second worry: evidence of what citizens support does not provide decisive evidence of what is politically feasible. Majority support for a given policy is neither necessary nor sufficient for passing legislation (Calvo 2007; Agnone 2007; Stimson 2015; Tomz et al. 2013). Establishing more fully whether enforcement reforms are feasible requires studying broader policy environments under which policymakers operate.<sup>34</sup>

With the above two caveats in mind, it is worth spelling out some policy reforms which may be easier to implement than previously thought. One set of reforms concern liability. Governments ignore this consideration when they do not account for the harms that migrants will experience if enforcement results in death due to lack of medical care. While migrants in the UK and US can appeal deportation on medical grounds (Exter 2020; Bindman, Maingay, and Szmukler 2003), many fail to successfully appeal (Gibson 2005), and would-be migrants abroad are often denied visas because of medical conditions, as when migrants with tuberculosis are banned from entering the UK (Aldridge et al. 2014). More generally, migrants seeking medical care face enforcement procedures in transit countries: migrants in Libya are forced into detention funded by the EU Emergency Trust Fund for Africa, resulting in migrants with medical conditions facing high risks of death (Baldwin-Edwards and Lutterbeck 2019; Beşer and Elfeitori 2018). Even refugees are often

<sup>34</sup>There is another potential worry: studies 1 and 2 asked subjects which policies were reasonable; perhaps subjects thought policies were unreasonable but supported them nonetheless. We countered this possibility in the third study, asking subjects if they supported various cases of enforcement, rather than if they were reasonable.

barred from resettlement for medical reasons (Mirza 2010).

These policies are inconsistent with the principle we set forth and stated as unpopular by respondents. Respondents generally express opposition to detention of medical migrants who have yet to enter the UK and US when this would result in death or injury. Indeed, when it comes to migrants posing no threat, UK respondents who think there are too many migrants do not support enforcement leading to migrants facing harm in home countries. In the US, those who think migrants overwhelm public services or increase terror do not support enforcement against non-threatening migrants who will face harm from lack of medical treatment due to detention. Policies accounting for such harms may therefore be politically feasible.

A similar claim can be made regarding prolonged detention more generally. EU support for detention in Libya includes support for the detention of refugees to prevent them from reaching Europe (Lemberg-Pedersen 2017). Detention that compels migrants to either return to or remain in life-threatening conditions is contrary to the principles of proportionality, and expressed as unpopular by respondents exposed to specific cases of migrants and large numbers of migrants. This suggests discontinuing the detention of forced migrants is more feasible than otherwise assumed.

The above relates to detention and deportation. In practice, many migrants are subject to airlines refusing to board them due to government carrier sanctions. These policies implicitly discount harms from carrier sanctions in proportionality considerations. The US and UK governments generally avoid deporting individuals who have proven they are refugees at risk in home countries, but nearly always prevent refugees abroad from boarding flights. While harms from airlines can sometimes be justified, harms should not be entirely discounted, and respondents generally stated that they agreed, not supporting carrier sanctions when inflicted on forced migrants who would face harm in their home countries. Given these findings, governments may be able to discontinue the policy of entirely ignoring the harms from carrier sanctions. For example, if an individual abroad has UNHCR documents indicating that a UNHCR officer has recognized them as a refugee, the government could refrain from fining an airline for transporting them. At least, it could refrain from fining airlines for transporting some such refugees, accounting not only for the harm that refugees can cause the state, but the harm refugees experience via the sanctions. States already recognize that the harms refugees may cause must be weighed against the harms inflicted on refugees during deportation, as when the UK Home Office grants most asylum seekers crossing the English Channel

freedom from deportation and other forms of coercion (British Refugee Council 2021).<sup>35</sup> If carrier sanctions also involve coercion - as we argued was true in a previous section - then accounting for the harms from such coercion, and limiting fines issues against airlines, is justified. Given that there is some evidence that this is popular, this policy reform could be politically feasible.<sup>36</sup>

Our empirical findings provide tentative evidence that all of the above policy changes - and in particular those concerning detention and deportations - could be feasible even in times of pandemics. Consider policies of blocking the entrance of migrants during the Covid-19 pandemic, including by sanctioning states (such as Libya) if they did not stop the migration of refugees to safer states (Guadagno 2020). While this policy slowed the spread of the virus, it prevented refugees from entering, and small decreases in the spread of the virus unlikely justified major risks for refugees forced to live in unsafe countries. UK and US respondents gave responses to the vignettes which were consistent with this evaluation. They expressed lack of support for enforcement against migrants when doing so led to their death or injury when such migrants had no history of crime or terror and, in the case of the UK, even when such migrants were tested positive for Covid-19. These findings suggest policymakers cannot easily claim harmful enforcement against migrants is politically necessary during pandemics due to majority support.

Consider, now, policies pertaining to smugglers. Current policies significantly discount the harms from smugglers as compared to direct harms from governments. For example, it is generally illegal for governments to kill migrants in custody, but not to deny visas to forced migrants who are then killed by smugglers. Governments rarely even inquire into deaths arising from smugglers abroad (Kovras and Robins 2016). For example, the EU and UK fail to systematically keep track of migrants killed while crossing the Mediterranean from Libya, and do not record any migrant deaths from smugglers killed crossing the Sahara between the Sahel and the Maghreb prior to reaching

---

<sup>35</sup>This policy is under threat as of 2022, as the UK plans to forcibly transfer asylum seekers to Rwanda, a country where refugees face risks. A recent poll suggests that the majority do not support this particular scheme (Ipsos 2022).

<sup>36</sup>This policy suggestion is distinct from the claim that airlines have a duty to refrain from coercive force against all refugees. If airlines refrained from issuing coercive force against all refugees desiring seats on flights, including those without means to pay for tickets, airlines might experience substantial financial harm, such that issuing such force could be proportional. More importantly, our claim is not about the duties of airlines, but of governments: governments have a duty to utilise proportional force, and so a duty to limit force caused via carrier sanctions by refraining from fining airlines transporting at least some UN-recognized refugees. This claim is also consistent with the claim that governments need not require that airlines transport refugees. If governments refrain from issuing such requirements, they would merely be allowing harm occur, and we presume that harm which is allowed can be discounted as compared to harm which is actively done.



Libya (Enriquez et al. 2018). When such migrants are killed by smugglers in the Sahara, because of an inability so simply board a flight to a safe country, governments do not inquire into these murders or account for them in their policies.

Our findings provide evidence that this policy is not supported by the public, given lack of support for denying a visa to forced migrants likely facing death from smugglers. The government may therefore be able to refrain from entirely discounting harm from smugglers in designing policies. This might involve, for example, supporting rescue missions for migrants enslaved by smugglers, and not blocking routes that cause refugees to pay smugglers in the first place.

The above presents tentative evidence of what policymakers will not face strong opposition in doing. While this evidence is not decisive, we have at least established that voters express far more nuanced views than previously thought, including views sensitive to the harms migrants experience. These expressed opinions arise despite general opposition to increasing migration in both countries. Given that these opinions are consistent with the principle of proportionality, policymakers have strong reasons to try and introduce enforcement consistent with this principle, bringing immigration closer to what justice requires.

## Acknowledgements

The authors would like to thank Kieran Oberman and Matthew Lindauer for written comments on this research, and audience members at the University of Essex (2021) and the online Ethical Immigration Enforcement workshop (February 2021). We would also like to thank four reviewers for their helpful comments.

## References

- Abizadeh, Arash. 2017. "Democratic theory and border coercion: No right to unilaterally control your own borders". In *Global Justice*, 301–329. Routledge.
- Achen, Christopher, et al. 2017. *Democracy for realists*. Princeton University Press.
- Agnone, Jon. 2007. "Amplifying Public Opinion: The Policy Impact of the U.S. Environmental Movement". *Social Forces* 85 (4): 1593–1620.
- 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.
- Baird, Theodore. 2017. "Carrier sanctions in Europe: A comparison of trends in 10 countries". *European Journal of Migration and Law* 19 (3): 307–334.

- Baird, Theodore, and Thomas Spijkerboer. 2019. "Carrier sanctions and the conflicting legal obligations of carriers: addressing human rights leakage". *Amsterdam LF* 11:4.
- Baldwin-Edwards, Martin, and Derek Lutterbeck. 2019. "Coping with the Libyan migration crisis". *Journal of Ethnic and Migration Studies* 45 (12): 2241–2257.
- Bennett, Jonathan. 1995. *The act itself*. Clarendon Press.
- 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. 2019. *Justice, Migration, and Mercy*. Oxford University Press.
- Blinder, Scott, and William L. Allen. 2016. "UK Public Opinion toward Immigration: Overall Attitudes and Level of Concern". *The Migration Observatory*.
- Bloom, Tendayi, and Verena Risse. 2014. "Examining hidden coercion at state borders: why carrier sanctions cannot be justified". *Ethics & Global Politics* 7 (2): 65–82.
- British Refugee Council. 2021. *An analysis of Channel crossings and asylum Outcomes*. <https://mediarefugeecouncil.org.uk/wp-content/uploads/2021/12/24155629/Channel-crossings-and-asylum-outcomes-November-2021.pdf>.
- Brock, Gillian. 2020. *Justice for People on the Move: Migration in Challenging Times*. Cambridge University Press.
- Burri, Susanne. 2021. "Defensive Liability: A Matter of Rights Enforcement, not Distributive Justice". *Criminal Law and Philosophy*: 1–15.
- Busemeyer, Marius R, Philipp Lergetporer, and Ludger Woessmann. 2018. "Public opinion and the political economy of educational reforms: A survey". *European Journal of Political Economy* 53:161–185.
- Buxton, Rebecca. 2020. "Justice in waiting: The harms and wrongs of temporary refugee protection". *European Journal of Political Theory*: 1474885120973578.
- Calvo, Ernesto. 2007. "The Responsive Legislature: Public Opinion and Law Making in a Highly Disciplined Legislature". *British Journal of Political Science* 37 (2): 263–280.
- Carens, Joseph. 2013. *The ethics of immigration*. Oxford University Press.
- Christenson, Dino P, and Douglas L Kriner. 2020. *The myth of the imperial presidency: How public opinion checks the unilateral executive*. University of Chicago Press.
- Clemens, Michael A, and Hannah M Postel. 2018. "Deterring emigration with foreign aid: an overview of evidence from low-income countries". *Population and Development Review* 44 (4): 667.
- Cohen, Elizabeth F. 2020. *Illegal: How America's lawless immigration regime threatens us all*. Hachette UK.
- Duff, Robin Antony. 2007. *Answering for crime: Responsibility and liability in the criminal law*. Bloomsbury Publishing.
- Duncan, Dawn. 2020. "COVID-19 and labour law: New Zealand". *Italian Labour Law* 13 (1).
- Enriquez, Carmen González, et al. 2018. "Italian and Spanish approaches to external migration management in the Sahel: venues for cooperation and coherence". *Elcano Royal Institute and Istituto Affari Internazionali*.
- Exter, André den. 2020. "Strasbourg Medical Expulsion Rulings: Beyond the Deathbed Requirement". *European Journal of Health Law* 27 (2): 115–124.
- Ferracioli, Luara. 2014. "The appeal and danger of a new refugee convention". *Social Theory and Practice*: 123–144.
- Ferzan, Kimberly Kessler. 2012. "Culpable aggression: The basis for moral liability to defensive killing". *Ohio St. J. Crim. L.* 9:669.
- Fine, Sarah. 2010. "Freedom of association is not the answer". *Ethics* 120 (2): 338–356.

- Foot, Philippa. 1967. "The problem of abortion and the doctrine of double effect".
- Ford, Robert, Will Jennings, and Will Somerville. 2015. "Public opinion, responsiveness and constraint: Britain's three immigration policy regimes". *Journal of Ethnic and Migration Studies* 41 (9): 1391–1411.
- Frowe, Helen. 2014. *Defensive killing*. Oxford University Press.
- Frowe, Helen, and Derek Matravers. 2019. *Conflict and cultural heritage: A moral analysis of the challenges of heritage protection*. Getty Publications.
- Gerver, Mollie. 2020. "Sufficiency, Priority, and Selecting Refugees". *Journal of Applied Philosophy* 37 (5): 713–730.
- Ghosh, Sahana. 2019. "Chor, Police and Cattle: The Political Economies of Bovine Value in the India–Bangladesh Borderlands". *South Asia: Journal of South Asian Studies* 42 (6): 1108–1124.
- Gibney, Matthew J. 2013. "Is deportation a form of forced migration?" *Refugee Survey Quarterly* 32 (2): 116–129.
- Gibson, Katie. 2005. "UK: House of Lords upholds deportation order." *HIV/AIDS policy & law review* 10 (2): 48–49.
- Gordon-Solmon, Kerah. 2018. "What makes a person liable to defensive harm?" *Philosophy and Phenomenological Research* 97 (3): 543–567.
- Guadagno, Lorenzo. 2020. "Migrants and the COVID-19 pandemic: An initial analysis". *International Organization for Migration, Migration Research Series*, no. 60.
- 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.
- Hainmueller, Jens, Daniel J Hopkins, and Teppei Yamamoto. 2014. "Causal inference in conjoint analysis: Understanding multidimensional choices via stated preference experiments". *Political analysis* 22 (1): 1–30.
- Haque, Adil Ahmad. 2017. *Law and morality at war*. Oxford University Press.
- Hidalgo, Javier S. 2018. *Unjust borders: Individuals and the ethics of immigration*. Routledge.
- Horiuchi, Yusaku, Zachary Markovich, and Teppei Yamamoto. 2021. "Does conjoint analysis mitigate social desirability bias?" *Political Analysis*: 1–15.
- Hosein, Adam. 2019. *The ethics of migration: An introduction*. Routledge.
- Hosein, Adam Omar. 2014. "Doing, allowing, and the state". *Law and Philosophy* 33 (2): 235–264.
- Ipsos. 2022. "Public attitudes to immigration shows public take a balanced approach". <https://www.ipsos.com/en-uk/immigration-tracker-october-2022>.
- Jones, Jeffrey. 2020. "New High in U.S. Say Immigration Most Important Problem". Accessed on 10 August 2020 at, *Gallup*. <https://news.gallup.com/pol/259103/new-high-say-immigration-important-problem.aspx>.
- Klarevas, Louis. 2002. "The "essential domino" of military operations: American public opinion and the use of force". *International Studies Perspectives* 3 (4): 417–437.
- Kovras, Iosif, and Simon Robins. 2016. "Death at the border: Managing missing migrants and unidentified bodies at the EU's Mediterranean frontier". *Political Geography* 55:40–49.
- Lemberg-Pedersen, Martin. 2017. "Effective protection or effective combat? EU border control and North Africa". In *Eurafrican borders and migration management*, 29–60. Springer.
- Lister, Matthew. 2020. "Enforcing immigration law". *Philosophy Compass* 15 (3): e12653.
- . 2013. "Who are refugees?" *Law and Philosophy* 32 (5): 645–671.
- Lorenz, Matthew L. 2022. "US Refugee Resettlement Is in Ruins—It Is Our Duty to Rebuild It". *Journal of General Internal Medicine* 37 (4): 940–943.

- Macedo, Stephen. 2007. "The moral dilemma of US immigration policy: open borders versus social justice?" *Debating Immigration* 63.
- 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. 2009a. "Intention, permissibility, terrorism, and war". *Philosophical Perspectives* 23:345–372.
- . 2009b. *Killing in war*. Oxford University Press.
- . 2018. "Proportionality and necessity in Jus in Bello". *The Oxford handbook of ethics of war*: 418–39.
- Mendoza, José Jorge. 2015. "Enforcement matters: Reframing the philosophical debate over immigration". *The Journal of Speculative Philosophy* 29 (1): 73–90.
- Miller, David. 2019. "Selecting Refugees". In *The Political Philosophy of Refuge*, ed. by in (eds.) David Miller and Christine Straehle. Oxford: Oxford University Press.
- . 2016. *Strangers in Our Midst*. Cambridge: Harvard University Press.
- . 2010. "Why immigration controls are not coercive". *Political theory* 38 (1): 111–120.
- Mirza, Mansha. 2010. "Resettlement for disabled refugees". *Forced Migration Review*, no. 35: 30.
- Moore, Margaret. 2015. *A political theory of territory*. Oxford University Press.
- Nozick, Robert. 1974. *Anarchy, state, and utopia*. Vol. 5038. new york: Basic Books.
- Otsuka, Michael. 1994. "Killing the innocent in self-defense". *Philosophy & Public Affairs* 23 (1): 74–94.
- . 2016. "The moral responsibility account of liability to defensive killing". *The ethics of self-defense*: 51–68.
- Ottonelli, Valeria, and Tiziana Torresi. 2013. "When is migration voluntary?" *International migration review* 47 (4): 783–813.
- 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.
- Paik, A Naomi. 2020. *Bans, walls, raids, sanctuary*. University of California Press.
- Pevnick, Ryan. 2011. *Immigration and the Constraints of Justice*. Cambridge University Press.
- Quong, Jonathan. 2020. *The Morality of Defensive Force*. Oxford University Press.
- Rodin, David. 2014. "The myth of national self-defence".
- Shachar, Ayelet. 2020. *The Shifting Border*. Manchester 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.
- Steinhoff, Uwe. 2016. "Self-defense as claim right, liberty, and act-specific agent-relative prerogative". *Law and Philosophy* 35 (2): 193–209.
- Stilz, Anna. 2019. *Territorial sovereignty: A philosophical exploration*. Oxford University Press.
- Stimson, James A. 2015. *Tides of Consent: How Public Opinion Shapes American Politics*. Second. Cambridge: Cambridge University Press.
- Tadros, Victor. 2016. "Permissibility in a world of wrongdoing". *Philosophy and Public Affairs* 44 (2): 101–132.
- . 2011. *The ends of harm: The moral foundations of criminal law*. OUP Oxford.
- Thomson, Judith Jarvis. 1999. "Physician-assisted suicide: Two moral arguments". *Ethics* 109 (3): 497–518.
- Tomz, Michael R., et al. 2013. "Public Opinion and the Democratic Peace". *American Political Science Review* (Chicago) 107 (4).
- Turper, Sedef. 2017. "Fearing what? Vignette experiments on anti-immigrant sentiments". *Journal of Ethnic and Migration Studies* 43 (11): 1792–1812.
- Walzer, Michael. 1991. "Just and unjust wars". *New York*.

- . 2009. “Responsibility and proportionality in state and nonstate wars”. *The US Army War College Quarterly: Parameters* 39 (1): 11.
- Wellman, Christopher. 2008. “Immigration and Freedom of Association”. *Ethics* 119:109–141.
- Ye, Zheng, et al. 2020. “Brain imaging evidence for why we are numbed by numbers”. *Scientific reports* 10 (1): 1–6.

## **Biographical Information**

Mollie Gerver is an Assistant Professor in the Department of Political Economy at King's College London, United Kingdom, WC2R 2LS

Dominik Duell is an Assistant Professor in the Department of Political Science at the University of Innsbruck, Austria, 6020

Patrick Lown is a Research Fellow in the Department of Government at the University of Essex, Colchester CO4 3SQ

# Appendix

## Table of Contents

---

<b>A Research design appendix</b>	<b>4</b>
A.1 Study 1 and 2: instrument and experimental design . . . . .	4
A.2 Study 3: instrument and experimental design . . . . .	7
A.3 Restriction to randomization of attributes and identification strategy . . . . .	9
<b>B Statistical appendix</b>	<b>12</b>
B.1 Regression analysis . . . . .	12
B.2 Additional figures . . . . .	19
<b>C Additional analysis</b>	<b>22</b>
<b>D What are Experimental Vignettes?</b>	<b>28</b>
<b>E Liability</b>	<b>30</b>
<b>F Carrier Sanctions</b>	<b>30</b>

---

## List of Figures

A.1 Screen shot of one realization of the factorial vignette as shown to respondents in study 1 (UK sample, 2020) . . . . .	4
A.2 Screen shot of one realization of the factorial vignette as shown to respondents in study 2 (US sample, 2020) . . . . .	5
A.3 Screen shot of one realization of the factorial vignette as shown to respondents in study 3 (US sample, 2021) . . . . .	7
B.4 Marginal mean of how reasonable it is to deny a given migrant entry to the country by immigration case attribute and the between-respondent probability of harm treatment. We show 95% confidence bounds computed from standard errors clustered at the respondent-level. The figure omits the country of origin attribute for ease of display but categorizes the country of origin into a region of origin indicator.	19
B.5 Marginal mean of support for denying given migrants entry to the country by the reason why they migrated and whether migrants would not be harmed, non-lethally harmed, or killed through deportation. . . . .	20
B.6 Marginal mean of support for denying given migrants 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. . . . .	20
B.7 Marginal mean of support for denying given migrants entry to the country by whether migrants would not be harmed, non-lethally harmed, or killed through deportation. . . . .	21

B.8	Marginal mean of support for denying given migrants 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").	21
B.9	Marginal mean of support for denying given migrants 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"). . . . .	21
C.13	Figures 1-2, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United Kingdom. . . . .	24
C.14	Figures 1-2 for median split of responses to specific questions about immigration attitudes in study 3. . . . .	25
C.16	Figures 1-5, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United Kingdom. . . . .	27

## List of Tables

A.1	List of attribute values for the region and country attribute in study 1 (UK sample) and 2 (US sample). We randomly drew a region at the respondent-level and then a country from that region at the vignette-level. . . . .	6
B.2	Linear least squares regression of our outcome measure, the response to the question whether excluding a migrant is reasonable, on indicators variables of all attribute levels and a variable capturing the vignette number (recall every respondent sees 5 immigration cases in study 1 and 2) with standard errors clustered at the respondent-level). . . . .	12
B.3	Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of reason for migration; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except the consequences of enforcement, and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 1. . . . .	13
B.4	Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of the strength of harm from enforcement; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except the severity of the consequences of enforcement, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 2. . . . .	14
B.5	Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2); standard errors clustered at the respondent-level. We show the coefficient on the indicator for the strength of harm from enforcement (No harm, unknown consequences, harm, or death). The table omits the coefficients on the intercept, the remaining attributes, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 3. . . . .	15



B.6	Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2); standard errors clustered at the respondent-level. We show the coefficient on the indicator for the consequence from enforcement (No harm, unknown harm, active harm, passive harm). The table omits the coefficients on the intercept, the remaining attributes, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 4. . . . .	16
B.7	Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of reason for visa denial; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except for the consequence from enforcement (No harm, unknown harm, active harm, passive harm), and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 5. . . . .	17
B.8	Linear least squares regression of our outcome measure on indicators variables of the source of harm (government, airport security, smugglers, nature) and vignette number run separately for consequence of enforcement and whether the migrant was forced to leave (due to ethnic persecution, extreme poverty, or for medical treatment) or left voluntarily (for economic opportunity); standard errors clustered at the respondent-level. The table omits the coefficients on the intercept and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 6. . . . .	18

# A Research design appendix

## A.1 Study 1 and 2: instrument and experimental design

### A.1.1 Subject screens

Figure A.1: Screen shot of one realization of the factorial vignette as shown to respondents in study 1 (UK sample, 2020)

A male irregular migrant from South Africa is seeking entrance into the United Kingdom to seek economic opportunity. They were denied a visa which would allow them to enter the UK because immigration quotas do not permit it. In order to prevent them from entering the UK, it is necessary to forcibly bar them from a flight entering the UK. There is a small chance that they will die in custody.

Under the circumstances described in the scenario above, how reasonable or unreasonable is it to prevent the migrant in the scenario from entering the UK?

- Extremely reasonable
- Moderately reasonable
- Slightly reasonable
- Neither reasonable nor unreasonable
- Slightly unreasonable
- Moderately unreasonable
- Extremely unreasonable



Figure A.2: Screen shot of one realization of the factorial vignette as shown to respondents in study 2 (US sample, 2020)

A female irregular migrant from Syria is seeking to remain in the United States to seek economic opportunity. They were denied a visa which would allow them to remain in the U.S. because their name is on a terrorism watch-list. In order to prevent them from remaining in the U.S., it is necessary to detain them in the U.S. until they agree to return home. The consequences of their returning home are unknown.

Under the circumstances described in the scenario above, how reasonable or unreasonable is it to remove the migrant in the scenario from the U.S.?

- Extremely reasonable
- Moderately reasonable
- Slightly reasonable
- Neither reasonable nor unreasonable
- Slightly unreasonable
- Moderately unreasonable
- Extremely unreasonable



### A.1.2 Vignette text

A [*'female'*/*'male'*] (*Gender of migrant*) irregular migrant from [*See list of countries by study in Table A.1*] [*'seeking to enter'*/*'seeking to remain'*] (*Prospective or Retrospective*) in the UK/US to [*'seek economic opportunity'*/*'to avoid extreme poverty'*/*'to avoid ethnic persecution'*/*'for medical treatment'*] (*Reason for migrating*). They were denied a visa which would allow them to [*'enter'*/*'remain'*] in the U.S./U.K. because [*'they are unable to secure employment'*/*'they have a history of criminal activity'*/*'their name is on a terror watch list'*/*'immigration quotas do not permit it'*/*'they tested positively for Covid-19'*] (*Reasons for denial of visa*). In order to prevent them from [*'entering'*/*'remaining in'*] the U.S./U.K., it is necessary to [*'forcibly bar them from a ight entering to the U.S./U.K.'*/*'forcibly place them on the earliest ight leaving the U.S./U.K.'*/*'detain them at the border until they agree to return home'*/*'detain them in the U.S./U.K. until they agree to return home'*] (*Method of migrant removal*). [*'There is a small chance that they'*/*'There is a high chance that they'*/*'It is near certain that they'*/*'They'*] [*'will suffer bodily harm being taken into custody'*/*'will die in custody'*/*'will suffer bodily harm as a result of ethnic persecution if they return home'*/*'will be killed as a result of ethnic persecution if they return home'*/*'will suffer severe malnutrition if they return home'*/*'will die of starvation if they return home'*/*'will suffer severe disability from untreated illness if they return home'*/*'will die from their illness if they return home'*/*'will return home without complications'*/*'The consequences of their returning home are unknown'*](*Certainty information and Consequences of migrant removal*).

Table A.1: List of attribute values for the region and country attribute in study 1 (UK sample) and 2 (US sample). We randomly drew a region at the respondent-level and then a country from that region at the vignette-level.

	Study 1 (UK)	Study 2 (US)
Africa	Nigeria, Ethiopia, South Africa, Kenya	Nigeria, Ethiopia, South Africa, Kenya
Eastern Europe	Poland, Romania, Russia, Ukraine	Poland, Romania, Russia, Ukraine
Middle East	Iran, Syria, UAE, Israel	Iran, Syria, UAE, Israel
Southeast Asia	India, Bangladesh, Pakistan, Myanmar	China, Bangladesh, Pakistan, Myanmar

### A.1.3 Outcome measure

1. Under the circumstances described in the scenario above, how reasonable or unreasonable is it to prevent the migrant in the scenario from entering the U.S./U.K.? [Extremely reasonable (1) - Extremely unreasonable (7)]

For ease of display, we reversed the scale in our presentation of results in the main text.

We further elicit respondents' gender, education, income, humanitarian orientation, reading the Mind in the Eyes task, 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).

## A.2 Study 3: instrument and experimental design

### A.2.1 Screen shots

Figure A.3: Screen shot of one realization of the factorial vignette as shown to respondents in study 3 (US sample, 2021)

#### Case 1:

Fifty individuals from Asia, including from Myanmar, the Philippines, China, and Vietnam, sought to enter the US to seek economic opportunity.

The government decided to deny them visas to enter the US because they had links to known terrorist organizations. In order to prevent these migrants from entering and remaining in the US, it was necessary for the government to detain and deport them at the border.

As a result of the government's actions, about half of these individuals died from untreated illnesses in their home countries. This was what the government expected to happen.

**Based on what you've just read, how much do you support or oppose what the government did?**

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

### **A.2.2 Vignette text**

*['Ten'/'Fifty'/'About 100'/'About 500'/'About 1,000'/'About 2,500'] (Number of migrants) individuals from ['Europe, including from Belarus, Kosovo, Russia, and Ukraine'/'Asia including from Myanmar, the Philippines, China, and Vietnam'/'the Middle East, including from Iran, Syria, Saudi Arabia, and the United Arab Emirates'/'Sub-Saharan Africa, including from Ethiopia, Kenya, Senegal, and Nigeria'/'Latin America, including from Brazil, Venezuela, Mexico, and Nicaragua'] (Region and country), sought to enter the US ['to escape ethnic persecution in their home countries'/'to escape extreme poverty in their home countries'/'to access medical treatment'/'to seek economic opportunity'] (Reason for migrating). The government decided to deny them visas to enter the US because ['they were unable to secure employment'/'they had a history of criminal activity'/'they had links to known terrorist organizations'/'immigration quotas did not permit'/'they tested positively for Covid-19'] (Reason for visa denial). In order to prevent these migrants from entering and remaining in the US, it was necessary for the government to ['detain and deport them at the border'/'instruct airlines in their countries of origin to prevent them from boarding flights'] (Method of migrant removal). As a result of the government's actions, ['a few isolated'/'less than a quarter of these'/'about half of these'/'more than three quarters of these'] (Number of affected migrants) ['individuals suffered physical injuries while detained by the government'/'individuals died while being detained by the government'/'individuals suffered physical injuries while detained by airport security in their home countries'/'individuals died while being detained by airport security in their home countries'/'individuals suffered physical injuries as a result of ethnic persecution in their home countries'/'individuals were killed as a result of ethnic persecution in their home countries'/'individuals suffered severe malnutrition in their home countries'/'individuals died from starvation in their home countries'/'individuals suffered from the effects of untreated illness in their home countries'/'individuals died from untreated illnesses in their home countries'/'individuals were assaulted by smugglers they paid to help them re-attempt entry to the US'/'individuals were killed by smugglers they paid to help them re-attempt entry to the US'/'individuals re-attempted to enter the US and were injured during their journeys'/'individuals re-attempted to enter the US and died during their journeys'/'the individuals returned home unharmed'] (Consequence of migrant removal). This was what the government expected to happen.*

### **A.2.3 Outcome measure**

1. Support for action by government: *Based on what you've just read, how much do you support or oppose what the government did?"* [Strongly support (1) - Strongly oppose (5)]
2. Reasonable enforcement: *How much do you agree or disagree with the following statements about the case you've just read? It is reasonable to prevent these migrants from entering the U.S.* [Strongly agree (1) - Strongly disagree (7)]
3. Justified harm: *How much do you agree or disagree with the following statements about the case you've just read? The harm arising from the government's actions are justified.* [Strongly agree (1) - Strongly disagree (7)]

Respondents' answers were self-reported and forced.

### **A.3 Restriction to randomization of attributes and identification strategy**

Making a distinction between active and passive harm but still maintaining coherence of the vignette, we limited the full randomization of attributes in several ways. First, the form of passive harm suffered by a migrant due to returning to their home country was linked to the reason for their initial migration attempt. For example, a migrant who left their country due to persecution may be injured or killed due to persecution if returned to their country. However, they could not suffer greater or lesser harm from other causes, such as illness and malnutrition/starvation, which are linked to the migration motivations of medical care and escaping extreme poverty respectively. Secondly, while each form of passive harm suggests itself naturally from the harm a migrant was originally attempting to escape by leaving the country, no such harm suggests itself for migrants leaving for economic opportunity. One solution might be to fully randomize all possible forms of passive harm for vignettes with economic migrants, but to avoid a jarring tasks for respondents, who had been given no prior reason to believe such a passive form of harm possible in this particular scenario. For example, imagine a person migrates for reasons of economic opportunity and upon being denied entry to the UK returns to their country and is killed due to persecution. Is a respondent to believe that the migrant's true motive was actually economic opportunity or were they secretly fleeing persecution and the respondent simply was not told this information?

Preserving the capacity of building inference on randomization within the experiment, to deal with the first set of restrictions, we treat reason to migrate and consequence of return as one attribute and do not estimate separate effects on the outcome measure as they would be biased.<sup>37</sup> With respect to the second set of restrictions, we assigned a very small (0.2%) chance to vignettes with economic migrants suffering either malnutrition or starvation upon returning to the country, with the remaining probability allocated evenly between injury and death due to active harm, and no harm (roughly 33% each)<sup>38</sup> as it is recommended practice in factorial vignette experiments (Hainmueller, Hopkins, and Yamamoto 2014).

---

<sup>37</sup>See Egami and Imai (2018, 531) suggesting to obtain the corresponding subset of estimates to deal with constraint randomization in factorial experiments.

<sup>38</sup>This is in contrast to other branches of the conjoint by which each possible outcome was weighted evenly at 20%: injury due to active harm, death due to active harm, injury due to passive harm, death due to passive harm, and no harm.





## B Statistical appendix

### B.1 Regression analysis

Table B.2: Linear least squares regression of our outcome measure, the response to the question whether excluding a migrant is reasonable, on indicators variables of all attribute levels and a variable capturing the vignette number (recall every respondent sees 5 immigration cases in study 1 and 2) with standard errors clustered at the respondent-level).

	United States	United Kingdom
No harm		
Unknown harm	-0.205 (0.085)	-0.505 (0.078)
Active harm	-0.683 (0.067)	-1.292 (0.064)
Passive harm	-0.742 (0.077)	-1.585 (0.073)
Economic Opportunity		
Ethnic Persecution	-0.251 (0.062)	-0.815 (0.060)
Extreme Poverty	-0.174 (0.058)	-0.341 (0.058)
Medical Treatment	-0.409 (0.061)	-0.351 (0.059)
Unemployed		
Immigration Quotas	-0.073 (0.068)	-0.170 (0.067)
COVID-19 Positive	0.462 (0.072)	0.417 (0.074)
Criminal History	0.762 (0.069)	1.032 (0.068)
Terror Watchlist	0.920 (0.070)	1.943 (0.067)
Bar/Force Travel		
Detention	-0.007 (0.043)	0.090 (0.042)
Proactive		
Retroactive	-0.225 (0.042)	-0.443 (0.042)
Africa		
Asia	-0.051 (0.064)	0.040 (0.055)
Central/South America	0.029 (0.065)	
Eastern Europe	0.050 (0.068)	0.040 (0.055)
Middle East	0.047 (0.067)	0.086 (0.055)
Female		
Male	0.028 (0.042)	0.132 (0.040)

Table B.3: Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of reason for migration; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except the consequences of enforcement, and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 1.

	United States	United Kingdom
<hr/>		
Economic opportunity		
<hr/>		
No harm		
Unknown harm	-0.200 (0.112)	-0.513 (0.105)
Active harm	-0.761 (0.100)	-1.558 (0.097)
<hr/>		
R <sup>2</sup>	0.045	0.165
Adj. R <sup>2</sup>	0.032	0.155
Num. obs.	1385	1347
RMSE	1.819	1.676
N Clusters	884	856
<hr/>		
Ethnic Persecution		
<hr/>		
No harm		
Unknown harm	-0.069 (0.152)	-0.456 (0.149)
Active harm	-0.413 (0.144)	-0.853 (0.141)
Passive harm	-0.559 (0.143)	-1.393 (0.142)
<hr/>		
R <sup>2</sup>	0.063	0.215
Adj. R <sup>2</sup>	0.055	0.209
Num. obs.	2175	2192
RMSE	2.032	1.915
N Clusters	1343	1328
<hr/>		
Extreme Poverty		
<hr/>		
No harm		
Unknown harm	-0.116 (0.141)	-0.447 (0.139)
Active harm	-0.694 (0.141)	-1.243 (0.139)
Passive harm	-0.781 (0.139)	-1.598 (0.137)
<hr/>		
R <sup>2</sup>	0.071	0.224
Adj. R <sup>2</sup>	0.063	0.218
Num. obs.	2214	2095
RMSE	1.963	1.867
N Clusters	131373	1317
<hr/>		

Table B.4: Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of the strength of harm from enforcement; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except the severity of the consequences of enforcement, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 2.

	United States	United Kingdom
<b>Unemployed</b>		
No harm		
Consequence Unknown	-0.404 (0.156)	-0.720 (0.156)
Harm	-0.932 (0.149)	-1.332 (0.145)
Death	-1.035 (0.157)	-2.010 (0.145)
R <sup>2</sup>	0.051	0.162
Adj. R <sup>2</sup>	0.042	0.154
Num. obs.	1768	1740
RMSE	2.024	1.892
N Clusters	1202	1170
<b>Immigration Quotas</b>		
No harm		
Consequence Unknown	-0.229 (0.163)	-0.754 (0.153)
Harm	-0.591 (0.154)	-1.405 (0.149)
Death	-0.833 (0.164)	-1.849 (0.148)
R <sup>2</sup>	0.045	0.150
Adj. R <sup>2</sup>	0.036	0.142
Num. obs.	1823	1709
RMSE	2.070	1.858
N Clusters	1231	1149
<b>COVID-19 Positive</b>		
No harm		
Consequence Unknown	-0.247 (0.152)	-0.509 (0.160)
Harm	-0.587 (0.156)	-1.129 (0.161)
Death	-0.680 (0.146)	-1.765 (0.160)
R <sup>2</sup>	0.052	0.192
Adj. R <sup>2</sup>	0.043	0.184
Num. obs.	1769	1695
RMSE	2.023	2.018
N Clusters	1217	1130
<b>Criminal History</b>		
No harm		
Consequence Unknown	-0.111 (0.147)	-0.209 (0.141)
Harm	-0.454 (0.138)	-0.956 (0.138)
Death	0.627 (0.148)	1.175 (0.150)

Table B.5: Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2); standard errors clustered at the respondent-level. We show the coefficient on the indicator for the strength of harm from enforcement (No harm, unknown consequences, harm, or death). The table omits the coefficients on the intercept, the remaining attributes, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 3.

	United States	United Kingdom
No Harm		
Consequence Unknown	-0.204 (0.085)	-0.496 (0.078)
Harm	-0.629 (0.068)	-1.129 (0.064)
Death	-0.780 (0.072)	-1.667 (0.068)
R <sup>2</sup>	0.070	0.249
Adj. R <sup>2</sup>	0.068	0.247
Num. obs.	9019	8627
RMSE	1.976	1.851
N Clusters	1839	1728

< 0.001; < 0.01; < 0.05

Table B.6: Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2); standard errors clustered at the respondent-level. We show the coefficient on the indicator for the consequence from enforcement (No harm, unknown harm, active harm, passive harm). The table omits the coefficients on the intercept, the remaining attributes, and vignette number for ease of display. The regression presented here speaks to the analysis discussed with Figure 4.

	United States	United Kingdom
No Harm		
Unknown harm	-0.205 (0.085)	-0.505 (0.078)
Active harm	-0.683 (0.067)	-1.292 (0.064)
Passive harm	-0.742 (0.077)	-1.585 (0.073)
R <sup>2</sup>	0.070	0.243
Adj. R <sup>2</sup>	0.067	0.241
Num. obs.	9019	8627
RMSE	1.977	1.859
N Clusters	1839	1728

< 0.001; < 0.01; < 0.05

Table B.7: Linear least squares regression of our outcome measure on indicators variables of all attribute levels and vignette number run separately for the UK and US samples (Study 1 and 2) and the attribute levels of reason for visa denial; standard errors clustered at the respondent-level. The table omits the coefficients on the intercept, all attributes except for the consequence from enforcement (No harm, unknown harm, active harm, passive harm), and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 5.

	United States	United Kingdom
<hr/>		
Unemployed		
<hr/>		
No harm		
Unknown harm	-0.402 (0.157)	-0.724 (0.156)
Active harm	-1.023 (0.147)	-1.619 (0.138)
Passive harm	-0.902 (0.167)	-1.763 (0.159)
R <sup>2</sup>	0.051	0.149
Adj. R <sup>2</sup>	0.042	0.141
Num. obs.	1768	1740
RMSE	2.024	1.907
N Clusters	1202	1170
<hr/>		
Immigration Quotas		
<hr/>		
No harm		
Unknown harm	-0.233 (0.163)	-0.758 (0.153)
Active harm	-0.630 (0.151)	-1.599 (0.142)
Passive harm	-0.860 (0.175)	-1.677 (0.160)
R <sup>2</sup>	0.045	0.144
Adj. R <sup>2</sup>	0.036	0.136
Num. obs.	1823	1709
RMSE	2.070	1.864
N Clusters	1231	1149
<hr/>		
COVID-19 Positive		
<hr/>		
No harm		
Unknown harm	-0.247 (0.152)	-0.524 (0.160)
Active harm	-0.622 (0.137)	-1.342 (0.154)
Passive harm	-0.661 (0.172)	-1.636 (0.177)
R <sup>2</sup>	0.052	0.183
Adj. R <sup>2</sup>	0.042	0.175
Num. obs.	1769	1695
RMSE	2.023	2.028
N Clusters	1217	1130
<hr/>		
Criminal History		
<hr/>		
No harm		
Unknown harm	-0.111 (0.147)	-0.222 (0.141)
Active harm	-0.561 (0.136)	-1.085 (0.138)
Passive harm	-0.514 (0.156)	-1.447 (0.156)
R <sup>2</sup>	0.028	0.131

Table B.8: Linear least squares regression of our outcome measure on indicators variables of the source of harm (government, airport security, smugglers, nature) and vignette number run separately for consequence of enforcement and whether the migrant was forced to leave (due to ethnic persecution, extreme poverty, or for medical treatment) or left voluntarily (for economic opportunity); standard errors clustered at the respondent-level. The table omits the coefficients on the intercept and vignette number for ease of display. Recall that there is no permutation in which economic migrants were subject to passive harm, as discussed in the experimental design section above. The regression presented here speaks to the analysis discussed with Figure 6.

	Economic migrant	
	Harm	Death
Government		
Airport security	-0.023 (0.110)	0.074 (0.106)
Smugglers	0.004 (0.093)	-0.056 (0.093)
Nature	0.154 (0.091)	0.159 (0.092)
R <sup>2</sup>	0.012	0.020
Adj. R <sup>2</sup>	0.008	0.015
Num. obs.	1654	1711
RMSE	1.218	1.244
N Clusters	1404	1470
Forced migrant		
	Harm	Death
Government		
Airport security	0.009 (0.063)	0.115 (0.067)
Smugglers	0.014 (0.056)	0.173 (0.058)
Nature	0.065 (0.056)	0.233 (0.058)
R <sup>2</sup>	0.003	0.009
Adj. R <sup>2</sup>	0.001	0.008
Num. obs.	4587	4434
RMSE	1.243	1.278
N Clusters	2915	2847

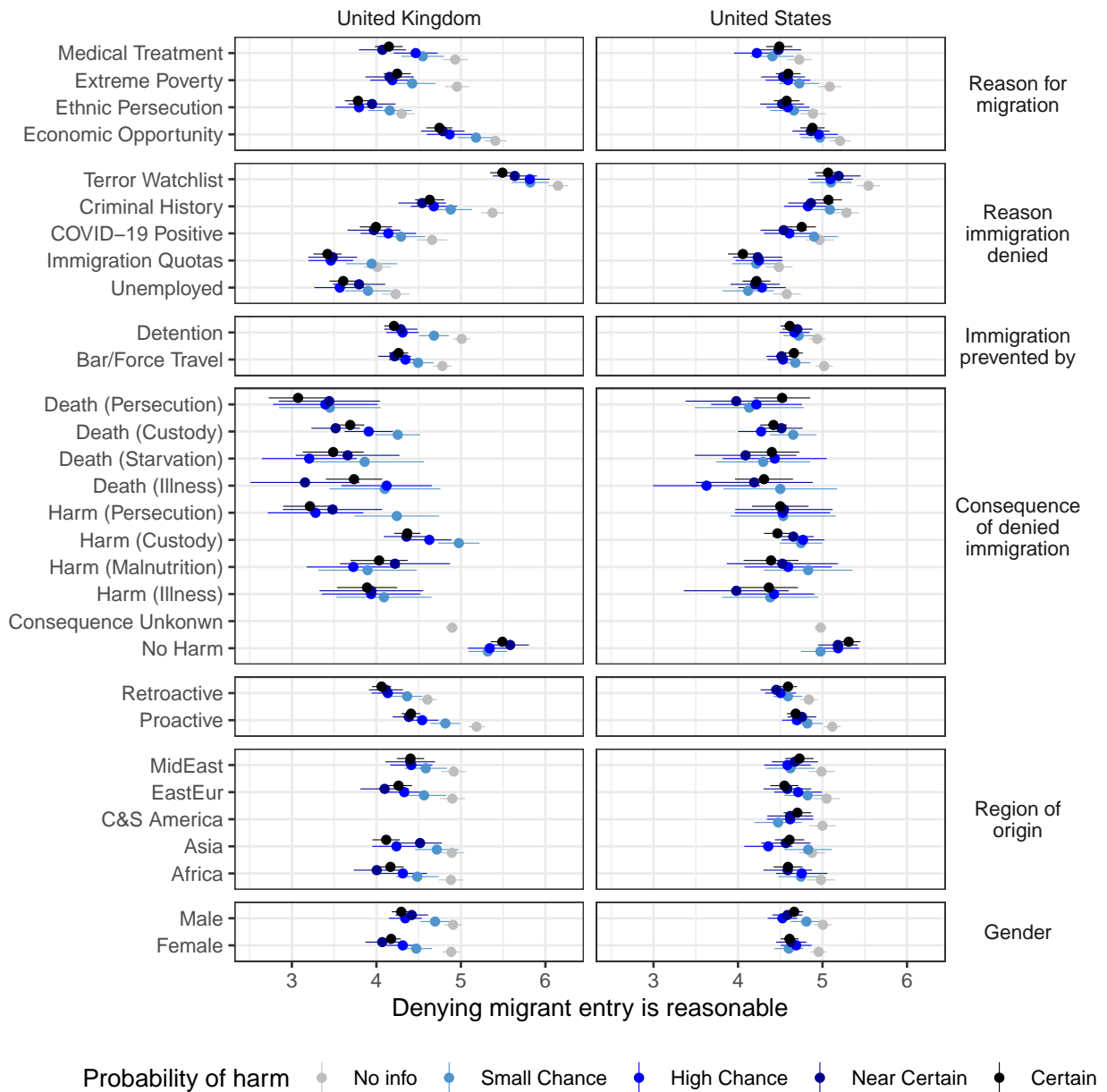
< 0.001; < 0.01; < 0.05



## B.2 Additional figures

### B.2.1 Study 1 and 2

Figure B.4: Marginal mean of how reasonable it is to deny a given migrant entry to the country by immigration case attribute and the between-respondent probability of harm treatment. We show 95% confidence bounds computed from standard errors clustered at the respondent-level. The figure omits the country of origin attribute for ease of display but categorizes the country of origin into a region of origin indicator.



### B.2.2 Study 3: Robustness of tests of hypotheses 1-6

Figure B.5: Marginal mean of support for denying given migrants entry to the country by the reason why they migrated and whether migrants would not be harmed, non-lethally harmed, or killed through deportation.

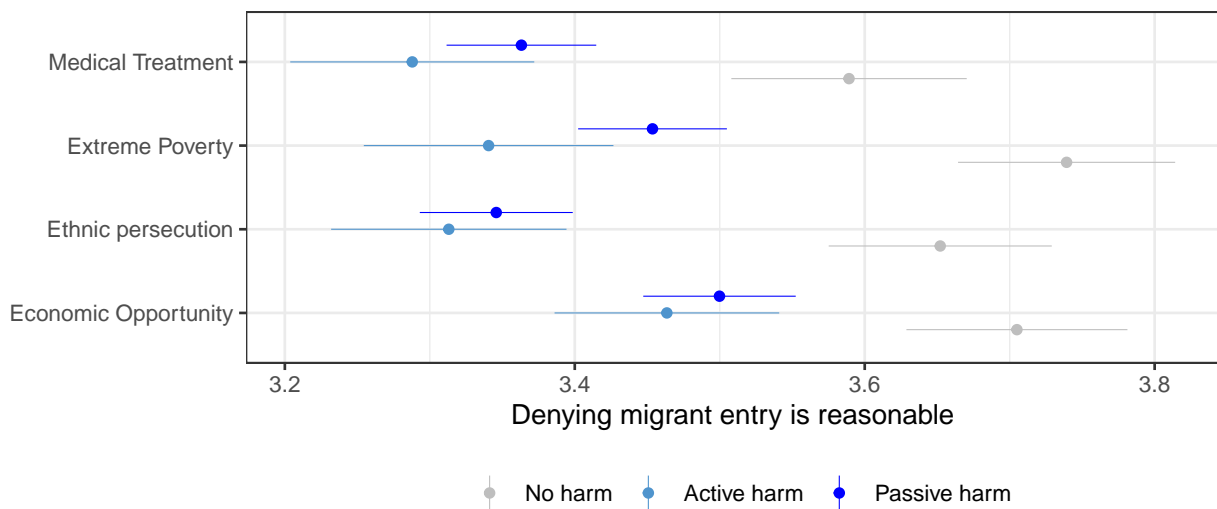


Figure B.6: Marginal mean of support for denying given migrants entry to the country by the reason for which entry was denied and whether migrants would not be harmed, non-lethally harmed, or killed through deportation.

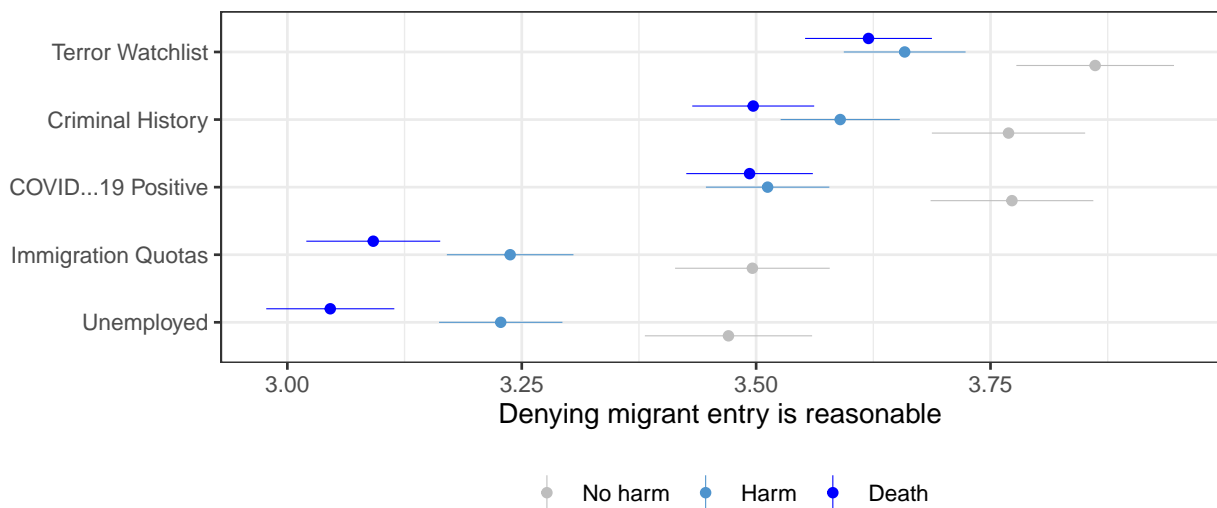


Figure B.7: Marginal mean of support for denying given migrants entry to the country by whether migrants would not be harmed, non-lethally harmed, or killed through deportation.

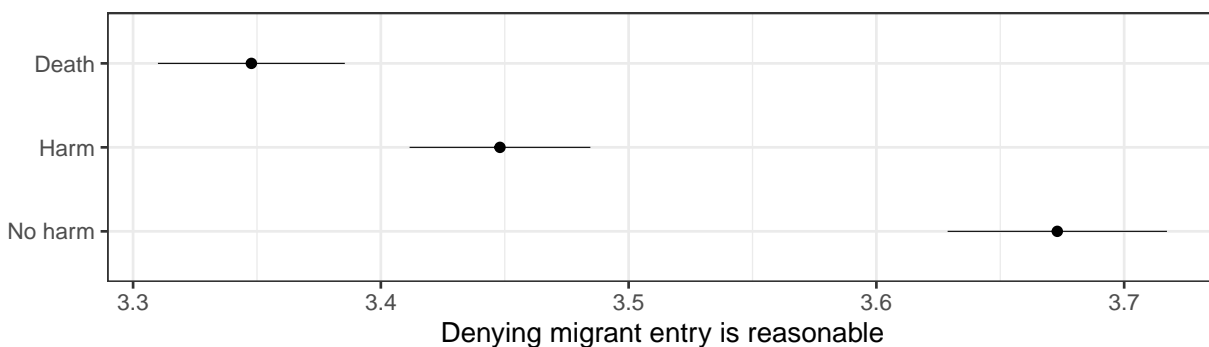


Figure B.8: Marginal mean of support for denying given migrants entry to the country by whether migrants would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm").

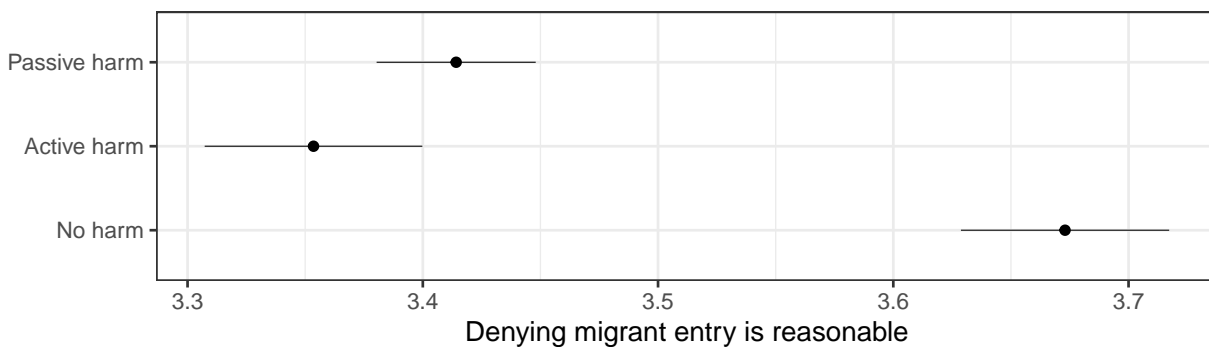
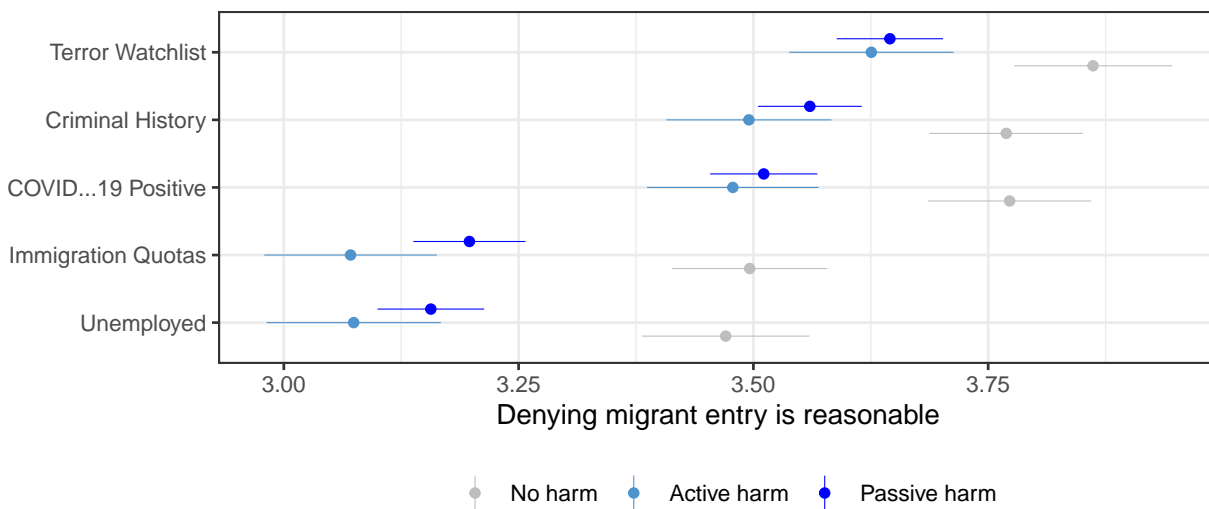


Figure B.9: Marginal mean of support for denying given migrants entry to the country by the reason for which entry was denied and by whether migrants would be harmed and whether that harm would result from deportation ("active harm") or circumstances in the country of origin ("passive harm").



## C Additional analysis

The following analyses in this section rely on these questions:

Figure C.10: Moderating variables from Study 1 (UK sample).

State how much you agree or disagree with the following statements:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
The UK should prioritise the interests of British citizens above others.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The UK admits too many non-refugee migrants into the country.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Figure C.11: Moderating variables from Study 2 (US sample).

State how much you agree or disagree with the following statements:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
The U.S. should prioritise the interests of American citizens above others.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The U.S. admits too many non-refugee migrants into the country.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Figure C.12: Figures 1-2, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United States.

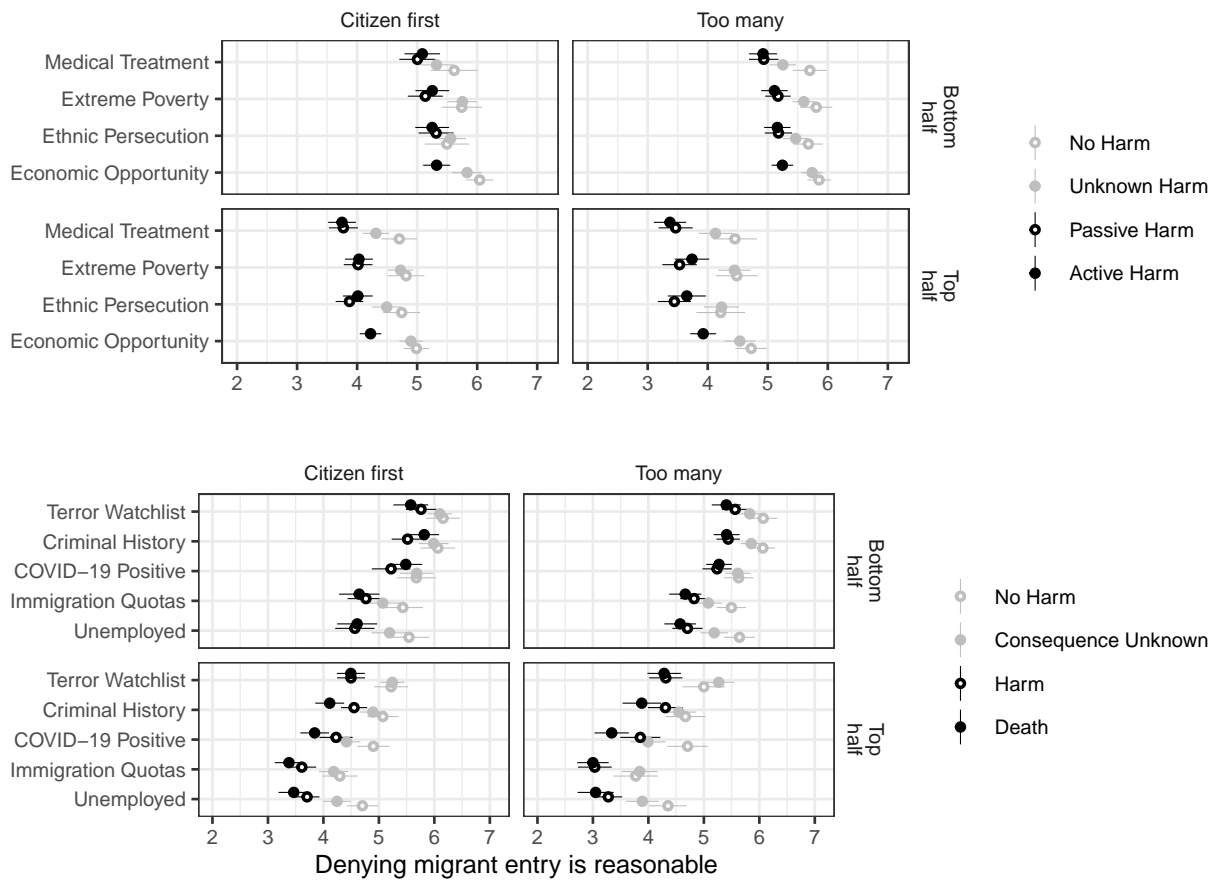


Figure C.13: Figures 1-2, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United Kingdom.

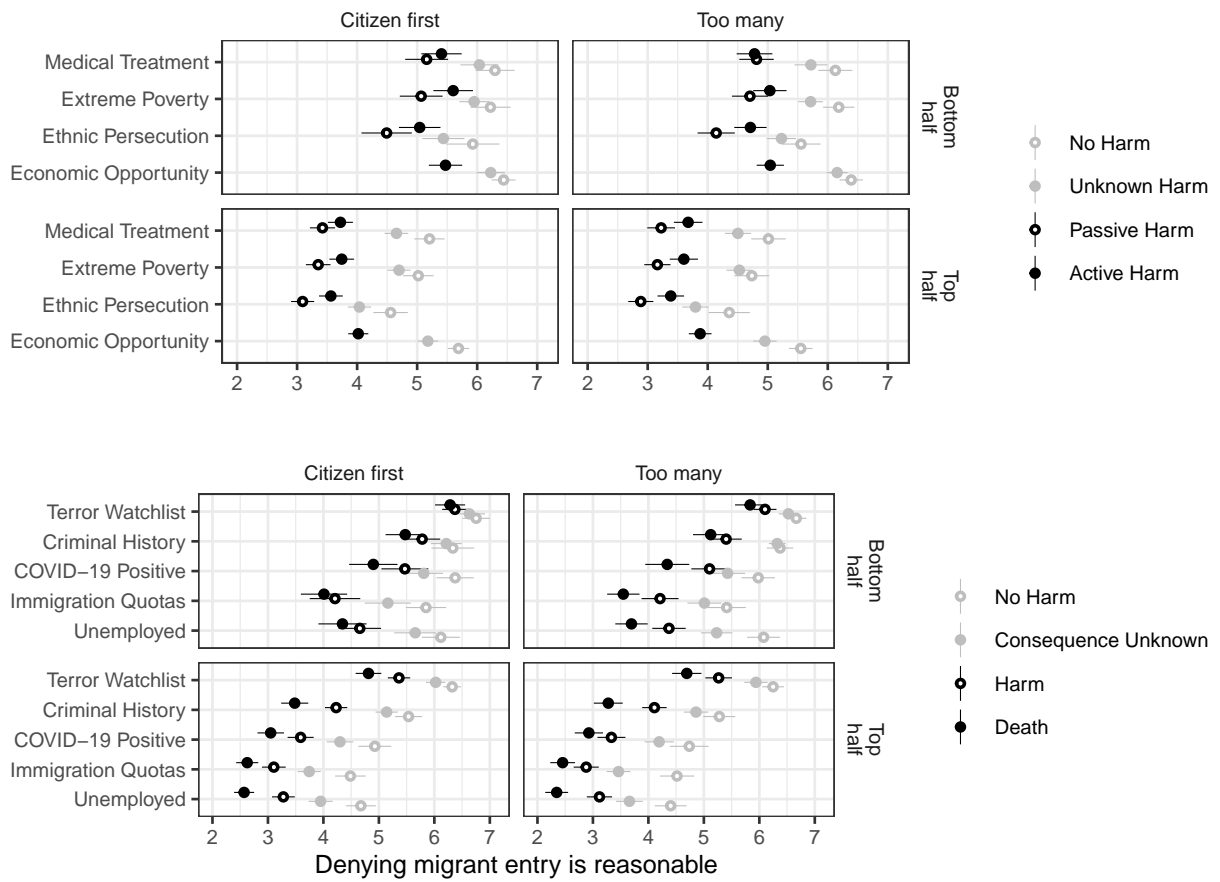


Figure C.14: Figures 1-2 for median split of responses to specific questions about immigration attitudes in study 3.

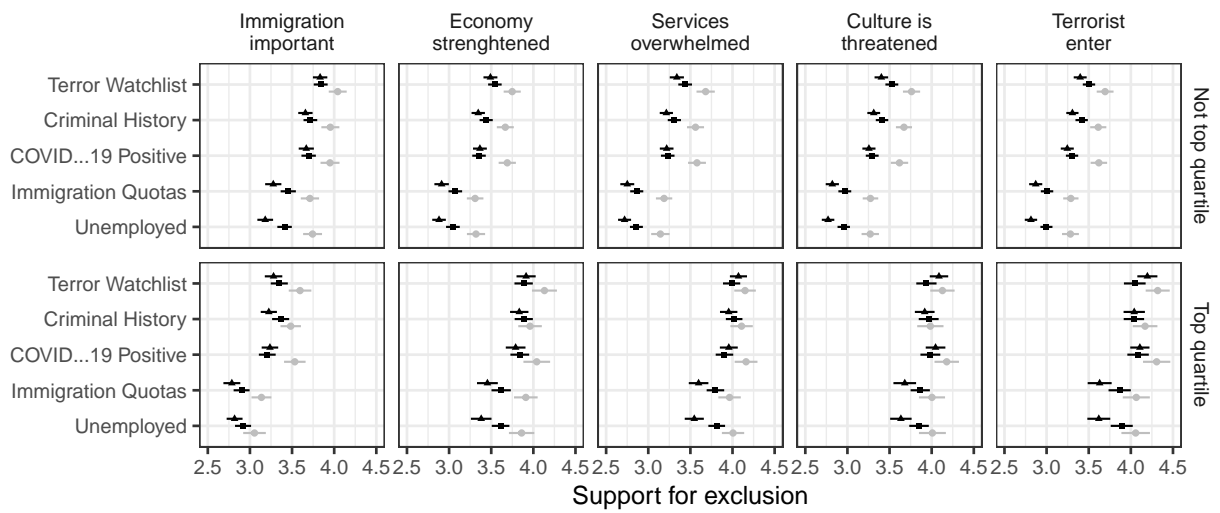
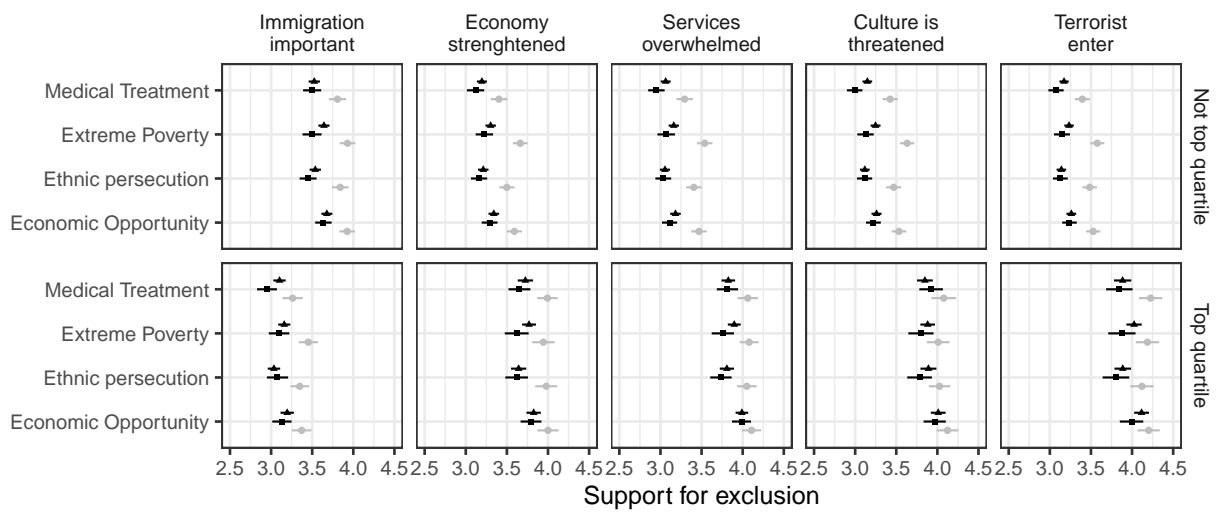


Figure C.15: Figures 1-5, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United States.

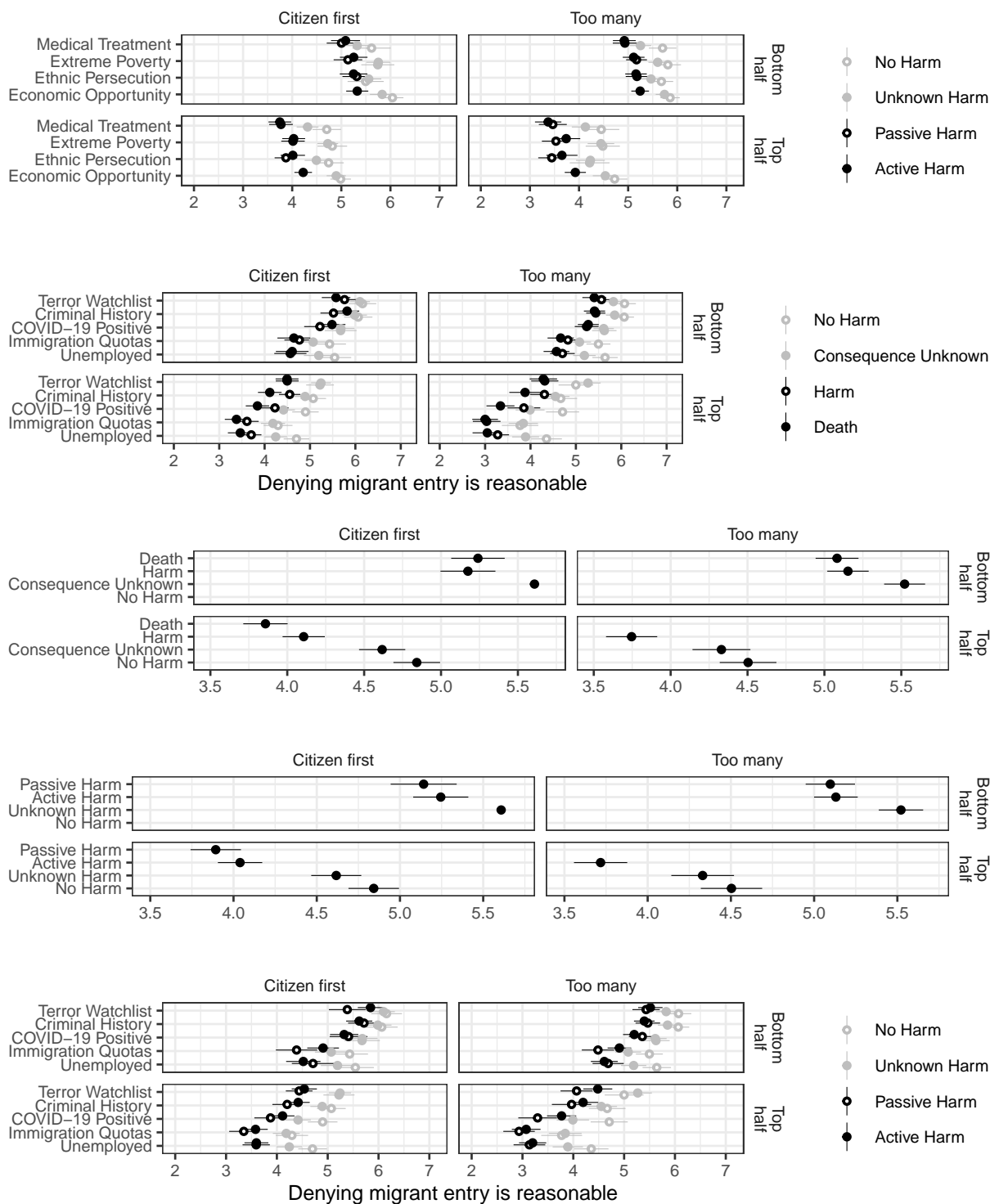
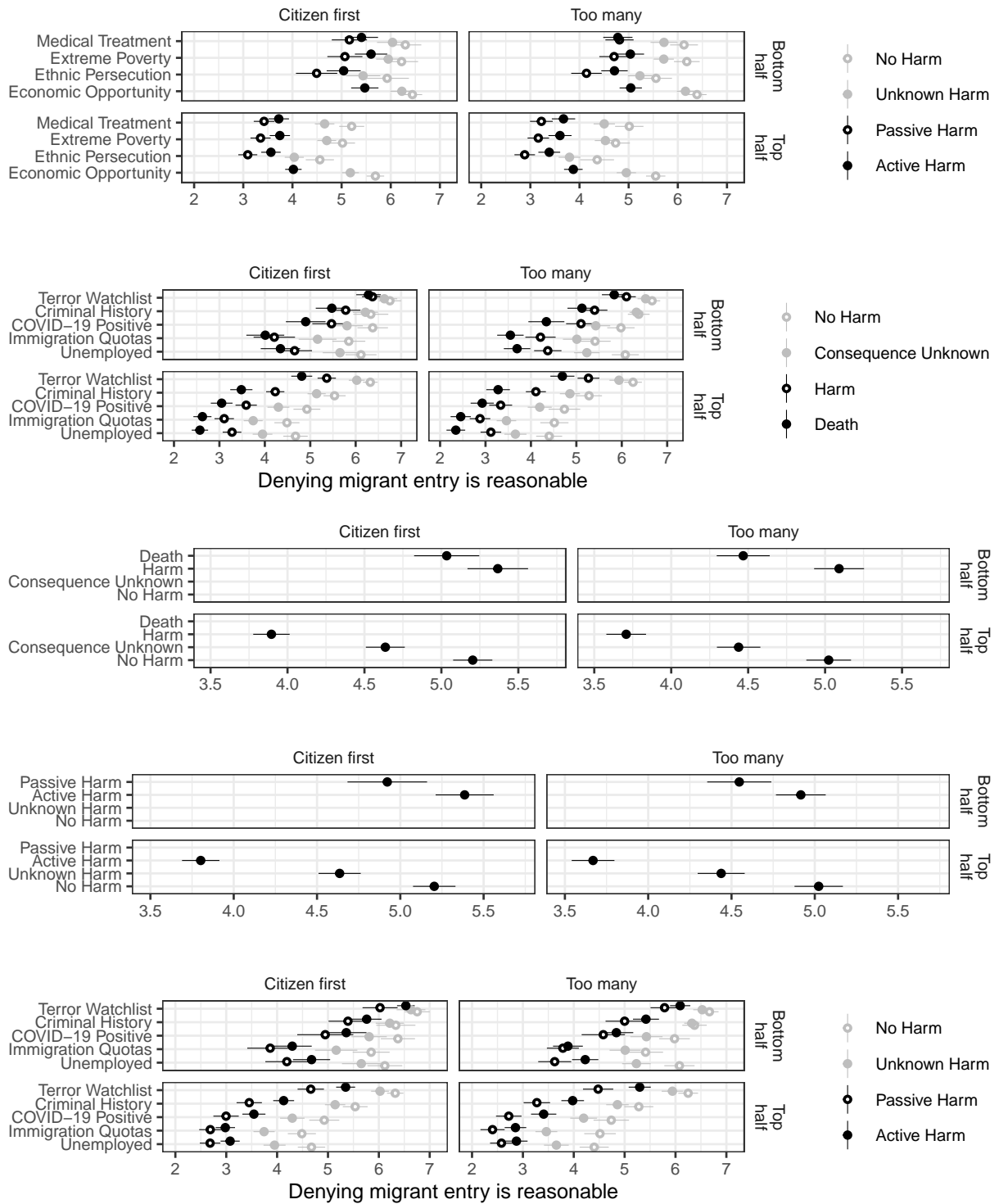




Figure C.16: Figures 1-5, reproduced from the main text, for median split of responses to specific questions about immigration attitudes in the United Kingdom.



## D What are Experimental Vignettes?

Experimental vignettes are used by social scientists to evaluate whether certain features impact individuals' opinions (Hainmueller and Hopkins 2015; Turper 2017). For example, in one experiment social scientists presented subjects with vignettes of a single migrant who sought to access citizenship in Austria, but with each vignette varying in whether the migrant was from Nigeria, Iran, or Hungary; whether he was married and the nationality of his wife; whether he had any criminal complaints against him; whether he spoke proficient or only broken German; and whether he was unskilled or not. The goal of the researchers was to understand whether certain characteristics - like whether a migrant speaks fluent German, and whether he is married - impact people's opinions of whether the migrant should receive citizenship (Atzmuller and Steiner 2010). Vignettes are powerful tools for uncovering variations in opinions individuals may not know they have, but they have a limit: they are often simplistic. This is because, if vignettes vary along too many attributes, subjects may struggle to comprehend distinctions between vignettes, and some variants will be confusing or unrealistic. For example, in an earlier experiment we designed, we created vignettes of migrants which varied along many nationalities, professions, refugee statuses, criminal histories, and the number of migrants involved; this resulted in thousands of potential variants, including one involving millions of nurses from Canada who committed murder and sought to enter the US to flee persecution. The more attributes, the more likely an unrealistic vignette will arise, undermining the integrity of the experiment. Yet, to limit the number of attributes will result in only simple cases: opinions about very simple cases may not reflect the opinions of individuals in the real world with its full complexity.

We attempted to overcome this dilemma, designing vignettes that were both realistic and clear, yet still varying along a large number of dimensions. This required a large number of pilots, testing, and careful rewording of vignettes, to ensure that many attributes could be included without the need to remove any variants. This was crucial, as our goal was to capture opinions concerning enforcement without losing the nuance between the types, degrees, and probabilities of harm arising from enforcement.

In the end we designed a series of vignettes varying along no fewer than 8 attributes with 2-6 levels in the first two studies, and 2-12 levels in the third. This resulted in close to 38,400 potential combinations of attributes in the vignettes in the first study, and close to 48,000 in both the

second and third.<sup>39</sup> As noted in the main text of the article, in each study, subjects were randomly assigned five of these tens of thousands of vignettes, each one featuring unnamed fictional migrants seeking to enter or remain in the UK (study 1) or the US (study 2 and 3). They varied in degree of enforcement utilised to compel the migrants to leave or not remain, the agent which utilised enforcement, and whether the enforcement occurred at the border or in their home countries. We additionally varied migrants' reasons for migrating or attempting to migrate, and whether they sought to enter or remain in the UK/US, as well as the migrant's gender (study 1 and 2) and country of origin (all studies).

---

<sup>39</sup>It was only close to this number, as we removed some combinations which were highly unrealistic.

## **E Liability**

The philosophical analysis on liability rests on a particular view of liability. Some reject this view, holding that an agent can be liable to harm even if not responsible for their actions. For example, if X will unknowingly spread a virus to Y unless X is stopped from moving, X might not be responsible for her actions, but Y can sometimes permissibly harm X to the same degree as someone who is responsible, if this is necessary to stop her from moving and spreading the virus. 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 Y must bear. It is therefore often permissible to stop Y facing harm by causing X the same harm that would be permitted against someone responsible for the threat she poses (Tadros 2011; Frowe 2014). It might similarly be permissible for a state to temporarily restrict the entrance of even forced migrants if they pose harms, causing them the same harm that would be permitted against voluntary migrants. For example, it might be justified for a state to require that a refugee remain in quarantine for a short amount of time during a pandemic, even if this involves the same harm that non-refugees face in quarantine, because even refugees have some duty to ensure their bodies do not cause harm to others.

However, even in such cases, the proportion of permissible harm caused to harm averted might still vary when the harm is above a given threshold. Quarantining does not involve a high (or even moderate) chance of death or injury. When enforcement does involve a high or moderate chance of death or injury, then the importance of responsibility for liability becomes important. For example, it may be permissible for a state to issue long-term detention against completely voluntary migrants attempting to cross a border during a pandemic, but not against forced migrants. For the latter, the detention could involve more harm than justified for the ends of slowing down the spread of the virus, in virtue of the migrants not being responsible for the threat they pose.

## **F Carrier Sanctions**

We argued in the main text that carrier sanctions are subject to proportionality constraints. However, they remain different to other cases of intervening agency. Not only might harms from carrier sanctions be less severe, as already noted, but even when harms are severe, they can potentially be discounted when there are many intervening agents between the government issuing the sanction

and the agent directly issuing harm. For example, if the government threatens to sanction carriers, and carriers block migrants from boarding a flight, resulting in migrants being forced to live in countries where they suffer torture from a militia, then the government causes harm via one intervening agent - the carrier - which then contributes to harm from another intervening agent - the militia. It is possible that, the more intervening agents there are along a causal chain, the more harm can be discounted. Even if this is not true, harm is perhaps more difficult to foresee when the causal chain involves multiple agents, as opposed to just one or two.

Regardless of the truth of these last claims, there is good reason to view carrier sanctions as distinct from both direct coercion, as they involve intervening agency in a range of cases, and distinct from merely failing to help, as they involve the government engaging in a threat that causally contributes to coercion. Given these facts, carrier sanctions ought to be subject to the usual proportionality constraints, even if the harm can often be discounted as compared to harm that is more direct.

There is one additional question, somewhat related to carrier sanctions, which we lack the room to fully address: whether simply denying a visa can be wrong in virtue of causing disproportional harm. Simply denying a visa does not itself involve force, especially when the migrants' only reason for choosing to remain in a home or transit country is to follow the law, rather than fear of coercion. We think that such cases may not be subject to proportionality constraints, because (as articulated earlier) we assume proportionality constraints are only relevant when force or coercive threats are used. However, some might disagree: perhaps merely denying someone permission, and this causing harm, can render the act disproportional in virtue of the harm. As far as we are aware, no philosophers have addressed this question, and due to lack of space we shall not either. We will only conclude this: when states threaten to engage in force if migrants attempt to enter or remain in the state without a visa, this force or threat can lack proportionality.

## References

- Atzmuller, Christiane, and Peter M. Steiner. 2010. "Experimental Vignette Studies in Survey Research". *Methodology* 6 (2): 128–138.
- Egami, Naoki, and Kosuke Imai. 2018. "Causal interaction in factorial experiments: Application to conjoint analysis". *Journal of the American Statistical Association*.
- Frowe, Helen. 2014. *Defensive killing*. Oxford University Press.
- 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.

- Hainmueller, Jens, Daniel J Hopkins, and Teppei Yamamoto. 2014. "Causal inference in conjoint analysis: Understanding multidimensional choices via stated preference experiments". *Political analysis* 22 (1): 1–30.
- Tadros, Victor. 2011. *The ends of harm: The moral foundations of criminal law*. OUP Oxford.
- Turper, Sedef. 2017. "Fearing what? Vignette experiments on anti-immigrant sentiments". *Journal of Ethnic and Migration Studies* 43 (11): 1792–1812.