

Is There a Right to Immigrate?

1. The Immigration Question

Every year, close to one million individuals from foreign nations immigrate to the United States legally. But many more are turned away. Individuals seeking to enter without the permission of the U.S. government are regularly barred at the border, and those discovered in the territory without authorization are forcibly removed. The government expels over one million people from the country each year.¹ Hundreds of thousands continue to try to smuggle themselves in, occasionally dying in the attempt.² On the face of it, this raises ethical questions. Is it right to forcibly prevent would-be immigrants from living in the United States? Those excluded seem, on the face of it, to suffer a serious harm. Why are we justified in imposing this harm?

Some reason that, just as a private club may exercise its discretion as to whom to admit or exclude, so a nation-state has the right to choose whom to admit or exclude. Some believe that we must exclude most would-be immigrants in order to maintain the integrity of our national culture. Others argue that immigrants cause economic hardship for existing citizens—that they take jobs from American workers, depress wages, and place an undue burden on social services provided by the state. Some go so far as to warn that unchecked immigration would bring on environmental, economic, and social catastrophes that would reduce the United States to the status of a Third World country.

Few would question the state's right to exclude at least some potential migrants—for example, the

¹U.S. Department of Homeland Security 2008, pp. 5, 95.

²In 2005, a total of 472 people died while attempting to migrate illegally into the United States. Many died from exposure in the Arizona desert; other causes of death included drowning, motor vehicle accidents, and homicide (U.S. Government Accountability Office 2008, pp. 3-4, 59). Despite its efforts, the government estimates that 11.6 million people have succeeded in immigrating to the U.S. illegally (U.S. Department of Homeland Security 2009).

state may deny entry to international terrorists or fugitives from the law. The interesting question concerns the vast majority of other potential immigrants—ordinary people who are simply seeking a new home and a better life. Does the state have the right to exclude these ordinary people?

In the following, I argue that the answer to this question is no. I shall assume that we are considering ordinary, noncriminal migrants who wish to leave their country of origin for morally innocent reasons, whether to escape persecution or economic hardship, or simply to join a society they would prefer to live in. Though I shall conduct the discussion in terms of the situation of the United States, which faces unusually strong immigration pressure, most of my arguments apply equally well to other countries. My strategy is to argue, first, that immigration restriction is at least a *prima facie* violation of the rights of potential immigrants. I then confront the most popular justifications offered for restricting immigration, finding that none of them offers a credible rationale for claiming either that such restriction does not violate rights or that the rights violation is justified. I assume at the start that individuals have at least some rights that exist prior to the state. I do not assume, however, that these rights are absolute; in some cases, I believe, the normative force of individual rights may be outweighed. But immigration policy is not such a case.

2. Immigration Restriction as a *Prima Facie* Rights Violation

A *prima facie* rights violation is an action of a sort that *normally*—that is, barring any special circumstances—violates someone's rights. For example, killing a human being is a *prima facie* rights violation: in normal circumstances, to kill someone is to violate his rights. But there are special circumstances that may alter this verdict: euthanasia and self-defense killings do not violate rights, for instance. Furthermore, even when an action violates rights, it may sometimes be justified nevertheless. Killing one innocent person may be justified, though a violation of the victim's right to life, if it is

necessary to prevent the deaths of one million others. Or so I assume.

The claim that an action is a prima facie rights violation, then, is not a very strong claim. It does not entail that the action is wrong, all things considered, for there may be special circumstances that prevent the action from being an actual rights-violation, or that render it justified despite its violation of rights. But nor is the claim entirely without force: to accept that an action is a prima facie rights-violation has the effect of shifting a normative presumption. It becomes the burden of those who advocate the act in question to identify the special exculpatory or justificatory circumstances that make what tends to be a wrongful rights violation either not a rights violation in this case, or a justified rights-violation. Those who oppose the act in question need only rebut such efforts.

Laws restricting the flow of immigration have three characteristics that, in concert, flag these laws as prima facie rights violations. First, the laws are *coercive*. That is, immigration restrictions are implemented through threats of physical force. Borders are patrolled by armed guards, and armed officers forcibly remove those who are discovered residing in the country illegally.

Second, the laws are highly *restrictive*³. That is, they significantly interfere with individuals' ability to control their own destinies. They prevent individuals from living where they wish to live. For most of those affected, the choice that is thereby closed off is an extremely important one, one with profound implications for the rest of those individuals' lives. Few decisions are so important as the choice of what society to live in. In addition, immigration laws prevent those already living within the United States from interacting with would-be immigrants in ways that they would otherwise choose—for instance, from employing the would-be immigrants, renting them apartments, or entering into other business and social relations.

Third, the laws are extremely *harmful* to most of the individuals who are thus restricted. Few

³This characteristic is related to but distinct from the *coerciveness* of the laws—punching someone constitutes coercion, in the sense of an exercise of force, but it need not be restrictive, since it need not function to preclude any significant choices on the part of the victim.

Americans would have any doubt that, if someone were to force them to live in the Third World for the rest of their lives, whoever did this would thereby visit a great harm upon them. The harm to potential immigrants from the Third World who are denied entry to the United States, or to illegal immigrants who are forcibly expelled, is of the same kind and approximate magnitude.⁴ U.S. immigration policy forces millions to live in the Third World who could have better lives in America if only the American government were to step out of the way. Also harmed are some of the families of potential immigrants, who might have received financial assistance from their relatives in America.

There are two distinctions in ethical theory that might be used to cast doubt on my claim about the harmfulness of immigration restriction. First, some believe that there is an important distinction between doing and allowing, or between *inflicting* a harm on someone and merely *allowing* a harm to befall someone. Perhaps the harms suffered by the inhabitants of the Third World are harms that the U.S. government merely *allows* to occur, rather than harms that it *inflicts*. A second, related distinction is that between *harming* someone and merely *failing to confer a benefit* on someone. Perhaps the U.S. government merely fails to confer a benefit on potential immigrants—the benefit of citizenship—rather than actually harming them.

Both of these suggestions fail. It is possible to harm someone not only by directly inflicting a harm, but also by actively preventing that person from taking actions to avert or remedy a harm. Suppose that, through no fault of mine, Marvin is in danger of starvation. He asks me for food. If I refuse to give him food, I thereby *fail to confer a benefit* on Marvin and, at the same time, *allow* Marvin to go hungry. If Marvin then starves to death, those who accept the doing/allowing distinction would say that I have not *killed* Marvin, but merely *allowed* him to die. And some believe that this is much less

⁴American citizens who were forcibly expelled would suffer separation from their families and their culture, making their loss greater than that of would-be immigrants who are denied entry. A closer analogy, for purposes of envisaging the harm suffered by would-be immigrants, would be a situation in which one's entire family is forced to live in a Third World country.

wrong than killing, possibly not even wrong at all.⁵ But now consider a different case. Suppose that Marvin, again in danger of starvation, plans to walk to the local market to buy some food. In the absence of any outside interference, this plan would succeed—the market is open, and there are people willing to trade food for something that Marvin has. Now suppose that, knowing all this, I actively and forcibly restrain Marvin from reaching the market. As a result, he starves to death. In this situation, I would surely be said to have killed Marvin, or at least done something morally comparable to killing him.⁶

The actions of the federal government of the United States are more analogous to the case in which I restrain Marvin from reaching the market, than to the case in which I merely decline to provide him with food. The government's immigration policy is not a merely passive one—the government does not, for example, merely fail to assist people in coming to the United States. Rather, the government hires armed guards to stop people from coming in and to forcibly expel people who are already here. The federal government spends almost \$13 billion a year on actively excluding or expelling unauthorized immigrants.⁷ The United States is like the market where would-be immigrants could satisfy their needs. There are Americans willing to hire immigrants, to rent them living spaces, and in general to engage in all other kinds of needed interactions with immigrants. My charge is not that the U.S. government fails to give Third World inhabitants what they need. It is that the government actively and coercively prevents many Third World inhabitants from taking a course of action that they otherwise would undertake and that would in fact succeed in enabling them to meet their needs. This is much closer to inflicting a harm than it is to merely allowing a harm to occur.

⁵Narveson 1993, pp. 138-50.

⁶Narveson (1993, p. 139) seems to confirm this judgment, characterizing a case of preventing someone from obtaining food as murder.

⁷U.S. Office of Management and Budget 2009.

In some respects, of course, the government fails to confer benefits on those who are denied entry into the country. The U.S. government fails to grant them citizenship and fails to provide them with social services. But none of that is what I am flagging as indicative of a prima facie rights violation. The government's exclusion of these individuals from the territory of the United States is a distinct action—conceivably, immigrants could be allowed to reside in the territory and trade with Americans, without being granted citizenship or the right to receive social services. The point is not that the state ought to adopt this policy, but simply that a denial of citizenship is distinct from a prohibition on occupying the territory. The former, perhaps, is a mere failure to confer a benefit. But the latter is a harm.

Some might deny that the U.S. government harms would-be immigrants from the Third World, because the U.S. government is not the cause of the dire economic or political circumstances in which many of those individuals find themselves, the circumstances that prompt them to want to migrate in the first place. Granting that the U.S. government is not the primary cause of those circumstances, a case could be made that in some cases, the U.S. government has acted to exacerbate the problems.⁸ But we may leave that issue aside here. Whether or not the government is a major cause of Third World inhabitants' present situation, the government is responsible for their remaining in that situation, if the government actively and coercively prevents them from getting out of it. That is the lesson of the Marvin example above: we can stipulate that I was no part of the originating cause of Marvin's present situation of being hungry and out of food. Perhaps Marvin suffered from crop failures on his farm, or perhaps someone else stole all his food. Whatever the origin of the problem may be, assume that I had nothing to do with it. Even so, if I prevent Marvin from getting more food, I then become responsible (perhaps in addition to other people who also wronged him) for his subsequent death by starvation, if Marvin would have been able to save himself in the absence of my interference.

Legal restrictions on immigration, then, are harmful, coercive restrictions. Actions of this kind are

⁸Pogge 2008, pp. 218-22.

normally rights violations. No agent can simply presume an entitlement to act in such a way, without being able to identify the special circumstances rendering the harmful coercion justified. My claim at this point, again, is not that immigration restriction is wrong *tout court*, but that those defending the policy incur a burden of providing a special justification for harming potential immigrants. In light of the great seriousness of the restrictions and harms involved in this case, the justification for immigration restrictions must be correspondingly clear and powerful. Let us turn now to the grounds that have been offered by proponents of restriction.

3. The Economic Effects of Immigration

In popular discourse, the most common sort of argument for limiting or eliminating immigration is economic. It is said that immigrants take jobs away from American workers, and that they cause a lowering of wage rates due to their willingness to work for lower wages than American workers.⁹ At the same time, economists are nearly unanimous in agreeing that the overall economic effects of immigration on existing Americans are positive.¹⁰ These claims are mutually consistent: there are certain industries in which immigrants are disproportionately likely to work. Preexisting workers in those industries are made worse off due to competition with immigrant workers. According to one estimate, immigration during the 1980's may have reduced the wages of native-born workers in the most strongly affected industries by about 1-2% (5% for high school dropouts).¹¹ At the same time, employers in

⁹Vroman 1995; Beck 1996, pp. 9-10.

¹⁰Simon and Moore (1989) surveyed a select group of twenty-seven highly respected economists, those who had been either presidents of the American Economic Association or members of the President's Council of Economic Advisors. Twenty-two respondents said that the effect of twentieth century immigration on the U.S. economy has been "very favorable." The remaining five characterized the effect as "slightly favorable." None found it unfavorable, and none said that they didn't know. Caplan (2007, pp. 58-9) discusses similar, though less extreme results, from the Survey of Americans and Economists on the Economy.

¹¹National Research Council 1997, pp. 6-7.

those industries and customers of their businesses are made better off due to lower production costs, and the economic gains to these latter groups outweigh the economic losses to the workers. Some economists have accused immigration opponents of overlooking the economic benefits of immigration due to a bias against foreigners or members of other races.¹²

Let us leave aside the question of the overall effects of immigration on the economy, and focus instead on the following question. Granted that immigration makes some American workers economically worse off, does this constitute an adequate justification for immigration restriction? Does it show that immigration restriction does not violate the rights of would-be immigrants, or that if it does, the rights-violation is nevertheless justified?

Immigration restriction is an extremely harmful and coercive restriction. There are indeed circumstances that may justify such harmful coercion—for instance, harmful coercion is justified in some cases because it is carried out in self-defense. In other cases, it may be justified because it is necessary to prevent much worse consequences. And perhaps it may also be justified if it is carried out in punishment for wrongdoing. In a general theory of the ethics of coercion, much more would need to be said about the conditions under which justifications of each of these kinds, and perhaps other kinds, succeed. But we need not discuss those conditions here. For present purposes, all we need consider is whether the following constitutes a valid justification for harmful coercion: that the coercive action is necessary to prevent someone else from suffering slight economic disadvantage through marketplace competition.

Consider two related examples. In the first example, I am being considered for a particular job, for which I know that Bob is the only other candidate. I also know that Bob is willing to work for a lower salary than the salary that I could obtain if I were the only candidate. Suppose that, on the day Bob is scheduled to have his job interview, I accost him and physically restrain him from going to the

¹²Caplan 2007, pp. 58-9; Simon 1989, pp. 11, 354-5.

interview. When confronted about my seemingly unacceptable conduct, I explain that my action was necessary to protect myself against Bob's taking the job that I would otherwise have, or my being forced to accept a lower salary in order to get the job. Does this provide an adequate justification for my behavior? Does it show that, contrary to initial appearances, my harmful coercion does not really violate Bob's rights? Alternately, does it show that my action, though a rights violation, was a justified rights violation?

Certainly not. The mere fact that Bob is competing with me for a job that I desire, or that Bob is willing to accept a lower salary than I could obtain if I did not have to compete with him, does not invalidate or suspend Bob's right not to be subjected to harmful coercion. Nor does my interest in having less economic competition *outweigh* Bob's right not to be coercively harmed. If my need for the job in question were much, much greater than Bob's need, then some might argue that I would be justified in overriding Bob's rights. We need not decide exactly when a right may be overridden, nor whether a greater economic need could constitute an adequate basis for overriding a competitor's right to be free from harmful coercion; we need not decide these things here, because we can simply stipulate that Bob has at least as much need for the job for which we are competing as I do. In such a case, no one would say that Bob's right to be free from coercive harms is suspended or outweighed.

My second example is a modified version of the Marvin example from section 2 above. Marvin is in danger of starvation. Fortunately, he can walk to a market and buy bread there, which will preserve his life. Due to his economic circumstances, Marvin will have to buy the cheapest bread available at the market. My daughter, however, also plans to go to the market, slightly later in the day, to buy some of this same bread. This bread is often in short supply, so that the vendor may run out after Marvin's purchase. My daughter could buy more expensive bread, but she would prefer not to. Knowing all this, I fear that if Marvin is allowed to go to the market, my daughter will be forced to pay a slightly higher price for bread than she would like. To prevent this from happening, I accost Marvin on the road and

physically restrain him from traveling to the market. Is my action permissible?

Suppose I claim that my harmful coercion of Marvin does not violate his rights, because it is necessary to protect my daughter from economic disadvantage. Certainly this defense falls flat. A person's right to be free from harmful coercion is not so easily swept aside. Likewise for the suggestion that my action, though a rights violation, is justified because my daughter's interest in saving money outweighs Marvin's rights. No one would accept such feeble justifications.

Yet this seems analogous to the common economic argument for immigration restriction. The claim seems to be that we are justified in forcibly preventing individuals—many of whom are seeking escape from dire economic distress—from entering the American labor market, because American workers would suffer economic disadvantage through price competition. No one claims that American workers would be disadvantaged to anything like the degree that potential immigrants are disadvantaged by being forced to live in the Third World. Nevertheless, the prospect of a modest lowering of American wages and narrowing of employment opportunities is taken to either suspend or outweigh the rights of Third World inhabitants. The ethical principle would have to be that a person's right to be free from extremely harmful coercion is sometimes held in abeyance simply by virtue of the fact that such coercion is necessary to protect third parties from modest economic disadvantage resulting from marketplace competition. The implausibility of this principle is shown by the examples of Bob and Marvin above.

My examples might be criticized for their omission of one seemingly important factor, that of *citizenship*. The characters in my examples are members of the same society, and none of the characters stand to one another in the same relationship as a citizen stands to his government. The potential moral relevance of citizenship is best addressed under the heading of another argument for immigration restriction, to which we turn presently.

4. The State's Duty to Its Citizens

Perhaps immigration restriction can be justified by reflection on the special obligations governments owe to their own citizens, as distinct from foreign nationals. Few doubt that there are such duties. States must provide their citizens protection from criminals and hostile foreign governments. A state does not have the same obligation to protect foreign nationals from criminals or other governments. Those who endorse a social contract theory of political authority may explain this by appeal to the fact that non-citizens of a given state are not party to the social contract with that state; the state therefore lacks the contractual obligations to non-citizens that it bears to citizens.

Perhaps this leads to a rationale for immigration restriction.¹³ Perhaps the state has a general duty to serve the interests of its own citizens, including their economic interests, and no such duty, or no duty nearly as strong, to further the interests of foreign nationals. As a result, when the interests of American citizens come into conflict with those of foreigners, the American government must side with its own citizens, even when this results in a lowering of global social utility. Limitations on migration into the United States run contrary to the interests of would-be immigrants, but since those would-be immigrants are not presently U.S. citizens, the U.S. government has either no duty or a much weaker duty to consider their interests, as compared to the interests of its own citizens. Perhaps this gives some traction to the argument that American workers are disadvantaged because of competition with immigrants. Alternately, one might argue that immigrants impose a financial burden on government providers of social services—such as health care, education, and law enforcement—since immigrants pay less in taxes than the costs of the social services they consume.¹⁴ Since these social programs are financed through revenues collected from existing U.S. citizens, the government's

¹³See Isbister 2000.

¹⁴Brimelow 1996, pp. 146-155.

consideration for the interests of its current citizens dictates that it limit the amount of immigration into the country.

Begin with the observation that immigration disadvantages American workers through labor market competition. There are two obstacles to regarding this as a justification for immigration restriction, even if we accept that the state has a much stronger obligation to protect the interests of its own citizens than it has to protect the interests of others. First, only some current citizens would be disadvantaged by increased immigration—those citizens who work in industries that immigrants are disproportionately likely to join. This is a relatively small portion of the population. All other current citizens would either fail to be significantly affected or actually be benefitted by increased immigration. As mentioned earlier, economists believe that the overall economic impact of immigration on current citizens is positive. Thus, if we consider only the interests of current citizens, it is at best unclear that immigration restrictions are beneficial. If we also give *some* weight to the interests of the immigrants themselves, it seems that the case for free immigration is clear.

Second, there are some obligations that any moral agent owes to other persons, merely in virtue of their status as persons. The special obligations that governments owe to their citizens, whatever these obligations may consist in, do not eliminate the basic obligation to respect the human rights of non-citizens. In particular, the government's duty to give special consideration to its own citizens' interests cannot be taken to imply that the government is entitled to coercively impose grave harms on non-citizens for the sake of securing small economic benefits for citizens.

Consider again the case of starving Marvin. In the last version of the story, I coercively prevented Marvin from reaching the local marketplace, on the grounds that doing so was necessary to prevent my daughter from having to pay a higher than normal price for her bread. This action seems unjustified. Would I succeed in defending my behavior if I pointed out that, as a father, I have special obligations to my daughter, and that these imply that I must give greater weight to my daughter's

interests than to the interests of non-family members? Certainly the premise is true—if anything, parents have even stronger and clearer duties to protect the interests of their offspring than a government has to protect its citizens' interests. But this does not negate the rights of non-family members not to be subjected to harmful coercion. My special duties to my offspring imply that, if I must choose between giving food to my child and giving food to a non-family member, I should generally give the food to my child. But they do not imply that I may use force to stop non-family members from obtaining food, in order to procure small economic advantages for my children.

Next, consider the charge that immigrants create a fiscal burden due to their consumption of social services. On the whole, immigrants pay slightly less in taxes than the cost of the social services they consume.¹⁵ This is mainly because immigrants tend to have lower than average incomes, and thus pay relatively low taxes.¹⁶ Some economists believe, however, that in the long run (over a period of decades), increased immigration would have a net positive fiscal impact.¹⁷

Assume that immigrants impose a net fiscal burden on government. Would this fact justify forcibly preventing a large number of potential immigrants from entering the country? To answer this, first we must ask whether the state presently has an obligation to provide social services to potential immigrants, even at a net cost to the state. On some theories of distributive justice, it could be argued that the state has such an obligation, even though these potential immigrants are not presently citizens.¹⁸ If so, then the state obviously may not exclude potential immigrants for the purpose of shirking this duty.

¹⁵The National Research Council (1997, p. 10) estimated that a 10% increase in immigration would impose an increased annual fiscal burden of \$15 to \$20 per household on existing Americans. As the Congressional Budget Office (2007) reports, the most costly government services used by immigrants are public school education, health care, and law enforcement.

¹⁶National Research Council 1997, p. 11.

¹⁷National Research Council 1997, pp. 11-12.

¹⁸Carens 1987, pp. 255-62.

Suppose, on the other hand, that the state has no such obligation to provide social services to potential immigrants, at least not without collecting from them sufficient revenues to cover the expenditure. If this is true, the state would perhaps be justified in denying social services to immigrants, raising taxes on immigrants, or charging special fees to immigrants for the use of social services. But it remains implausible that the state would be justified in excluding potential immigrants from the territory entirely. It is not typically a satisfactory defense for a harmful act of coercion to say that, because of a policy one has voluntarily adopted, if one did not coerce one's victim in this way, one would instead confer a benefit on the person that one does not wish to confer.

Suppose, for example, that I run a charity organization. I have made a policy of offering free food to all poor people who enter the local marketplace. Unfortunately, my organization is running a little short on cash, so I am looking for ways to cut costs. When I learn that Marvin is heading to the market to buy some food, I decide to save money by forcibly preventing him from reaching the market. Marvin would be better off being allowed into the marketplace, even without the free food I customarily give out, since he could still buy some inexpensive food with his limited funds. But I have already made a policy of offering free food to all poor people in the marketplace, so I would in fact offer free food to Marvin, were he to make it there. Is it permissible for me to coercively inflict a serious harm on Marvin, in order to avoid having to either break my policy or give free food to Marvin?

Surely not. Perhaps I would be justified in altering my policy and refusing to give free food to Marvin when he arrives at the marketplace—this would be permissible, provided that I have no humanitarian obligation to assist Marvin. But whether or not I have any such humanitarian duties, I surely have no right to actively prevent Marvin from getting his own food. If Marvin had been coming to the market to *steal* my food, perhaps then again I would be justified in excluding him. Even this claim would be controversial; if Marvin's condition of need were sufficiently urgent, some would say that I must let him take my food. But whatever one thinks about that question, surely I cannot justify barring

Marvin from the opportunity to *buy* food from others, merely on the grounds that if I permit him to do so, then I will also voluntarily *give* him some food.

I have considered both the possibility that the state owes potential immigrants a duty to help them satisfy their needs, and that the state owes them no such duty. But perhaps the situation is more complex. Perhaps the state presently owes no humanitarian duty to aid potential immigrants, but if and when they become residents in its territory, the state will *then* owe them a duty to provide the same level of services as it provides to native-born citizens. If so, the state could not, ethically, protect its financial interests by opening the borders and simply providing lower levels of social services to the mass of incoming immigrants.

In assessing this view, we must take account of the distinction between residents and citizens. It is much more plausible that states are obligated to help citizens satisfy their needs, than that states are obligated to help all *residents* do so. So it is not clear that the suggestion of the preceding paragraph could justify preventing foreigners from residing in the United States, as opposed to justifying a refusal to grant citizenship. Nevertheless, let us assume that the state has a duty to offer equal levels of social services to all residents, once they are here. Even if mere residency somehow entitles one to equal levels of social services with native-born citizens, it is very implausible that this entitlement is *inalienable*, that is, that it cannot be voluntarily waived. The state therefore has at least one available strategy, apart from immigration restriction, for protecting its financial interests. This is to make a grant of legal residency or citizenship to potential immigrants contingent on the immigrants' agreement to waive their right to receive certain social services.¹⁹ Alternately, the state could require new immigrants to agree to pay a higher tax rate, sufficient to cover the government's expected costs. The point is not that the state in

¹⁹The United States federal government already bars legal resident immigrants from receiving means-tested federal assistance for five years after their arrival (Broder and Blazer 2008). However, the federal government generally requires state and local governments to provide social services to all residents, without regard to immigration status (U.S. Congressional Budget Office 2007).

fact ought to do either of these things; the point is simply that the availability of these alternatives undercuts any justification the state could plausibly be claimed to have in virtue of its fiscal interests for excluding most potential immigrants from the country. In general, whether one may coercively harm innocent others to protect one's economic interests is open to debate. Perhaps there are circumstances in which one may do so. But surely one may not do so when there exist non-coercive and much less harmful ways to achieve the same end.

5. Cultural Preservation

In the view of some philosophers, states are justified in restricting the flow of immigration into their territories for the purposes of preserving the distinctive cultures of those nations.²⁰ If too many immigrants from other cultures arrive, they could alter the culture of the nation. Existing citizens have attachments to their present culture and thus have an interest in preventing such change from occurring.

This argument can be questioned both on empirical grounds and on ethical grounds. Empirically, it is doubtful whether apprehensions about the extinction of American culture are warranted. Around the world, American culture, and Western culture more generally, have shown a robustness that prompts more concern about the ability of other cultures to survive influence from the West than vice versa. For example, Coca-Cola now sells its products in over 200 countries around the world, with the average human being on Earth drinking 4.8 gallons of Coke per year. McDonald's operates more than 32,000 restaurants in over 100 countries. The three highest grossing movies of all time, worldwide, were *Titanic*, *The Lord of the Rings: The Return of the King* and *Pirates of the Caribbean: Dead Man's Chest*. All three were made by American companies, but two thirds of the box-office receipts came from outside the

²⁰Brimelow 1996, pp. 178-81; Tamir 1993, pp. 158-60; Walzer 1983, pp. 38-41.

United States. The television show, *Who Wants to Be a Millionaire?*, has been franchised in over 100 countries worldwide, including such diverse places as Japan, Nigeria, Venezuela, and Afghanistan.²¹ Whether one sees the phenomenon as desirable, undesirable, or neutral, Western culture has shown a remarkable ability to establish roots in a variety of societies around the world, including societies populated almost entirely by non-Western people. This robustness suggests that American culture is in no danger of being eradicated from America, even if America should drastically increase its rate of immigration. Other societies may have cause to fear the loss of their cultures due to foreign influence, but America does not.

Suppose, however, that I am mistaken about this. Suppose that open immigration would lead to drastic changes in American culture. Would this provide a justification for immigration restriction? More generally, can one be justified in harmfully coercing others, solely because doing so is necessary to prevent those others from altering the culture of one's society? Suppose that a number of your neighbors have been converting to Buddhism or selling their homes to Buddhists. Because of this, your neighborhood is in danger of being changed from a Christian to a Buddhist community. The Buddhists do not coercively interfere with your practice of your own religion, nor do they do anything else to violate your rights; still, you object to the transformation, because you would prefer to live among Christians. If you catch on to what is happening in the early stages, are you ethically entitled to use force to stop your neighborhood from becoming Buddhist?

Consider a few ways in which you might go about this. You might forcibly interfere with your neighbors' practice of their religion. You could go to their houses, destroy their Buddha statues, and replace them with crucifixes. You could force your neighbors to attend Christian churches. You could

²¹Workman 2006a; 2006b; Box Office Mojo 2009; BBC News 2005; Daily Mail Reporter 2008. *Who Wants to Be a Millionaire* originated in Britain. The web sites for the Nigerian, Venezuelan, and Japanese versions of the show can be viewed, respectively, at <<http://www.millionairenigeria.com/>>, <<http://www.rctv.net/Programacion/VerPrograma.aspx?ProgramacionId=24>>, and <<http://wwwz.fujitv.co.jp/quiz/index.html>>.

forcibly expel all Buddhists from the neighborhood. Or you could forcibly prevent any Buddhists from moving in. All of these actions seem unacceptable, and they seem unacceptable regardless of whether they are carried out by a private individual, by a local government, or even by a national government. Almost no one believes that the national government may forcibly interfere with the private practice of one's religion, or force one to practice the dominant religion, or forcibly expel people who belong to a minority religion. And few would condone a national government's excluding immigrants on grounds of their religion. Why is this?

One plausible account of why those actions are impermissible is this: one generally may not forcibly interfere with or harm others, solely for the purpose of securing something that one does not have a right to. One does not have a right that other people around one practice the religion that one prefers.²² Therefore, one may not forcibly interfere with or harm others, solely to bring it about that other people around one practice the religion that one prefers. Similarly, one has no right that others around one speak the language one prefers, dine on foods familiar to oneself, dress in familiar clothing styles, or create a particular style of art. It seems plausible to generalize to the principle that one has no right to be surrounded by people practicing a particular culture. One therefore may not coercively harm others to bring about this end.

Some may reject the ethical principle of the preceding paragraph. Let us leave that principle aside, and argue now on the basis of another analogy. Once again, imagine that I have coercively prevented Marvin from reaching the local marketplace, where he would have bought food needed to sustain his life. My earlier justifications for my action having fallen flat, I mention that I had yet another reason. Marvin practices very different traditions from most of the other people in the marketplace. For instance, he wears unusual clothing, belongs to a minority religion, speaks a different language from

²²I take this principle to be true on both a *de re* reading (about the other people around one, one has no right that those particular people practice one's preferred religion) and a *de dicto* reading (one has no right to be surrounded by people practicing one's preferred religion).

most others (though he is able to get along well enough to purchase food), and admires very different kinds of art. I and many of the merchants who use the marketplace have become concerned that, if Marvin goes to the marketplace and interacts with the people gathered there, he may influence the thinking and behavior of others in the marketplace. He might convert others to his religion, for example, or induce more people to speak his language, rather than mine. Because we do not want these things to happen, we decided to forcibly prevent Marvin from reaching the marketplace.

This action seems wrong. The merchants' desire to be surrounded by people who think and behave in ways similar to themselves does not negate Marvin's right to be free from harmful coercion. It seems equally implausible to maintain that Marvin's rights are *outweighed* by the merchants' desires to avoid cultural change.

Some might think that I have stacked the deck in my Marvin examples, by supposing that Marvin literally starves to death as a result of his inability to reach the marketplace. Most potential immigrants are not so badly off as that—they are not in danger of death by starvation (those truly in danger of starvation are also those least likely to be able to reach the United States even if the borders were open). However, I do not think that this point alters the basic intuition. Suppose that Marvin does not die but merely suffers severe impoverishment as a result of my refusal to allow him to reach the marketplace. His children suffer from malnutrition, and his life expectancy is several years shorter than it would otherwise be. In this case, it still does not seem that I would be justified, on the basis of the kinds of reasons discussed above, in preventing Marvin from reaching the marketplace.

6 Club U.S.A.

In general, a private club may choose to exclude those whom it does not want as members, even if the club has no very strong reason for not wanting them. Jon, Sally, and David form a private club to

discuss philosophy on the week-ends. Marvin asks to join. For no particular reason, Jon, Sally, and David decide that they don't feel like having Marvin around, so they refuse. Though their behavior is unfriendly, Jon, Sally, and David are within their rights. Marvin may attempt to persuade them to change their minds, but he cannot complain of an injustice or rights-violation if he is not invited to the gatherings.

Some believe that a nation-state is similar to a private club in this respect: a nation may also, at its discretion, exclude unwanted members, even if the nation has no very strong reason for not wanting these prospective members.²³ Since most Americans do not want all the new members who would likely arrive if the nation's borders were opened, America is entitled to exclude most of those people.

Is immigration relevantly similar to joining a private club? And is immigration restriction comparable to exclusion by the members of such a club? Individuals who are prohibited from immigrating are denied membership in the polity. In that way, immigration restriction is similar to exclusion by a club. But those denied entry to the United States are not simply denied membership in an organization; they are also barred from residing anywhere within a certain very large geographical area. They are effectively prevented from interacting in any of a great variety of important ways with the people in that territory. And they typically suffer a much greater harm than those who are denied admission to a private club.

For these reasons, the story about Jon, Sally, and David's club would be more analogous to the story of U.S. immigration policy, if we were to modify the example as follows. Rather than merely meeting to discuss philosophy on the week-ends, Jon, Sally, and David's club actually provides goods that are crucial to a decent human life. Marvin, who is presently in desperate need, asks to join the club. David wants to admit Marvin, but Jon and Sally vote to exclude him. Furthermore, Jon and Sally also decide that Marvin will not be permitted into their homes, *nor into David's home*, and that neither Jon,

²³Walzer 1983, pp. 39-41; Kershnar 2000, p. 143.

nor Sally, nor David will be permitted to trade with Marvin in certain ways that are important to Marvin. David opposes all of these measures, but he is outvoted. Jon and Sally realize, at the time they place their votes, that their decision will result in severe hardship for Marvin, drastically lowering his entire life prospects. Nevertheless, they vote to exclude him because they do not want to experience slight economic disadvantage through marketplace competition; or because club policy will cause them, if Marvin is admitted, to voluntarily give some free services to Marvin that they don't want to give; or because they do not want to associate too closely with someone of Marvin's unusual cultural traditions; etc. One day, Marvin is discovered in David's house, doing some handiwork for David in exchange for pay. Jon and Sally forcibly expel Marvin from the house. They inform David that he has no right to have Marvin over to his (David's) house, because the club's policy is to exclude Marvin.

In this scenario, are Jon and Sally really acting entirely within their rights? This seems doubtful. Perhaps Jon and Sally may exclude Marvin from club membership, despite that this exclusion entails grave suffering for Marvin. They may certainly exclude Marvin from their own homes. But it is unclear what entitles Jon and Sally to exclude Marvin even from *David's* home, or to preclude Marvin and David from trading with one another. Jon and Sally's actions seem unjust as well as cruel.

Is this scenario a fair analogy to U.S. immigration policy? In this analogy, Jon and Sally play the role of the majority of Americans, who oppose open immigration. David represents the minority who favor open immigration, and also the subset of Americans who would willingly do business with immigrants. Marvin becomes an "illegal immigrant" when he comes to do work at David's house. Just as Marvin occupies David's property with David's consent, illegal immigrants live in homes bought or rented from consenting citizens, and work at businesses with the consent of American business owners. Under current policies, the U.S. government, acting on behalf of the majority of Americans, does not merely refuse to hire illegal immigrants; it prohibits *all* Americans from hiring illegal immigrants.

Some would argue that Jon and Sally are entitled to set limits on David's behavior, including

deciding whether he may hire Marvin or not, and on the use of David's property, including deciding whether he may allow Marvin onto the property, because David has voluntarily joined the club. A private club is within its rights to set conditions on membership, even onerous, unwise, and unreasonable conditions (but not immoral conditions). Thus, I may if I wish start a club for people who refuse to eat vegetables and who flush \$1,000 down the toilet once a month (but I may not start a club for murderers). I may not compel anyone to join my club, but once they have joined voluntarily, I do no wrong by requiring members to abstain from vegetables and flush money down the toilet.²⁴ Similarly, Jon and Sally may control David's behavior, in the sense that they may set as a condition on membership in the club that one not employ Marvin or allow Marvin into one's house. Assume that Jon and Sally have done this. In that case, they can argue that since David has voluntarily accepted membership in the club, he is ethically bound to deny Marvin access to David's house. Since David has no *right* to permit Marvin access to David's house, Marvin is in fact not entitled to be in David's house, even though David gave Marvin express permission. This, it might be argued, makes it permissible for Jon and Sally to exclude Marvin from David's property.

Perhaps, similarly, the U.S. government is entitled to exclude illegal immigrants from U.S. citizens' property, even when citizens want to allow the illegal immigrants onto their property, because U.S. citizens are voluntary members of the "club" that is the United States. The government sets the conditions on membership, which, perhaps, include an agreement on the part of members not to give certain immigrants permission to occupy one's land. Thus, even if a citizen *has* given an illegal immigrant permission to occupy the citizen's land, this permission is *invalid*; it is therefore permissible

²⁴Whether I may *punish* members for failing to live up to the conditions of membership is more controversial, but it is plausible that I may demand that they either accept punishment or resign from the club. It is also unclear whether I may demand an *irrevocable* agreement to abstain from vegetables and to flush money down the toilet in the future, as a condition on initial admission. This question need not detain us, as we can assume that Jon and Sally, like the U.S. government, permit David to exit at any time.

for the state to expel the immigrant from the land.²⁵ If it seems implausible that the terms of the social contract really dictate that one must exclude illegal immigrants from one's property, perhaps the contract only requires this indirectly: perhaps the social contract contains a general requirement that one respect the laws promulgated by the state and refrain from aiding others in violating those laws. Since the laws preventing certain foreign-born people from residing within U.S. territory were validly passed; and since, by having illegal immigrants on one's property, one would be aiding illegal immigrants in violating those laws; one must exclude illegal immigrants from one's property.

This argument turns on a consent-based theory of political authority. Such theories face well-known and, to my mind, decisive objections.²⁶ One problem is that the only method of expressing lack of consent that is recognized by the U.S. government is that of evacuating the territory; leaving behind one's home, friends, and family (that is, those who do not also wish to leave); and seeking admission to another society. It is doubtful that the failure to take this measure can legitimately be interpreted as expressing general consent to the government.²⁷ Extending the analogy we have been working with, suppose that Jon and Sally inform David that David may free himself from the membership requirements and any other contingent rules of the club to which he presently belongs, by simply resigning his membership. However, they say, David may not resign his membership by simply stating that he no longer wishes to be a member. Rather, he must vacate his home and move far away, leaving his family and friends behind; only then will Jon and Sally recognize his resignation. Under these conditions, it is not obvious that David's failure to abandon his home makes his membership in the club genuinely voluntary, nor that Jon and Sally are now acting within their rights in denying Marvin access to David's house.

²⁵Here, I have embellished the suggestions advanced by Kershnar (2000, pp. 144-5).

²⁶Simmons 1979, ch. 4; Huemer 2009, sect. 4.

²⁷Cf. Hume 1987, p. 475.

This objection to the consent theory does not turn simply on the claim that the specified means of expressing dissent are excessively onerous.²⁸ Rather, the point is that one typically does not secure valid consent to a contract simply by declaring that the other party will be deemed to have consented unless he gives in to some demand imposed by oneself; this is true whether the demand is extremely onerous or only slightly annoying. In *some* cases, one may demand that another party either accept the terms of a particular contract or give up some thing of value. But one may only do this when one independently has the right to deny the other party that thing of value. For example, if you are at my house, I may demand that you either agree to remove your shoes or leave the house; but if I am at *your* house, I may not demand that you either agree to remove your shoes or leave. Insofar as the state's authority is held to depend upon voluntary acceptance of the social contract, the state has no independent right—that is, no right independent of the social contract—to deny individuals use of the land it claims as its territory. The state therefore cannot secure acceptance of the social contract through a demand that dissenters give up the use of this land, any more than Jon and Sally can abrogate David's right to have Marvin over to David's house by simply demanding that David give up his own house if he does not agree to follow the club's rules.

A further problem with the consent-based theory of the state's right to exclude foreigners is that it proves too much. The argument for the claim that the state is entitled to prohibit Americans from allowing illegal immigrants onto their property turns on the claims (i) that the state may impose conditions of membership in civil society, which may include anything that could be a valid membership condition for a private club, (ii) that anyone living in the state's territory can be assumed to have accepted the membership conditions, and (iii) that these conditions in fact include one's agreement to respect any laws passed by the state. The argument seeks to show that immigration

²⁸Kershnar (2000, p. 145) seems to interpret the objection as turning on the size of the disadvantages incurred in vacating one's home.

restrictions do not violate rights. Thus, a similar argument can be deployed to argue, in the case of any law that enforces something that could be a valid membership condition for a private club, that the law does not violate rights. There could be a club for people who cut off their left arms; or for people who never criticize the government; or for people who agree never to vote if they are female; and so on. So one could construct arguments designed to show that a state may require citizens to cut off their left arms, refrain from criticizing the state, refrain from voting if they are female, and so on. Whatever the law requires, one could propose that abiding by that law is a condition on membership in the civil society, a condition to which one implicitly agrees by living within the territory controlled by the state, and thus that the law does not violate one's rights. In most cases, it might be intuitively implausible that there really is such a condition on membership in civil society (even when the law has been passed)—but not any more so than it is implausible that excluding illegal aliens from one's property is a condition on membership in civil society. Presumably, we should reject a style of argument whose result is to render appeals to moral rights impotent to criticize nearly any law passed by the state.

7. The Immigrant Flood and the Collapse of America

The last argument we have to consider appeals to the catastrophic consequences that allegedly would result from the ocean of immigrants that would flood over America if the borders were opened. Brian Barry believes that at least one billion immigrants would pour into America if given the chance. The result would be severe overcrowding; the collapse of government social service programs, including educational and health services; ethnic violence; the collapse of liberal democracy; environmental devastation; and a reduction of the U.S. standard of living to Third World levels.²⁹

Each of these predictions merits a lengthy discussion on its own, but limitations of space preclude

²⁹Barry 1992.

this. Here, I can make only a few observations about some of Barry's concerns. To begin with, consider Barry's prediction of one billion immigrants coming to the United States. Although he considers this "surely ... quite a conservative estimate,"³⁰ the estimate seems to be the reverse of conservative. Barry bases the estimate on the assumption that a person will leave his home country whenever "there is at least one other place with a material standard of living higher enough to offset the cultural differences between the two places." Barry figures that there must be at least a billion people around the world whose material standard of living is much lower than what they would have in the U.S., sufficiently so to offset the disadvantage represented by the cultural differences between the two societies.

In practice, however, most people are much more reluctant to move than Barry's remarks would suggest. Even though migration among U.S. cities and states is legally unconstrained, 57% of Americans have never lived outside their current state of residence, and 37% have never lived outside the city in which they were born.³¹ It seems unlikely that this is because such a large number of Americans were born in the city that offers them the greatest economic opportunities of any city in the country. This seems especially unlikely when one considers that those born in rural areas, which tend to have the most limited economic opportunities, are also those *least* likely to move. Nor would these Americans be likely to suffer cultural shock were they to leave their home towns or home states. Rather, those who have remained stationary most commonly cite family reasons for not moving. An individual who leaves his home town must generally leave behind his current neighbors, friends, and family (including extended family). This is extremely important to most people. In addition, most people feel an emotional attachment to the place in which they were born and raised. Most people also exhibit a kind of inertia: they do not survey all the alternative life paths possible to them at each moment, ready to switch paths whenever they identify one with greater expected utility; rather, they remain on their

³⁰Barry 1992, p. 281.

³¹Cohn and Morin 2008.

present path until something pushes them out of it. These are the main reasons why most Americans do not move within America. For foreigners, these same reasons would apply. In the case of people considering movement from one country to another, however, family considerations would be even more weighty than for people considering movement within the United States, because visiting family who live in another country is more difficult than visiting family who merely live in another city or state within the U.S. Foreigners also have additional reasons for not moving to America, deriving from language and other cultural barriers, as well as the sense of loyalty that most people feel to their native country.

There is some empirical evidence bearing on this issue. The U.S. State Department reportedly has about four million applicants on the waiting list for immigrant visas.³² In addition, every year, the State Department conducts a lottery, known as the “Diversity Visa Lottery,” to give away 50,000 green cards. Individuals from any country in the world, other than the twenty countries with the highest rates of emigration to the U.S., are eligible to apply (the purpose is to increase diversity in the group of incoming immigrants). In 2009, 9.1 million people applied. Anticipating that only some of those selected would actually come, the State Department selected about 100,000 people who were invited to pursue their applications further.³³ The 9.1 million applicants constituted approximately 0.3% of the total population of the eligible countries.³⁴ All of this gives us only a limited basis for guessing how many people would come to the United States if the borders were opened, and I can offer no serious estimate of that number. Nevertheless, these facts seem to suggest that Barry has an overly liberal view of people’s desire to move, and that his estimate of one billion immigrants may be off by one or two

³²Thomson 2007.

³³U.S. Department of State 2009. The countries *not* eligible for the Diversity Lottery were Brazil, Canada, China, Colombia, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Pakistan, Peru, the Philippines, Poland, Russia, South Korea, the United Kingdom, and Vietnam.

³⁴Population statistics are from CIA (2009) estimates.

orders of magnitude.

In addition to overestimating the supply of potential immigrants to the United States, Barry may have underestimated the capacity of the U.S. to assimilate immigrants. As a percentage of total population, the U.S. has coped with immigration rates far higher than the current rate.³⁵ Though Barry worries about overcrowding, the U.S. appears to have room for many more people. The population density of the United States in 2009 is about 34 persons per square kilometer. For comparison, the world average is 45 per square kilometer, and China has 144 per square kilometer, more than four times the American density.³⁶ This suggests that, at the least, we are not likely to soon run out of land.

In my view, Barry's speculations about the effects of open immigration are overly alarmist. For my part, however, I can offer little more than alternative speculation. No one knows what the full effects of a policy of open borders would be, since it has been a very long time since U.S. borders have been completely open. Perhaps Barry is correct that the result would be disastrous for American society. If so, this is the sort of extremely negative consequence that, it might be argued, outweighs the rights of potential immigrants to freedom of movement. As I have suggested above, it is not plausible that the rights of potential immigrants are outweighed by such relatively small considerations as modest economic disadvantages to American workers, or the aversion of some Americans to cultural change; it is, however, plausible that the rights of potential immigrants are outweighed by the need to preserve American society from the sort of devastation envisioned by Barry.

Therefore, it may be wise to move only gradually towards open borders. The United States might,

³⁵Based on U.S. Census (2009a; 2009b) estimates, 2009 immigration was about 0.29% of the population (but note that these statistics omit illegal immigrants, an unknown number of whom entered the country in 2009). In 1854, immigration was almost 2% of the population (Daniels 1990, p. 124). In 1910, 14.7% of the U.S. population was foreign-born (Daniels 1990, p. 125), compared with 7.3% in 2004, the latest year for which the Census Bureau has data available (U.S. Census Bureau 2005).

³⁶All population density statistics have been calculated from U.S. Central Intelligence Agency (2009) data. Population densities have been calculated using land areas only, excluding water-covered areas. Monaco, the world's most densely populated country, contains 16,767 people per square kilometer; however, as the country consists entirely of a single city, it is not to be expected that the U.S. could comfortably achieve a similar population density.

for example, increase immigration by one million persons per year, and continue increasing the immigration rate until either everyone who wishes to immigrate is accommodated, or we start to observe serious harmful consequences. My hope and belief would be that the former would happen first. But in case the latter occurred, we could freeze or lower immigration levels at that time.

& Conclusion

In contemporary debates over immigration policy, the negative rights of potential immigrants have been conspicuously ignored. Most discussion centers on the benefits or harms, to existing citizens, of an increase or decrease in immigration. Some discussion focuses on the alleged *positive* rights of potential immigrants, under certain theories of distributive justice—for instance, perhaps all human beings have a positive right to receive assistance in meeting their basic needs. In his influential defense of open borders, Joseph Carens argues that a policy of open borders follows from any of three influential theories of justice: a Nozickean libertarianism, a Rawlsian theory of distributive justice, and utilitarianism.³⁷ But while Carens' case should be persuasive for most theorists of justice, it may be resisted by those who doubt all three of the theories of justice to which Carens appeals.

In my view, most parties to the immigration debate have overlooked the simplest and most powerful consideration in favor of open borders: the rights of the foreign-born to be free from harmful coercion. In restricting the flow of immigration, the government does not merely *allow* harm to occur, nor does it merely refrain from conferring a benefit; the government actively and coercively interferes with people's acting to satisfy their needs, in a way that is extremely harmful to most potential immigrants. In the face of this consideration, the most common anti-immigration arguments, appealing to the economic or fiscal impacts of immigration or the desires of native-born citizens to maintain their

³⁷Carens 1987.

culture as it is, can be seen as more or less irrelevant—they do not appear to come anywhere close to justifying a violation of the prima facie rights of potential immigrants to be free from harmful coercion.

The argument for open borders does not rest upon controversial moral theories or controversial theories of justice. For instance, one need not accept the existence of positive rights or duties. Whether or not one believes that individuals or governments have a positive obligation to *assist* others in need, nearly everyone accepts that one may not coercively *prevent* those in need from satisfying their needs. Nor need one accept either libertarianism, or Rawls' theory of justice, or utilitarianism, all three of which are controversial theories. One can motivate the thought that it is prima facie wrong to harmfully coerce others without appealing to any general theory of justice, but appealing instead only to a very widely shared and simple moral intuition.

It is initially puzzling that this simple argument has not gained more prominence in the immigration debate. The best explanation for this oversight, I believe, lies in two common mistakes in moral thinking. The first mistake is that of thinking of the government of a country as if it were a person who owns that country's territory. This tempts one to think that, just as an individual may exclude anyone he likes from his own property, so the government may exclude anyone it likes from its territory. The problem with this thinking is that different parcels of land are owned by different individuals, some of whom are happy to allow illegal immigrants onto their land.

The second and, in this context, more important mistake is that of ignoring or discounting the rights and interests of foreigners, merely because they are foreigners. Comparable to racism, sexism, and speciesism, this bias might be called "nationalism." Nationalist bias can also cause one to overestimate the dangers posed by foreigners and to overlook or underestimate the benefits to be gained from interaction with foreigners.³⁸ Racism once caused white Americans to ignore the rights of blacks and to treat small advantages to members of their own race as more important than the most

³⁸Caplan (2007, pp. 36-9, 58-9, 66, 69-71) discusses several manifestations of the bias against foreigners.

vital interests of members of other races. Similarly, nationalism has caused present-day Americans to overlook the rights of foreigners and to treat small advantages to Americans as more important than the most vital interests of foreigners. Only thus could Americans have been led to think that a small reduction in wage rates for some American workers outweighed the rights of foreigners not to be subjected to extremely harmful coercion. Once we overcome this bias, we will see foreign-born persons and American-born persons as moral equals. Seeing persons of all nationalities as equal need not lead us to abandon the view that the U.S. government has special obligations to its own citizens. But it will surely lead us to abandon the view that modest economic interests of some Americans can outweigh vital rights of the foreign-born.

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