

**IMMIGRATION INTO THE UNITED STATES:
ETHICS AND INEQUALITIES**

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Working Paper No. 9
Chicano/Latino Research Center

April, 1996

Paper presented at the "Bridging Borders, Crossing Centuries:
U.S. -Mexico Relations after NAFTA" conference, organized by
the Chicano/Latino Research Center, University of California,
Santa Cruz, November 3-5, 1995.

Immigration into the United States: Ethics and Inequalities¹

Everyone seems to think that immigration is a moral issue. I believe, however, that we generally confuse morality with self-interest,² and that the two are not at all synonymous. I want to argue that the ethics of immigration differ fundamentally from the national interest in immigration, and that an ethical approach to immigration should be grounded in an understanding of income inequalities and social disadvantages, both within and between countries.³

Elsewhere I have explored the interests of Americans in immigration (Isbister, 1996). My conclusion is that the current level of immigration serves both the economic and the social interests of Americans fairly well. It is not in the interest of the United States to have open borders.

Morality, however, is another question. The larger part of this paper deals with whether any controls at all on immigration into the U.S. are morally justified. A shorter section considers what sorts of immigrants should be admitted, if some numerical controls are to be imposed.

¹ This paper is based on material in *The Immigration Debate: Remaking America* (West Hartford: Kumarian Press, 1996). See also Isbister (1996a).

² Although this criticism can be made of many writers, a glaring example is Brimelow (1995), especially Chapter 13 entitled "Doing the Right Thing? The Morality of Immigration."

³ I am indebted to the small but stimulating professional literature on the ethics of immigration. This literature is reviewed in Weiner (1995), Chapter 8. Walzer (1983) presents a communitarian approach to the subject. A stimulating collection of papers is contained in Gibney (1988). The most intensive investigation of the ethics of immigration has been conducted by Carens (1987, 1988, 1991, 1992).

Ethical Arguments For Open Borders

Most moral philosophers and political theorists who have dealt with the issue have concluded that immigration controls are not justified under most circumstances. In simplified form, the argument is this: All people have equal moral standing. Immigration controls make unjustified distinctions between these equally worthy human beings. Take, for example, the set of people who wish to live in the U.S. Immigration controls permit some to do so—whether because they were born U.S. citizens, or because they are favored by the immigration laws—and deny others. This is unjust. It is immoral for the law to treat equals unequally.⁴

My view derives from this reasoning, but is not quite the same. It is based more fully on the striking differences in income and class that exist in the world. A class-conscious ethics leads, I believe, to an ethical dilemma: a powerful case for open borders balanced by strong arguments for at least some border restrictions. I begin where most of the philosophical literature begins,

⁴ In an especially stimulating paper, Joseph H. Carens (1987) has developed this sort of thinking through the prism of three philosophical traditions: the property-rights perspective of Robert Nozick, the "original position" of John Rawls and utilitarianism. He argues that Nozick's individualist philosophy is inconsistent with immigration controls, because those controls are an action of the state to prevent autonomous individuals who may reside initially on different sides of a border from making voluntary contracts with one another. From Rawls' perspective, immigration controls are invalid, because they enforce an inequality that is not to the advantage of the least well off, namely the people who wish to immigrate but are prevented from doing so. The utilitarian case for open borders, Carens argues, is that it allows people to locate where their productivity, gains, welfare and happiness are greatest, thus maximizing global utility

with the assumption of the equal moral worth of all people. As Jefferson stated in the Declaration of Independence, the equality of all people is "self evident." ; ; While equality may be self-evident, still, few people really base their behavior upon this belief. Our commitment to the equal worth of all human beings should, one thinks, lead us to the conclusion that all people have equal rights, including the right, if they wish, to live in the U.S. This was, at one time, the actual policy of the U.S. Since 1882, however, and to a much larger extent since 1921, the U.S. has restricted immigration, and most citizens have been untroubled by this. Today, while we are in the midst of a debate about how best to structure our immigration laws, almost nobody calls for, or even contemplates, open borders. ; ; This is inconsistent with our consensus view about migration within the borders of a country. Restrictions on free movement within the Union of South Africa, for example, were condemned by the world community as one of the worst features of the apartheid regime. Inside the U.S., few people would consider it justifiable to restrict the free movement of people into, say, New York City. This is so, even if the residents of New York could offer good reasons for border controls. The city is too crowded already, they might argue, and the sanitation system is overloaded. Americans would not stand for such a restriction, however, because they value too highly the right of citizens to decide for themselves their own locations. Within the country, freedom of movement is a fundamental component of the "Liberty" that

Jefferson held to be the birthright of free and equal people. If this is so, how can one accept immigration restrictions into the U.S.? What makes the U.S. fundamentally different from New York? Nothing much, except sovereign power. In fact, I believe, it is more difficult to find a moral justification for restricting immigration into the U.S. than it would be in the case of New York. The people of the U.S. are privileged, vis a vis the rest of the world, in a way that the residents of New York are not, in comparison to other Americans. New Yorkers could argue plausibly that among American cities their city is not so special. The U.S. occupies a unique position in the world, however, or at least the long lines of potential immigrants would so indicate. Immigration controls on the U.S. border restrict access to privilege. It is the protection of privilege that is so damaging, ethically, to the country's immigration laws. Our immigration controls maintain a state of inequality in the world between the haves (the Americans) and the have-nots (the foreigners, especially the potential immigrants). Americans maintain immigration laws because they fear that unrestricted entry would lead to a major influx of people and that the newcomers would drive down the standard of living of residents. No doubt it is in the interest of the privileged to protect their privileges, but it cannot be ethical if that protection has the effect of further disadvantaging the unprivileged. The ethical case against immigration controls is based, therefore, first on the grounds that they convey unequal rights

to morally equal people, and second on the grounds that they'

serve to protect advantage and deepen disadvantage. ; ;Of these two moral bases, the second is more fundamental. In

fact, it is not always a moral requirement to treat equals equally. Take, for example, the moral defense of affirmative action programs in which preferences are accorded on the basis of race. If it is always immoral to treat equals unequally, then all such programs of preference are impermissible. But this violates common sense. A program of preferential treatment based on race may well be justified if both its purpose and its effect are to compensate people for past injustices or to dismantle a current system of racial injustice (Wasserstrom, 1986). Unequal treatment in the short run may be justified when the long-run purpose is the equal treatment of equally deserving people. Unequal

treatment per se is not necessarily morally outrageous. ; ;A moment's notice will show, however, how completely

different the affirmative action example is from U.S. immigration controls. The purpose and effect of border restrictions are to perpetuate rather than break down a system of privilege and disadvantage on a global scale. Immigration laws violate the equal worth and equal rights of people in an egregious way, by sheltering already advantaged Americans at the expense of relatively disadvantaged potential immigrants. ; ;A related moral argument against border controls is that'

they automatically create two classes of people within the U.S.

who have seriously unequal rights: legal residents and undocumented immigrants. The latter have no legal right to live in the U.S., and they are subject to deportation if discovered. They must therefore try to avoid contact with authorities who might threaten their residency. This means that they are inhibited from reporting violations to which they are subjectTM for example, sexual harassment, domestic violence or unfair labor practices. The rights of the undocumented can never be equal to those of legal residents, as long as border controls exist. The very meaning of border controls is that some people are denied entry. The denial must be enforced if the border controls are to continue. Consequently the undocumented must have rights that are inferior to those of other residents. The only way to avoid this unequal treatment is to remove the restrictions on immigration. ; It is no answer to this dilemma to say that it would disappear if the border were policed more effectively so that the undocumented were excluded since, as is completely obvious, border controls can never be fully effective. Moreover, since the undocumented are, on the whole, economically disadvantaged in comparison to most legal residents, the unequal treatment to which they are subject cannot be defended as somehow serving a longer^{run} cause of justice. ‘

‘ \ ‘â; ; In sum, border controls enhance the privileges of the privileged and discriminate against the disadvantaged, both on a global scale and within the U.S. This is the strongest moral argument, in my opinion, against the very existence of border

controls. Arguments For Immigration Controls ; Strong as these arguments are, they do not clinch the case for open borders. Serious ethical arguments exist on the other side. Elsewhere, I have rebutted a number of them, showing them, I believe, to be without merit in general, or at least inapplicable in the United States at the present time (Isbister, 1996 and 1996a). Here I will simply list them, before turning to what I think is a valid argument for border controls. (i) It is argued that the U.S., with all its wealth, is the property of Americans, to treat as they wish. I think this argument is ethically invalid. Most Americans were born to privilege. They have no more inherent right to favorable treatment than did the nobility of medieval Europe or the upper castes of India. (ii) A second argument for border controls is that unrestricted immigration might destroy institutions, values or cultural traditions that are of transcendent importance. The argument is made, for example, that it is improper to argue for open borders on the grounds of liberal political values, if open borders would result in the influx of large numbers of people who allowed those values to be destroyed (Whelan, 1988). The argument has perhaps theoretical merit. No evidence exists that it relates or ever has related to a real danger in the U.S., however. (iii) A third argument against open borders is that while Americans may be morally obliged to redress the imbalance of privilege in the world, they can do so more effectively by policies to improve standards of living in poor countries than

they can by allowing a few residents of those countries to immigrate. The rebuttal is that foreign aid and immigration are compatible with each other; they are complements, not substitutes. (iv) A fourth argument is that Americans have greater obligations to their fellow citizens than to foreigners. If there is a possibility that immigration may hurt some U.S. citizens, therefore, Americans are justified in restricting entry, even though restrictions may violate the rights of foreigners (Weiner, 1995). Charity, the saying goes, begins at home. This is a cramped view of ethics. It amounts to saying that it is moral for a democratic government to protect the interests of its constituents, regardless of whether those interests meet any broader test of morality.'

' (v) A fifth argument for immigration controls is that while people may have an obligation to come to the aid of other people in distress, that obligation holds only if it can be done without undue sacrifice. Ordinary people need not be saints (Wolf, 1982). If this is correct, we may be rescued from the obligation to open our borders to all comers (Shacknov, 1988) since, in the long run at least, open borders would probably entail a real sacrifice for many Americans. ; This argument is too comforting to the rich and privileged to stand, at least in the case of immigration into the United States. It is a justification for continued injustice. If it is applicable to Americans, why is it not equally applicable to anyone in a position of privilege to the southern slaveholders before the Civil War, for example? Any readjustment of a privilege-disadvantage relationship calls for sacrifice on the

part of the privileged. ; ;None of these five arguments is silly, but neither are they strong enough to shake the moral argument against open borders.

One argument for border controls, however, cannot be dismissed. Border Controls as Protection for the Disadvantaged ; ;The strongest argument against open borders is that'

immigration controls may actually protect the unprivileged. The discussion so far has tacitly assumed that all Americans are the same, but they are not. Some are privileged while some are severely disadvantaged: the poor, the unskilled and many members of non-Anglo ethnic groups. ; ;It must be conceded that the research that has been conducted so far on the impact of immigration on the prospects of disadvantaged Americans is not definitive.÷ Ç 2`çThe research on the economic impact of immigration is reviewed

in √ √f f√ √f fIsbister (1996). See also Borjas (1994).Ç ÷ Nevertheless, it is likely that an increased and unending supply of low-wage labor from third world countries would keep the earnings of unskilled workers low and profits high.÷ ä \ 2`çEconomist Vernon M. Briggs, Jr. argues this point of view both

persistently and persuasively. See, for example, Briggs (1992).ä ÷ If so, it is argued, immigration

should be curtailed. ; ;I have difficulty refuting this argument. One way of attempting to do so would be to say that immigration policy need not bear the burden of reducing the inequities among Americans. Many other policy tools are available, one might argue, among them welfare, education, social insurance programs, the minimum wage, job training, etc. One could argue that the obligation to

rectify the imbalances of privilege in the world rests on the shoulders of the privileged in the rich countries. Morality requires them to transfer resources to their less fortunate brethren at home AND to allow immigrants from the third world to enter their country. '

' 'á; ; This refutation is perhaps valid, but only up to a point. It is likely that, even if the U.S. made a massive good©faith effort to reduce domestic poverty, it could never be successful if completely open immigration were permitted. Whatever advances were made in the welfare of the U.S. poor would be swallowed up by new immigrants from poor countries who were seeking to take advantage of American generosity. ; ; A second possible refutation is to assert that the needs of foreigners are more pressing than the needs of even disadvantaged Americans. The standard of living of most poor Americans is higher than that of most immigrants. In the hierarchy of advantage, therefore, poor Americans occupy an intermediate position, worse off than other Americans but still better off than many immigrants. Therefore, one might maintain, it is morally permissible to harm poor Americans, if this is the price that must be paid to improve the lot of poor immigrants. ; ; This second refutation is not persuasive. Poor Americans are genuinely needy and unfairly impoverished. It simply cannot be right to take conscious, public action to worsen their plight. Morality obliges us, I think, to protect the welfare not just of the most disadvantaged people in the world but of all who suffer disadvantage. ; ; The argument in favor of border controls which is based on'

the disadvantage of U.S. residents is therefore valid. So, however, is the previous argument for open borders. We are left with an ethical conflict. Disadvantaged foreigners have a moral right to enter the world's most privileged country, in an attempt to improve their position. On the other hand, poor Americans have the right of protection against so much competition from lowTMincome newcomers that their own circumstances deteriorate. This is the heart of the ethical dilemma about immigration. ; ; Perhaps the dilemma can be resolved partially. As long as the U.S. is a rich country, with a majority of its people well off, it is not ethical to depend upon immigration restrictions alone to improve the position of poor Americans. Such a policy would put the burden of sacrifice on even poorer foreigners, rather than on comfortable Americans, the truly privileged among equally worthy human beings, where it rightfully belongs. ; ; Border restrictions are permissible, therefore, only if the restrictions are accompanied by a major national commitment to improve the quality of life of the U.S. poor and if, in the absence of restrictions, the flow of immigrants would be too great to allow that program to be successful. ; ; An ethically defensible immigration policy would be just one component of an integrated program in which rich and middle class Americans fulfilled their obligations to those less fortunate.'

The program would consist of at least the following: First, privileged Americans (the majority in the U.S.) would bear a sacrifice by greatly increase their commitment to improving the well-being of the American poor. Second, the U.S. would increase its commitment to foreign aid and other ways of improving the standard of living in poor countries. ; ; Third, the U.S. would raise the flow of immigrants, in order to increase the number of foreigners who had a chance of participating in the advantages of American life. Two reasons exist for thinking that immigration could be increased substantially without hurting the domestic poor: (1) the fact that empirical research can detect little effect of current immigration upon the welfare of the U.S. poor and (2) the increased commitment to the poor postulated above. ; ; Fourth, the U.S. would maintain some quantitative limit on immigration, or at least the stand-by authority to impose a limit if the flow of immigration became too great to be absorbed without sacrifice by the U.S. poor. Priorities ; ; I have concluded, thus far, that there may be an ethically defensible case for controls on immigration into the U.S., in order to protect the rights of disadvantaged Americans. This'

raises a new ethical question: If not all who wish to immigrate are to be admitted, who shall be allowed in?÷ ì 2`çFor a thoughtful answer to this question, which is quite different from the one offered here, see Briggs and Moore (1994),¹ √ f f

57067.1 + ; Under current law, the largest number of entries is reserved for relatives of American residents. Lesser provision is made for people with labor market skills, for refugees and for a few other groups. ; Reunification of families is an important goal, but the overwhelming priority given to it in U.S. law is unjustified in terms of either interests or ethics. Family reunification has some merits. It serves two sorts of interests of Americans. First and most obviously, it meets the needs of a small number of residents, those wishing to be reunited with their kin. Second, the emphasis on family reunification helps to ease the transition of new immigrants into American society. The problem is that since so many of the scarce immigrant slots are allocated to family members, a severe shortage of openings exists for other types of immigrants. Given the strong claims that many people have to immigrate for reasons other than family reunification, it is hard to maintain that reduction of the family categoryTM perhaps by restricting it to spouses and minor children^{is} impermissible. ; If open borders are not a possibility, therefore, if overall immigration into the U.S. must be restricted, what should replace family reunification as the leading purpose of American immigration policy? Many critics of current policy have argued that the interests of Americans would be better served by admitting a higher proportion of people based on their labor market skills (e.g., Becker, 1990). ; The problem with this strategy is that its effect on the interests of Americans is ambiguous, while its ethical content is negative. To start with interests, consider, for example, an

increase in the number of immigrant engineers. They would probably be productive, would help to increase output in the U.S. and generate additional jobs for Americans. At the same time, the increase in the supply of engineers would reduce the salaries of existing engineers and block the access of some American residents to engineering jobs. Some Americans would be helped while others would be hurt, so it is incorrect to say that the immigration of such highly trained people is necessarily to the advantage of existing residents. ; ;Furthermore, an emphasis on labor market skills has no relationship to the ethical goals of immigration. The U.S. will not do more good in the world by giving greater priority to people with more education or more skills. If anything the contrary is true, since higher skilled people are likely to have better opportunities in their home countries and elsewhere. Expansion of the labor market categories would not, therefore, generate a profile of immigrants any better than a random lottery or an emphasis on family reunification would, from the point of view of either interest or ethics. ; ;Expansion of the refugee category would be neutral or perhaps somewhat harmful to the economic interests of Americans. Refugees need not be unskilled but tend to be. In contrast to family members of U.S. residents, they often (not always) lack networks and ties in the country that can help them find a job, get settled and learn the ropes. Refugees are more likely than other immigrants to require state assistance. ; ;On the other hand, the moral obligation of the U.S. lies in

the admission of refugees, particularly when the refugee status is a consequence of American actions in the world. The U.S. recognized this when it admitted South East Asian refugees whose lives had been disrupted by the Vietnam War. I would like to argue, however, that Americans have a moral obligation to admit refugees even when their status has no relationship to American foreign policy. ¶ Recall that the strongest moral objection to any restriction on immigration is that it harms people who are on average disadvantaged. For no group of foreigners is this truer than for refugees. They are people in great danger, without a home. Their numbers are growing quickly (Crossette, 1995). American immigration policy could have no higher purpose than helping to find a permanent home for victims of oppression. Conclusion ¶ In the end, the case for completely open borders can probably not be sustained; some limits on immigration may be required. The argument I am making, however, is that privileged Americans have a moral obligation to redress the balance of privilege in the world, through immigration policies and other policies. Such redress will require sacrifice by those who currently have the advantage, not the enhancement of their own self-interest. ¶ I am under no illusion that such a stance will be adopted by the U.S. The current movement in immigration policy is in the opposite direction: a reduction in immigration, including a reduction in refugees. Middle class Americans should understand, however, that our attempts to maintain our standard of living through our immigration policy are inherently immoral.

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