

Immigration

MICHAEL BLAKE

Immigration has not received a great deal of philosophical attention. While the issues surrounding immigration have become subjects of vigorous public discussion, a like discussion has not been forthcoming in the philosophical community. Indeed, there may be no area of political life in which so many heated issues have met with so little sustained normative theorizing.

In what follows, I do not propose to remedy this lack, but to offer one possible explanation for its existence. An adequate analysis of immigration, I suggest, requires a fundamental revision in the methodology of liberal political philosophy. Immigration is not simply one more issue to which the machinery of liberal political philosophy might be applied; by its very nature, it forces the revision of some of the assumptions traditionally made by liberal theorists. As such, it is surprisingly difficult simply to figure out how to discuss the ethics of immigration, let alone to develop an adequate theory by which those ethics might be understood.

It should be noted at the outset that the issue of immigration involves not one question, but many. I cannot hope to address all of the questions raised by the phenomenon of immigration in the present chapter. My attention will therefore be limited to what I see as the most basic question in this context: whether or not a liberal society may, consistently with its liberalism, restrict immigration at all. This question, I think, must be answered before any more specific aspect of immigration policy can be adequately dealt with. The past few years have seen a small, but vigorous debate arise on this topic: some philosophers have claimed that all restrictions on immigration are inherently unjust, and have therefore advocated a policy of "open borders" as the only policy consistent with liberal equality. Other philosophers have replied that such an implication is not – and, indeed, could never be – a correct interpretation of the sort of liberalism we have reason to endorse.

In what follows, I hope to examine and critically discuss the arguments on both sides of this debate. What I hope to demonstrate is that neither side has offered an account of immigration that is fully defensible. It is my contention, moreover, that both sides have made in essence the same error: they have not taken adequate account of what is distinct about immigration as a political issue. I will make this contention in four stages. First, I will outline what makes immigration such a

difficult issue for liberals to address. I will then discuss arguments made in favor of open borders, and examine whether these arguments are ones liberals are bound to accept. I will then do the same for arguments in favor of the legitimacy of restrictions on immigration. I will conclude by offering a few hints about how an adequate theory of immigration might be developed, but I will not be able to offer anything like such a theory myself.

Political Equality and Moral Equality

There is a wide academic literature on immigration: very little of it has been produced by philosophers. Much of the writing deals with the issue from the standpoint of sociology, history, policy, or law. Some of this literature includes normative discussion of the issues as well (see, for example, Wu, 1996; Sassen 2000), but sustained philosophical discussion is rare. What has been written about immigration is found within several anthologies (Gibney, 1988; Barry and Goodin, 1992; Schwartz, 1995; Bader, 1997) and a handful of philosophical articles and books, as discussed below.

As already mentioned, I think this shortfall can be explained in part by the difficulties involved in writing coherently about immigration from a liberal point of view. What I want to do now is explain what I take this difficulty to be. To begin, we may note two things about liberalism. The first is that liberalism begins with the idea of the moral equality of all persons. The precise contours of this idea need not concern us at present; what matters is that liberals are committed to some form of equal moral concern and respect for all who share common humanity. No person or group of persons is to be arbitrarily excluded from the reach of liberal justice.

The second thing to notice about liberalism is that it has been developed as a theory primarily within the context of the nation-state. This is not a logical fact about the nature of liberalism: it is simply the context within which most liberal theorists have developed and articulated their political views. Within this context, liberalism condemns arbitrary inequalities of treatment by the political institutions of society. What liberals have traditionally defended, therefore, has been some principle by which illegitimate hierarchies in political power shall be identified and condemned. The task of the liberal, on this understanding, is to figure out what principles could justify political power to all those who live within the society such political power creates. This approach – the search for principles reciprocally acceptable to all – derives principles guaranteeing equality under political institutions from the more basic conception of moral equality.

We can call this methodological approach the framework of *political egalitarianism*. It is, I think, implicit in much of how liberals think about political justification. In the context of the state, the equation it makes between moral equality and political equality is entirely appropriate. The history of differentiated citizenship is a history of oppression and injustice; distinctions in political status tend to bespeak deviations from the ideal of moral equality. The difficulty arises when we move from this case to one in which individuals are *not* subject to the same political institutions. Immigration is distinct from the standard cases discussed in liberal theory precisely in that the

would-be immigrant is *not* subject to the laws of the new society, but seeks to *become* subject. The liberal equation of moral equality and political equality may not work under such circumstances. The would-be immigrant and the citizen have distinct relationships to the political society in question. The usual methods of liberal political philosophy therefore seem not to apply. We cannot here ask: what would we agree to, around here, as principles of political justice which respect our moral equality? And we cannot ask this because the present question is: who shall be admitted to this political *we* in the first place?

A plausible theory of immigration therefore requires us to revise the methodology by which we develop the implications of our liberal commitments. Many of the problems implicit in our current analyses of immigration stem from the persistent hold this methodology has upon our thinking. Much of what has been written about immigration insists that moral equality and political equality are inherently linked; this assumption, however, does not hold true in the context in which immigration occurs. In what follows, I will examine these writings in more detail, and show how this assumption undermines the plausibility of what has been said. After doing that, I will briefly examine what a theory of immigration not based upon the political egalitarian framework might look like.

Cosmopolitanism and Open Borders

The notion that restrictions on immigration are inherently unjust is not one most people find intuitive. The right to control entry is rarely questioned; indeed, explicit defenses of that right are comparatively rare, a fact which is explained in part by the seemingly obvious nature of the right in question. Several theorists, however, have offered arguments to the effect that this purported right is in fact illusory. Restrictions on immigration are, on this analysis, at odds with the moral egalitarianism animating liberal thought. Closed borders are therefore morally illegitimate (Ackerman, 1982: 89–95; Carens, 1987, 1999, 2000, forthcoming; Bader, 1995).

Joseph Carens has offered the most well-developed version of this argument, and it is this version that I will examine in what follows. The thought guiding Carens's approach to immigration is a simple and attractive one. Liberalism, Carens notes, condemns the use of contingent facts to justify inequalities in treatment. An arbitrary aspect of the person, such as her race or ethnicity, may not legitimately serve to ground a difference in political treatment. A political community which denied rights to people in virtue of their race would, we can all agree, be a canonical case of an illiberal and unjust community.

Citizenship, however, seems to be as morally arbitrary as any other factor we could name. None of us chooses our place of birth or our parentage; we deserve neither blame nor credit for the circumstances into which we were born. Restrictions on immigration, since they differentiate rights based upon such arbitrary facts, seem therefore to be as morally offensive as these other, more obvious cases of injustice. The fact that you were born on one side of an arbitrary line, and I on the other, cannot serve to ground a difference in what we can hope to do and become. If my government prevents you from immigrating and taking advantage of the

opportunities of my society, it does you an injustice. If this injustice seems much less intuitive than injustices such as racially discriminatory political rights, that simply shows the degree to which our ordinary moral beliefs have yet to grasp the egalitarian potential of our liberal commitments. Liberalism can have radical and unforeseen consequences: there was a time, after all, in which the injustice of racial discrimination was not quite so obvious either (Carens, 1987: 268).

These conclusions are buttressed by Carens by means of a cosmopolitan reading of Rawls, in which the original position used to derive principles of justice must be employed globally, rather than in the context of the nation-state (for justification of this reading, see Beitz, 1983, 1999; Pogge, 1989). Rawls's methodology seeks to develop principles acceptable to all, by eliminating knowledge of social contingencies which could result in illegitimate bias. Given the contingent nature of the border, it is inconsistent on this reading not to apply the original position at the global level. And, from within this original position, we would surely derive principles guaranteeing the freedom to move across borders without interference. Just as Rawls's own, domestic original position would defend freedom of movement within the state, Carens's international original position defends freedom of movement internationally.

[O]ne has only to ask whether the right to migrate freely within a given society is an important liberty. The same sorts of considerations make migration across state boundaries important... No liberal state restricts internal mobility. Those states that do restrict internal mobility are criticized for denying basic human freedoms. If freedom of movement within the state is so basic that it overrides the claims of local political communities, on what grounds can we restrict freedom of movement across states? (Carens, 1987: 258, 267)

If this analysis is correct, then the denial of entry to a would-be immigrant is an injustice. More generally, the conventional account of immigration – in which liberal states are justified, within very weak limits, in looking out for their own well-being in the design of immigration policy – is fundamentally in tension with liberalism itself.

The cosmopolitan insistence that liberalism's guarantee of moral equality cannot stop at the border is surely correct; a consistent liberal theory cannot assume away the moral status of outsiders. Carens deserves credit for seeing that this fact will have implications not just for the flow of goods, but for persons as well. While it is possible for us to challenge Carens's reading of Rawls – as Rawls himself has done (see Rawls 1999) – it is more difficult to reject the intuition undergirding Carens's project. None the less, I believe it is possible for us to challenge the equation of citizenship and arbitrary factors such as race or ethnicity. We may grant, I think, that in each case the categories are arbitrary from the moral point of view. My race and my citizenship are both produced by circumstances for which I can take neither credit nor blame. But from the fact that the circumstances giving rise to a social or political difference are arbitrary, we cannot conclude that that difference is morally irrelevant. To see this, we may note that the border – however arbitrarily constructed – marks out something of great moral significance. It marks out, among

other things, the boundaries of shared liability to a political state. This difference, I think, may well create some legitimate differences in what sorts of justification we can expect from that state. The state can do powerful things to all and only those who live within its sphere of authority; citizens may be taxed, punished, coerced, and in the limit case even executed by their own governments. Unless foreign citizens perform some special act to put themselves within the government's sphere of influence, they are immune from such coercive actions. It seems right, then, that the special relationship between the citizen and the state gives rise to a distinct demand for justification. If I am subject to the coercive political actions of a state, and you merely *seek* to become subject, it does not seem that you and I will necessarily be entitled to the same sort of justification from the state in question. The contingency in the world creates a difference with some moral relevance; in this way, the analogy between race and citizenship might be somewhat undermined.

This may be explained best with reference to the formal structure of Carens's argument for open borders. The intuition guiding this argument, brought down to the simplest terms, may be given in the following example. You live in Bullalo, and liberalism insists that you have the moral right to move to Boston. I live in Toronto, and that fact – together with the fact that there exists a national border between us – is the result of a contingency which cannot ground a legitimate difference in the administration of justice. Therefore, I must also have the moral right to move to Boston. If this right to mobility is important domestically, it must be important internationally as well, and we have no right to deny this right to outsiders when we grant it to insiders.

Before this argument succeeds, however, we must notice that some rights seem best understood as a result of the need to justify state authority specifically to those who live within that government's sphere of authority. In some cases, we see this quite clearly. Let us take political rights as an example. With these rights under consideration, an argument parallel to the above argument might be drawn as follows. You live in Bullalo, and liberalism insists that you have the moral right to vote in United States federal elections. I live in Toronto, and that fact – together with the fact that there exists a national border between us at all – is the result of a contingency which cannot ground a legitimate difference in the administration of justice. Therefore, I must also have the moral right to vote in United States federal elections. If this right is important domestically, it must be important internationally as well, and we have no right to deny this right to outsiders when we grant it to insiders.

This argument would not convince many readers, and I think they would be right to resist it. While one's status as citizen might ultimately be causally determined by arbitrary facts in the world, the status of citizen does create some distinct demands for justification. In this case, the political institutions of this society have a duty to be responsive to the expressed desire of those persons who are subject to its authority; they are therefore precluded from governing without certain substantive guarantees of political participation. If a political system is going to take itself as authorized to exercise the powers inherent in political governance, it owes some guarantees specifically to those being governed. These guarantees, however, do not apply to those who are *not* subject to the authority of the state. The difference in

circumstances creates a difference in what specific political rights are those to which we are entitled. This difference, moreover, does not offend moral equality in the slightest. Moral equality here lives in perfect harmony with differentiated political rights. When the political circumstances are relevantly different, moral egalitarianism demands – rather than condemns – political differences in treatment.

This may be thought unfair to Carens, who acknowledges the potential existence of legitimate special obligations between compatriots stemming from their shared political life (Carens, 1992a: 44). I think, however, that once we admit the compatibility of moral equality and unequal political rights, Carens's intuitive argument may be more difficult to accept. In particular, we may note that Carens now has no argument as to why the right to mobility should be treated as something which is always an implication of moral equality, rather than a specific implication of moral equality which applies only within the context of a specific implication of moral equality, which I cannot defend here, is that it is the latter: in order to be justified to its citizens, a government must offer certain guarantees, including specific guarantees of liberty. The liberties which must exist before government authority could be justified include both political liberty and non-political liberties such as the right to mobility. On this analysis, the United States could not *both* deny the Bullalonian the right to move to Boston *and* expect that Bullalonian to accept the government's legitimate authority. Neither could it allow any subordinate political institution – such as the Massachusetts legislature or the Boston City Council – to act so as to deny her this right. Given the relationship in question, keeping the Bullalonian in upstate New York against her will and exerting coercive control over her life would be fundamentally illiberal.

The immigrant's relationship does not give rise to this implication. In denying the Torontonion the right to emigrate and live in Boston, the United States clearly affects his welfare, interests, chances, and so on. This, however, may not be obnoxious to liberalism, since it is no longer clear that these negative consequences for the Torontonion ought to be considered as affronts to his status as morally equal. Given that he does not live under the authority of the United States, but asks admittance to that status, it seems a mistake to consider him as equivalent to those who *already* stand in such a relationship of political authority.

I do not claim that this is the best explanation of the right to mobility, although it does seem somewhat intuitive to me. The main point of the above is that Carens's intuitive argument assumes that what is morally arbitrary can never give rise to a legitimate difference in rights; and this assumption, I think, is not correct. Sometimes, unequal political treatment is a violation of moral equality, but not always. Given the differences between the citizen and the would-be immigrant, moral equality may not issue in a perfect equality of entitlement. A theory of immigration must not assume the borders as moral watershed, and Carens has done a great service in pointing out that fact; but neither must a theory of immigration assume the border's moral irrelevance.

I would, at this juncture, point out one last aspect of Carens's thought which deserves mention. The above analysis of open borders assumed away the existence of any special claim on the part of the would-be immigrant, and asked whether exclusion was in itself a violation of liberal equality. Our inquiry was thus into the

possibility of legitimate exclusion. It is possible to defend this possibility, and none the less insist that contingent facts of global economic inequality condemn much current exclusion as illegitimate. The reality of extreme global economic inequality, I think, may serve to place considerable restrictions on how a liberal state may exercise its power to exclude. Currently, half the world's population has inadequate sanitation, and therefore faces disease and mortality at a rate much greater than that found in the population of Western industrial democracies (see Crossette, 1999). Under these circumstances, citizenship in a Western industrial democracy seems to be – as Carens notes – a sort of feudal birthright privilege: a lucky accident of birth producing vast differences in life expectations (Carens, 1987: 252). We may take for granted, I think, that any plausible account of moral equality will condemn this sort of inequality as morally indefensible. Even if we deny the cosmopolitan reading of Rawls employed by Carens, we must none the less apply our liberal principles of moral equality at the international level: these principles will surely serve to condemn some forms of deprivation as morally impermissible.

This may seem to be in tension with what has gone before, but I believe this appearance to be an illusion. Insisting that states do not have the same political duties to foreigners as they do to citizens is not the same as insisting that states owe nothing to foreign nationals. The current economic circumstances of the world, I think, cannot be justified on any plausible theory of liberal justice. Exactly how unjust they are depends upon which theory of justice we employ, and so is beyond the scope of this chapter. But it does seem plausible that Western industrial democracies cannot justify the degree to which their wealth exceeds that of the developing world. If this is so, then justice requires these societies to remedy this situation: remedies will include economic redistribution and institutional reform, but they will also include constraints on the ability of wealthy states to exclude those who are in need. To refuse entry to an impoverished foreign citizen is, in many cases, to choose to sacrifice a human life for the sake of wealth and luxury. This is a sacrifice, I think, a liberal can never legitimately make.

Partiality and Restrictions on Immigration

The above considerations, I think, are appropriate ones with which to begin our examination of theorists who have offered justifications for exclusion. Too often, I suggest, those who justify closed borders end up erring by ignoring what was right in the cosmopolitan account of immigration: the moral equality of citizen and foreigner. Even if those who defend the possibility of legitimate border restrictions are correct in their conclusions, I think, they are too often incorrect in the theoretical assumptions they employ in defense of these conclusions.

We may begin by noting that those who argue against open borders rarely make such arguments their primary focus. The topic is generally introduced as an implication of some wider philosophical project, and often discussed only in passing. The fact that a given approach to political philosophy has the effect of legitimating closed borders is generally taken by such theorists to be a welcome implication – even, given the intuitive pull of closed borders, a reason to accept the legitimacy of

the overall project. As such, the idea that liberalism is committed to open borders and freedom of immigration is often taken as a *reductio* of liberal thinking. If liberalism implies that we cannot legitimately close the borders, then we have reason to reform our liberalism – rather than, as was the case for the theorists discussed above, our political institutions (Walzer, 1983: 31–63; Tamir, 1993: 124–30; Kymlicka, 1995: 124–6).

Such arguments generally begin by noting the corrosive effect of free movement upon what is specifically local. The aspects of the local community which free movement would undermine are generally described in terms of culture and communal self-development. There is a cultural self-understanding already in place in this community, and the inability to exclude would undermine the possibility for this cultural group to maintain its distinctiveness and collectively guide its internal development (see generally Walzer, 1983). Arguments for closed borders therefore generally begin with some analysis of the moral importance of specifically local norms and traditions. There is a great deal of variation in how the case for this importance is made, and therefore how important these local facts are deemed to be. For our purposes, we can ignore these differences, and inquire solely about how the link between the importance of culture and the legitimacy of closed borders is to be made out.

Culture, on these analyses, is a sort of good which is necessarily local; it is a good in virtue of what it does for those who live their lives within the norms and values contained within that culture. The importance of what is specifically local is therefore taken to legitimate a deviation from liberal impartiality. Those who belong to that culture have special obligations to uphold and preserve its institutions. They therefore have special obligations to one another: obligations, for instance, to prefer the goods and interests of each other above those of persons not members of the cultural community. Governments, therefore, have special relations to citizens which can be derived from these special obligations owed by the citizens to one another. A legitimate project of governance – indeed, for some thinkers, the dominant project of governance – is the preservation and protection of the local cultural community. The implications of such a view of politics for immigration are not difficult to develop. The decisions about immigration are to be made with reference to the impact of such immigration upon the lives and projects of those already within the cultural group. If immigration would undermine cultural integrity and continuity, then such immigration may legitimately be precluded.

There is a natural account of justification associated with this view of immigration. The state is now firmly identified with the interests and goods of the local community. Justification of that state's actions is something to which the citizens of that state are entitled; they are entitled to justifications, moreover, which acknowledge that their interests and projects are to be preferred to those of individuals outside the state. If we seek to develop principles of political justice acceptable to all, we now must interpret those whose consent is to be gained as the citizenry of the local community. Insiders have a right, in virtue of their moral equality, to principles all could accept as legitimate in governing their mutual interactions. Outsiders, however, do not have an equivalent standing to challenge the actions and decisions of the state in question. Since the state is commanded to be partial to the

interests of its own citizens, it is no objection to note that the interests of outsiders are not being given equal attention.

Such a view of the relation between the state and the citizen is implicit in much of our ordinary political discourse. It is therefore not surprising that this view would tend to produce conclusions about immigration which are markedly similar to those found in conventional legal practice. We may note two aspects of this picture. One is that immigration will now be largely a matter for discretionary action on the part of the state. If a given state does not see large-scale immigration as in its self-interest, it has the moral right to refuse such immigration. The claims of those who seek admission are not equivalent to the claims of those already here. To say that a given denial of immigration is unjust would, on this account, be an exceptionally difficult proposition to establish. In some very limited set of cases, however, such a case might be made out. This leads us to the second way in which this picture of immigration tracks current legal practice. Liberal nations are bound, by their own laws and by international protocols, to allow foreign citizens to enter upon a showing of some specified forms of persecution; in some cases, then, there is a claim to entry which cannot be rebutted by a showing of disutility on the part of the local citizens. Similarly, most theorists of closed borders admit that there are circumstances under which the general right to exclude outsiders would become unreasonable to exercise. Michael Walzer, for example, argues that a state may have special duties to take in needy foreigners under some highly constrained sorts of circumstances – most notably, when a great evil in the world could be avoided at negligible cost to ourselves (Walzer, 1983: 48–51).

There is something appealing in this picture: it recognizes the existence of a special relationship between the state and its own citizens, and acknowledges that in this relationship the would-be immigrant may be distinct in political status from the present citizen. There is, however, something deeply troubling here as well. The troubling nature of the claim, I think, can best be understood by examining two aspects of the picture under consideration. We may inquire about the precise structure of the argument by which these cultural facts are supposed to legitimate a deviation from impartiality; and we may ask about what circumstances in the world must be presupposed before the argument from culture can legitimate closed borders. I will consider these issues in turn.

We may begin by noting the degree to which these theories depend upon the presupposition that there exists some unified and coherent set of cultural norms within a political community. Increasingly, this is not the case. Most states in the world contain a variety of national communities within themselves (see generally Kymlicka, 1995). Under these circumstances, it is difficult to apply a theory such as Walzer's: legitimating partiality with reference to the local culture is difficult when the very existence of such an animal is in doubt. This in itself might pose a considerable difficulty with the legitimate application of theories such as Walzer's to political practice. What I want to claim here, however, is more than this; I believe that the use of such a methodology to restrict immigration is, in many cases, not simply theoretically unjustified but pernicious. To identify the purpose of the state with the preservation of a cultural group is inevitably to draw an invidious distinction against those citizens who do not happen to belong to that community. In all cases

in which there are national or ethnic minorities – which is to say, the vast majority of actual cases – to restrict immigration for national or ethnic reasons is to make some citizens politically inferior to others. To see this, we might briefly examine Walzer's analysis of the infamous "White Australia" policy, by which the Australian government attempted to define Australia as a white society and prevent non-white immigration. Walzer condemns this policy, but in what I find an objectionably weak way. The White Australia policy, on Walzer's reading, was only contingently wrong, based upon certain facts of territorial use in the Australian outback. There is not, however, anything morally wrong with the goal itself – that of creating an ethnically pure society:

Assuming, then, that there actually is superfluous land, the claim of necessity would force a political community like that of White Australia to confront a radical choice. Its members could yield land for the sake of homogeneity, or they could give up homogeneity (agree to the creation of a multiracial society) for the sake of the land. And those would be their only choices. White Australia could survive only as Little Australia. (Walzer, 1983: 46–8)

There is, I think, something important here that Walzer overlooks. It is the fact that Australia was not, and indeed never was, a purely ethnic society trying to maintain itself as such. It, like most of the world, was a state containing within its borders multiple cultural traditions and ethnic groups – most notably, of course, a large population of Aboriginal Australians. It is unclear to what extent Walzer intends his example to mirror the historical case of the policy, but his use of the example suggests that he sees nothing wrong with a society attempting to define itself in a way that differs from the way in which it is currently constructed. Walzer's analysis, then, seems not to condemn an Australian government presiding over a multi-ethnic Australia from attempting to *create* White Australia through restrictive immigration. This, I think, cannot be correct. Even if a hypothetical pure society could close the borders to preserve itself, a modern multi-ethnic democracy could not do so without implicitly treating some individuals already present within the society as second-class citizens. Seeking to eliminate the presence of a given group from your society by selective immigration is insulting to the members of that group already present; this is a problem, I think, even if we accept Walzer's premise that only insiders have voices with which to challenge policy.

This difficulty, I think, is even more evident in popular political analyses of immigration such as that offered by Peter Brimelow (1996). Brimelow argues for racial quotas on immigration to the United States in terms quite similar to those employed by Walzer. The United States, on this analysis, is a cultural and ethnic nation whose identity is defined by its cultural and ethnic ties with Europe. Widespread immigration of non-Europeans would therefore undermine the unity and continuity of the cultural traditions Brimelow identifies as specifically American. It does not take too much political theorizing to see how much this theory degrades the status of non-European citizens by defining non-European foreigners as undesirable candidates for immigration. This is as good as saying that non-Europeans generally are detrimental to the American project. Such a statement would, of course, be

unacceptable to non-European citizens; and Brimelow's approach to immigration would thus be unacceptable *even if* those outside the borders were assumed to have no moral status at all. The statement is, moreover, somewhat repellent on its face; if the American project means anything, it means that arbitrary classifications such as race and descent are to be overcome, not made foundational in the nation's self-description.

This leads us to the latter of the two objections I think can be pressed against theorists of closed borders. This analysis defends closed borders as legitimate implications of local partiality. If we wish to regard ourselves as liberals, some account must be given of precisely how this partiality to insiders is to be justified. There are, I think, two ways of doing this from within the liberal project. The first is to take the closing of borders as beneficial to all citizens throughout the world. It might be the case, on this analysis, that a world without walls would be an unpleasant, deracinating place to live; good fences, on this account, make for good lives. Each state looking after its own might be, in the end, justifiable in a way respecting moral equality. This is then to justify partiality with reference to the equal moral status of all; it is to offer an impartial defense of partiality (Walzer, 1983: 39; the passage is quoted approvingly in Rawls, 1999: 39, n48; see also Goodin, 1988). The alternative is simply to argue that we have no need to inquire about the effects of closed borders on the world as a whole; we are better off with closed borders, and the partiality legitimated by cultural facts means that this is all we have to do to justify them. On this analysis, liberalism itself ought to be revised; it is a theoretical structure with an inherent range limitation (for the idea of which, see Waldron, 1993). Liberalism's guarantee of impartial moral concern has always been a sort of shorthand. The fuller version insists that liberal governments must be impartial *between* citizens, and partial *towards* them.

The first version insists that a world without borders is unlikely to be the best sort of world that limited creatures such as ourselves could inhabit. I am unsure about the strength of this argument as an abstract statement. Local difference, as Carens has noted, flourishes quite nicely *within* states, in the absence of legal restrictions on movement; Alabama is not California, even though citizens of the one could freely emigrate to the other (Carens, 1987: 266–7). I am more sure, however, that this argument is quite inadequate as a justification for the closure of borders in the present, non-ideal world. Whether or not borders would benefit all in the ideal world, they do not do so in our present world of economic inequality. To insist upon the beneficial effects of the border to a destitute would-be immigrant from the developing world is vaguely obscene. Will Kymlicka seems to acknowledge the force of this objection, asserting that a nation which has more than its fair share of resources thereby loses the right to exclude, which he has otherwise defended (Kymlicka, 1995: 224, n18; see also Rawls, 1999: 8–9). This admission, I think, is commendable; it does, however, demonstrate the degree to which restrictive arguments like Kymlicka's cannot be seriously used to justify current state practice.

The alternative is to redescribe liberalism so that its guarantee of moral equality applies only within the national community, rather than universally. On this account, liberalism's guarantees are inherently limited in range: states are to treat all *citizens* as equal in moral status, but they are under no such constraints as regards

foreigners. Many popular analyses of immigration, I think, implicitly employ this analysis; it allows us to make judgments about immigration based solely upon the economic and social interests of the local community (see, for example, Beck, 1996; Brimelow, 1996). This picture of liberalism, I think, has certain advantages: it solves the difficulty of developing a liberal theory of immigration – liberalism, on this account, *has* no direct implications for immigration. The problem, however, is that it saves liberalism at the cost of making it rather unappealing. Most liberal theorists are committed to the equality of *persons*, not just of citizens; there is something morally significant about human beings which makes them appropriate objects of egalitarian thought, and this something – whatever it is – does not depend upon legal standing. To place an arbitrary limit on the applicability of liberalism would be to rob liberalism of its intuitive pull. As Carens points out, moreover, liberals have often been surprised by the implications of their commitments; liberalism has had implications for racial and gender equality its initial formulators would have found baffling. To rephrase liberalism so that such surprising results are ruled out *ab initio* might save us from having to deal with problematic cases, but it would do this by making liberalism neither useful nor attractive.

The arguments in favor of closed borders, then, seem problematic at best. I think one basic conclusion given by the theorists described above is correct: exclusion is not inherently illiberal. The methodology used to establish this claim, however, is deeply flawed. The flaw in this methodology, I believe, is equivalent to that identified in the earlier discussion of open borders. The insight guiding those who justify exclusion is that liberal politics cannot be done in the way Carens suggests; we simply could not begin our deliberations with all of humanity, and thereby develop global political principles which could guide our mutual interactions. The relationship between the individual and the local community is morally significant, and we could not use this methodology without undermining that relationship. So, instead, these theorists reduce the range of moral concern to the local community, by seeking to justify a partiality which is in most practical cases equivalent to an absolute trump. We deal with the difficulties involved in globalizing politics by localizing moral concern.

This is, however, not the only way to proceed. It is possible for us to acknowledge moral equality, and yet insist that this moral equality will have distinct implications in distinct political contexts. Local rights may be distinct without those rights being premised upon the reduced moral status of outsiders. I have already given an account of how both mobility rights and political rights might be understood as resulting from the need to justify political authority to specifically those individuals who face such authority. Such an analysis does not depend upon outsiders being subjected to a moral discount rate in our evaluation of their claims. It acknowledges that we can be moral egalitarians and none the less justify distinct political rights under distinct political circumstances. It would have the distinct advantage, I think, of not denigrating the moral equality of foreign citizens. We need only insist that what claims can be made against a given state take account of the claimant's relationship to that state. Citizens are entitled to some things that foreigners are not, but we have no need to deny our moral egalitarianism in the course of establishing this conclusion.

Conclusion

As I noted at the outset, I believe a single error informs much of what has been written about immigration. The conventional methodology of liberalism is quite inappropriate for use when the question is not one affecting the rights of members, but the composition of membership itself. To use the political egalitarian framework to develop principles of immigration is either to assume the border as moral watershed or to assume away potentially relevant political differences. Neither is attractive as a liberal vision of immigration.

What we therefore need, I think, is a fresh beginning in our task. What we ought to do is to see what moral equality actually implies when it is interpreted in the international context. This task, I think, is exceptionally difficult. I will therefore end simply by asserting two conclusions that I think would follow from a theory developed in this way. The first conclusion, I think, would be that much of the exclusion we currently employ is illegitimate. Moral equality may not have the same distributive constraints internationally as it does domestically, but it must condemn certain sorts of poverty and immiseration as illegitimate. Restrictions on immigration which help perpetuate such poverty – as, I think, those of all Western liberal democracies now do – are illegitimate. If this is correct, then the category of those whose claim to immigration may not be refused is wider than we usually think: in particular, those fleeing famine and extreme poverty have legitimate claims to entry, despite the absence of such persons from our current categories of refugee law (see Shue, 1996). The second conclusion, however, would be that not all forms of exclusion are unjust. To take my own example: I am a Canadian citizen, who is currently seeking immigrant status in the United States. If I were to be excluded, there are a variety of things I could say. I could point out that the United States had, by its actions, adversely affected my well-being. I could note that it was precluding me from exercising valuable options. I could say that the decision was disheartening, unwelcome, and incredibly disruptive to my plans. What I do not think I could say is that the decision was inherently *unjust*. A United States citizen has claims against the United States government that I do not: preventing such a citizen from taking a job in Boston is quite a different matter, morally speaking, from so excluding me.

These conclusions, of course, do not constitute a theory. They are regrettably sketchy and insufficiently justified. I would take these facts, however, to serve as an invitation. We do not have enough good philosophical minds presently examining the issue of immigration. Given the political importance of this issue, the world could only benefit from careful and precise analysis of the moral issues involved. We have not developed an adequate theory of immigration, but we may hope that the best philosophical work in this area has yet to be written.

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