

Is There a Right to Immigrate?

1. The Immigration Question

Every year, close to one million individuals from foreign nations migrate 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,

¹U.S. Department of Homeland Security, *Yearbook of Immigration Statistics: 2007*, <http://www.dhs.gov/ximgtm/statistics/publications/yearbook.shtm> (Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2008; accessed April 9, 2009), 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, "Illegal Immigration: Border-Crossing Deaths Have Doubled Since 1995; Border Patrol's Efforts to Prevent Deaths Have Not Been Fully Evaluated," <http://www.gao.gov/new.items/d06770.pdf> (Washington, D.C.: U.S. Government Accountability Office, August, 2006; accessed February 22, 2010), 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, "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2008," http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf (Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2009; accessed April 9, 2009)).

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 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, 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. This imposes a burden on advocates of restriction to cite some special conditions that either neutralize or outweigh the relevant *prima facie* right. I then examine 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. This leaves immigration restrictions ultimately unjustified.

A word about theoretical assumptions. In my view, most general theories or theoretical approaches in political philosophy—liberal egalitarianism, contractarianism, utilitarianism, and so on—are too controversial to form a secure basis for reasoning. It is not known which, if any, of those theories are correct. I have therefore sought to minimize the reliance on such theories. This does not mean that I assume that all such broad theories are false; I merely refrain from resting my arguments on them. Thus, I do not assume utilitarianism, contractarianism, libertarian rights theory, liberal egalitarianism, nor any general account of harm or rights. Nor do I assume the negation of any of those theories. Instead, I aim to rest conclusions on widely shared ethical intuitions about relatively specific cases. The method is to describe a case in which nearly everyone will share a particular, clear intuitive evaluation of some action, and then to draw a parallel from the case described to some controversial case of interest. This methodology follows a well-established tradition in applied ethics,³

³Think, for example, of Judith Thomson's violinist ("A Defense of Abortion," *Philosophy & Public Affairs* 1 (1971): 47-66, pp. 48-49), or Peter Singer's shallow pond (*Practical Ethics*, 2nd ed. (Cambridge: Cambridge University Press, 1993), p. 229).

I propose that the approach be applied to the issue of immigration. The approach can, of course, be subjected to criticism, particularly for the weight placed on common ethical intuitions, but this is not the place for a general discussion of the value of ethical intuition.⁴ In any event, the intuitive premises I shall rely on are, I hope, much less controversial than the broad philosophical theories of the sort mentioned above, and much less initially controversial than the immigration issue itself.

2. Immigration Restriction as a Prima Facie Rights Violation

In this section, I aim to show that immigration restriction is 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, because the victim's rights may be *outweighed* by competing moral considerations. Thus, 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 it seems to me.

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.

Now before we turn to the case of immigration, consider the following scenario. Marvin is in desperate need of food. Perhaps someone has stolen his food, or perhaps a natural disaster destroyed his crops; whatever the reason, Marvin is in danger of starvation. Fortunately, he has a plan to remedy the problem: he will walk to the local marketplace, where he will buy bread. Assume that in the absence of outside interference,

⁴See my *Ethical Intuitionism* (New York: Palgrave Macmillan, 2005) for a general defense of ethical intuition. See Peter Singer, "Ethics and Intuitions," *Journal of Ethics* 9 (2005): 331-52, for criticisms of the reliance on intuitions about cases.

this plan would succeed: the marketplace is open, and there are people there who are willing to trade food to Marvin in exchange for something he has. Another individual, Sam, is aware of all this and is watching Marvin. For some reason, Sam decides to detain Marvin on his way to the marketplace, forcibly preventing him from reaching it. As a result, Marvin returns home empty-handed, where he dies of starvation.

What is the proper assessment of Sam's action? Did Sam harm Marvin? Did he violate Marvin's rights? Was Sam's action wrong?

It seems to me that there are clear answers to these questions. Sam's behavior in this scenario was both extremely harmful to Marvin and a severe violation of Marvin's rights. Indeed, if Marvin's death was reasonably foreseeable, then Sam's act was an act of murder. Unless there obtained some unusual circumstances not mentioned in the preceding description, Sam's behavior was extremely wrong.

Intuitively, Sam's behavior would still be wrong if the harm suffered by Marvin were less severe. Suppose that, rather than dying soon after returning home, Marvin foreseeably suffers from serious malnutrition. Again, assume that this misfortune would have been avoided had Marvin been able to trade in the marketplace, but Sam forcibly prevented him from doing so. In this case, again, it seems that Sam violates Marvin's rights and wrongfully harms Marvin.

What do these examples show? I think they show, to begin with, that individuals have a prima facie, negative right not to be subjected to seriously harmful coercion. Sam's behavior in the scenario was, by stipulation, coercive—it involved a use or threat of physical force against Marvin, significantly restricting his freedom of action. It was also extremely harmful, resulting in Marvin's starvation. These facts seem to explain why Sam's action was a violation of Marvin's rights, and why it was wrong.

How do we know that Sam harmed Marvin? A "harm" is commonly understood as a setback to someone's interests.⁵ Marvin's death by starvation certainly sets back his interests. Moreover, in my view, no philo-

⁵Shelley Wilcox proposes to define harm in terms of "a human rights deficit": see "Immigrant Admissions and Global Relations of Harm," *Journal of Social Philosophy* 38 (2007): 274-91, p. 279. On this view, one must first determine whether a human right has been violated to determine whether someone has been harmed. This seems to me to put things the wrong way around. The notion of a human rights deficit is a more theoretical and controversial notion than that of a harm, and thus, one ought to be able to recognize the existence of harms without recognizing human rights deficits. Utilitarians, for instance, may recognize that people are often harmed, even if (as they may also hold) there are no rights. Wilcox (p. 278) worries that a broader notion of harm may create difficulties if one also holds that it is generally wrong for a state to harm individuals. This problem may be avoided, however, by embracing only the weaker principle that it is prima facie wrong to *seriously and coercively* harm persons. This principle is uncontroversial, and yet it suffices, as we shall see, to make the case against immigration restriction.

sophical *theory* of harm is required in this case. Perhaps there are borderline cases in which one would need to appeal to a theory to determine whether an event counted as a harm or not. But the story of starving Marvin presents no such difficult case. Marvin's death is a paradigm case of a harm.

Still, there are some who draw a distinction between *harming* someone (making oneself the agent of harm) and merely *allowing a harm* to befall someone. And some believe that allowing harm is much less wrong than harming, perhaps not even wrong at all.⁶ This view is controversial. Fortunately, we need not resolve that controversy here, because the case of Sam and Marvin is not a case of a mere allowing of harm. If Sam had merely stood by and refused to give Marvin food, then it could be said that Sam *allowed* Marvin to die. But that is not the story. The story is that Marvin is going to get some food, and Sam *actively and forcibly intervenes* to stop Marvin from getting it. This is a harming and, since the harm involved is death, it is a killing.⁷ I take all this to be the judgment of common sense.

I am not claiming here that all acts of coercion are harmful. Paternalistic coercion, for instance, need not be harmful. Nor are all harmful actions coercive. One might harm a person, for instance, by spreading false rumors about her, without any exercise of physical force. I am only claiming that *this* action, Sam's forcible interference with Marvin's effort to reach the marketplace, was both harmful and coercive. Similarly, I am not claiming that all coercion violates rights, nor that all harmful acts violate rights. I claim only that, when an action is seriously harmful *and* coercive, it tends for that reason to be a rights violation, other things being equal—that is, it is a *prima facie* rights violation. Sam's behavior in the scenario described violates Marvin's rights, because it is an act of extremely harmful coercion, and there are no relevant extenuating circumstances. Sam's behavior could be justified if, for example, it was necessary to prevent the deaths of a million innocent persons; or, perhaps, if Marvin had for some reason contracted Sam to forcibly prevent Marvin from going to the marketplace. But assume that nothing like that is the case. The case is just as originally described, with no special circumstances. Few would doubt, then, that Sam's behavior is unacceptable.

How does all this relate to U.S. immigration policy? The role of Marvin is played by those potential immigrants who seek escape from oppression or economic hardship. The marketplace is the United States: were they allowed in, most immigrants would succeed in meeting their needs (to a greater extent, at least, than they will if they are not allowed

⁶See Jan Narveson, *Moral Matters* (Lewiston, N.Y.: Broadview, 1993), pp. 138-50.

⁷Narveson (*Moral Matters*, p. 139) confirms this, characterizing a case of preventing someone from obtaining food as murder.

in). The role of Sam is played by the government of the United States, which has adopted severe restrictions on entry. These restrictions are imposed by coercion: armed guards are hired to patrol the borders, physically barring unauthorized entry, and armed officers of the state forcibly detain and expel immigrants who are found residing in the country illegally. As in the case of Sam's detention of Marvin, the U.S. government's exclusion of undocumented immigrants is also very harmful to most of those excluded: many suffer from oppression or poverty that could and would be remedied if only they were able to enter the country of their choice. In view of this, the actions of the U.S. government, *prima facie*, constitute serious violations of the rights of potential immigrants—specifically, the government violates their *prima facie* right not to be harmfully coerced.

How might advocates of restriction object to this reasoning? Some might argue that the United States, in refusing entry to potential immigrants, merely fails to confer a benefit, or that it merely allows a harm to occur, rather than actually harming the potential immigrants. On some views, individuals have a right not to be harmed in certain ways, but no right to positive assistance.⁸ There are at least two reasons why one might think that immigration restrictions merely allow harm. First, it might be thought that the United States is not the *cause* of the harms that potential immigrants suffer. Perhaps the harms are caused by natural disasters, or corrupt foreign governments. This claim is controversial;⁹ nevertheless, I shall grant it for the sake of argument. Second, it might be thought that the U.S. does not harm potential immigrants by refusing them entry, because the good they are denied is only a good that would be provided by the United States itself, and it might be thought that a withholding of benefits that would be conferred by oneself—even if that withholding requires active agency—is a mere failure to benefit, rather than a harming.¹⁰

In response to the first point, we must recognize that it is possible to

⁸See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), chaps. 3, 7; Narveson, *Moral Matters*, pp. 146-50.

⁹Narveson (*Moral Matters*, pp. 153-55) suggests that most world poverty is caused by the governments of poor countries. Thomas Pogge, however, argues that the U.S. government is partly responsible for many harms suffered by inhabitants of less developed nations. See *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2008), pp. 218-22.

¹⁰See Jeff McMahan, "Killing, Letting Die, and Withdrawing of Aid," *Ethics* 103 (1993): 250-79. Particularly clear is Shelly Kagan's case in which an agent has written a check for famine relief and given it to a friend to mail (*The Limits of Morality* (Oxford: Oxford University Press, 1991), p. 107). The agent changes his mind and asks for the check back, before the friend mails it. Here, aid is withheld through active agency. Most would classify this as an allowing rather than a doing of harm (discussed in McMahan, "Killing, Letting Die," pp. 259-60).

harm a person even when one is not the originating cause of the harm that person suffers: one can harm a person by preventing that person from averting or remedying a harm originated by someone or something else. That is the lesson of the Sam-Marvin case: Sam did not cause Marvin to be out of food to begin with. We may suppose that Marvin was initially in danger of starvation because a natural disaster destroyed his crops, or because thieves (entirely unconnected to Sam) stole his food. This initial situation would be no fault of Sam's. Nevertheless, when Sam actively and coercively interferes with Marvin's efforts to remedy the problem, Sam then becomes responsible for Marvin's misfortune.

In response to the second point, note that the agent to whom I am ascribing a wrong is not the United States (the society as a whole) but rather the U.S. government. In denying entry to potential immigrants, the U.S. government refuses to provide certain benefits to them, including all the social services that they would receive were they granted U.S. residence. But that is not the harm that I am claiming the government imposes on potential immigrants. (Perhaps that is a harm imposed by the state, perhaps not—but it is not what my argument rests upon.) The U.S. government also fails to provide assistance in the form of foreign aid to most of these would-be immigrants. But again, that is not the harm that I charge the U.S. government with imposing. The way the government harms potential immigrants is by excluding them from a certain physical area, and thereby effectively excluding them from interacting in important and valuable ways with people (other than the government itself) who are in that region. Many Americans would happily trade with or employ these would-be immigrants, in a manner that would enable the immigrants to satisfy their needs. The government does not merely refuse to give goods to the potential immigrants, nor does it merely refuse, itself, to trade with them. It expends great effort and resources on actively stopping Americans from trading with or employing them in the relevant ways.¹¹

The point can be seen perhaps more clearly by returning to the case of Marvin. If Sam refuses to sell Marvin food, then Sam thereby fails to confer a benefit on Marvin. But when Sam actively stops Marvin from

¹¹The federal government spends almost \$13 billion a year on actively excluding or expelling unauthorized immigrants (U.S. Office of Management and Budget, "Budget FY 2009, Department of Homeland Security," <http://www.whitehouse.gov/omb/budget/fy2009/homeland.html>; accessed April 9, 2009). Chandran Kukathas explains the moral problem well: "It would be bad enough to meet such people with indifference and to deny them positive assistance. It would be even worse to deny them the opportunity to help themselves. To go to the length of denying one's fellow citizens the right to help those who are badly off, whether by employing them or by simply taking them in, seems even more difficult to justify—if, indeed, it is not entirely perverse." Chandran Kukathas, "The Case for Open Immigration," in Andrew I. Cohen and Christopher Heath Wellman (eds.), *Contemporary Debates in Applied Ethics* (Malden, Mass.: Blackwell, 2005), pp. 207-20, at p. 211.

trading with anyone in the marketplace, when there are merchants present who would be glad to trade with Marvin, Sam thereby harms Marvin. He does not merely fail to benefit Marvin.

Sam's action might be justified if there were special circumstances not previously specified, circumstances that either cancelled the right that Marvin normally has not to be harmfully coerced, or that morally outweighed Marvin's rights. Likewise, what we have said so far does not establish that the U.S. government's restrictions on immigration are wrong *tout court*, but only that those defending the policy incur a burden of providing a justification for these restrictions. In light of the seriousness of the harms involved in this case, the justification for immigration restrictions must be correspondingly clear and powerful.

3. Reasons for Restriction

Harmful coercion is sometimes justified. It may be justified when necessary to defend an innocent party against harmful coercion. It may be justified when necessary to prevent much worse consequences. It may be justified because of a prior agreement made by the coercee. And there may be other circumstances that justify harmful coercion as well.¹² Some believe, for instance, that harmful coercion may be justified because of a need to rectify severe economic inequality. The latter claim is controversial, as would be many other alleged justifications for harmful coercion. This illustrates one reason why a general theory of the conditions for justified harmful coercion would be difficult to devise and still more difficult to defend.

Fortunately, it may turn out that we do not need any such general theory. Some sorts of reasons, including some mentioned in the preceding paragraph, are generally accepted as legitimate justifications for harmful coercion. Equally, there are some sorts of reasons that we can see intuitively, even without a general theory, *not* to be legitimate justifications for harmful coercion. For instance, one is not justified in harmfully coercing a person simply because one wants the victim's shoes, or because one hates the race to which the victim belongs, or because one disagrees with the victim's philosophical beliefs. Whatever is the correct theory of justifications for harmful coercion, *those* reasons surely will not qualify. The task at hand is to determine whether there are any circumstances that justify the harmful coercion involved in immigration

¹²Michael Blake argues that coercion may be justified by a hypothetical agreement, that is, by the circumstance that one would have agreed to the coercively imposed result under certain ideal circumstances. See "Distributive Justice, State Coercion, and Autonomy," *Philosophy & Public Affairs* 30 (2002): 257-96, p. 274.

restrictions. Given that immigration restriction is a prima facie rights violation, the burden of proof falls on advocates of restriction. Thus, we may proceed by considering the reasons they have offered for restricting immigration. If it turns out that all of these reasons fall into the category of things that clearly do not count as valid justifications for harmful coercion, then it is fair to draw the conclusion that immigration restrictions are unjustified.

3.1. Immigration and employment

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.¹³ At the same time, economists are nearly unanimous in agreeing that the overall economic effects of immigration on existing Americans are positive.¹⁴ 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 1980s may have reduced the wages of native-born workers in the most strongly affected industries by about 1-2% (5% for high school dropouts).¹⁵ At the same time, employers in those industries and custom-

¹³See Susan Vroman, "Some Caveats on the Welfare Economics of Immigration Law," in Warren F. Schwartz (ed.), *Justice in Immigration* (Cambridge: Cambridge University Press, 1995), pp. 212-18; Roy Beck, *The Case Against Immigration* (New York: W.W. Norton, 1996), pp. 9-10.

¹⁴Julian Simon and Stephen Moore 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 (reported in Julian Simon, *The Economic Consequences of Immigration* (Oxford: Blackwell, 1989), pp. 357-61). 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 he didn't know. Bryan Caplan discusses similar, though less extreme, results from the Survey of Americans and Economists on the Economy (*The Myth of the Rational Voter* (Princeton: Princeton University Press, 2007), pp. 58-59).

¹⁵National Research Council, Panel on the Demographic and Economic Impacts of Immigration, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*, ed. James P. Smith and Barry Edmonston (Washington, D.C.: National Academies Press, 1997), pp. 6-7. Stephen Macedo gives figures of 4% overall and 7.4% for high school dropouts, for the period from 1980-2000. See "The Moral Dilemma of U.S. Immigration Policy: Open Borders Versus Social Justice?" in Carol M. Swain (ed.), *Debating Immigration* (Cambridge: Cambridge University Press, 2008), pp. 63-81, at p. 66, citing George Borjas, *Heaven's Door: Immigration Policy and the American Economy* (Princeton: Princeton University Press, 1999).

ers 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.¹⁶

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 show that immigration restriction does not violate the rights of would-be immigrants, or that if it does, the rights violation is nevertheless justified? More generally, does the following constitute a valid justification for harmful coercion: that the coercive action is necessary to prevent someone else from suffering slight to moderate economic disadvantage through marketplace competition?

It seems to me that it does not. 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. On the day Bob is scheduled to have his job interview, I accost him and physically restrain him from going to the 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? Alternatively, does it show that my action, though a rights violation, was an ethically 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 very 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

¹⁶Caplan, *The Myth of the Rational Voter*, pp. 58-59; Simon, *The Economic Consequences of Immigration*, pp. 11, 354-55.

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 story of Sam and Marvin. As before, Marvin plans to walk to the local marketplace to obtain life-sustaining food. Due to his economic circumstances, Marvin will have to buy the cheapest bread available at the market. Sam's 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. Sam's daughter could buy more expensive bread, but she would prefer not to. Knowing all this, Sam fears that if Marvin is allowed to go to the market, his daughter will be forced to pay a slightly higher price for bread than she would like. To prevent this from happening, he accosts Marvin on the road and physically restrains him from traveling to the market. Is Sam's action permissible?

Suppose Sam claims that his harmful coercion does not violate Marvin's rights, because it is necessary to protect his 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 Sam's action, though a rights violation, is justified because his 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 forcibly excluded from the market. 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 needy foreigners. 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.

3.2. 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 citizens from criminals or other governments. Those who endorse a social contract theory of political authority may explain this by appeal to the idea that noncitizens of a given state are not party to the social contract with that state; the state therefore lacks the contractual obligations to noncitizens that it bears to citizens.

Perhaps this leads to a rationale for immigration restriction.¹⁷ 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. Alternatively, one might argue that immigrants impose a financial burden on government providers of social services, such as health care, education, and law enforcement.¹⁸ Since these social programs are financed through revenues collected from existing U.S. citizens, the government's 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 benefited by increased immigration. As mentioned

¹⁷See John Isbister, "A Liberal Argument for Border Controls: Reply to Carens," *International Migration Review* 34 (2000): 629-35.

¹⁸Peter Brimelow, *Alien Nation: Common Sense about America's Immigration Disaster* (New York: Random House, 1995); Joseph Heath, "Immigration, Multiculturalism, and the Social Contract," *Canadian Journal of Law and Jurisprudence* 10 (1997): 343-61, pp. 347-48.

earlier, most 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 obligation to respect the human rights of noncitizens. 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, Sam coercively prevented Marvin from reaching the local marketplace, on the grounds that doing so was necessary to prevent his daughter from having to pay a higher than normal price for her bread. This action seems unjustified. Would Sam succeed in defending his behavior if he pointed out that, as a father, he has special obligations to his daughter, and that these imply that he must give greater weight to her 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. One's special duties to one's offspring imply that if one must choose between giving food to one's own child and giving food to a non-family member, one should generally give the food to one's own child. But they do not imply that one may use force to stop non-family members from obtaining food, in order to procure modest economic advantages for one's own 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.¹⁹ This is mainly because immigrants tend to have lower-than-average incomes, and thus pay relatively low taxes.²⁰ Some economists believe, however, that in the long run (over a period of decades), increased immi-

¹⁹The National Research Council (*The New Americans*, 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 reports, the most costly government services used by immigrants are public school education, health care, and law enforcement ("The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments," <http://www.cbo.gov/doc.cfm?index=8711> (Washington, D.C.: Congressional Budget Office, 2007; accessed April 9, 2009)).

²⁰National Research Council, *The New Americans*, p. 11.

gration would have a net positive fiscal impact.²¹

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.²² If so, then the state obviously may not exclude potential immigrants for the purpose of shirking this duty.

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

Surely not. Perhaps Sam would be justified in altering his policy and refusing to give free food to Marvin when he arrives at the marketplace—this would be permissible, provided that Sam has no humanitarian obligation to assist Marvin. But whether or not Sam has any such humanitarian duties, he surely has no right to actively prevent Marvin from getting his own food. If Marvin had been coming to the market to

²¹*Ibid.*, pp. 11–12.

²²See below, section 3.3.

steal Sam's food, perhaps then again Sam 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 Sam must let him take the food. But whatever one thinks about that question, surely Sam cannot justify barring Marvin from the opportunity to *buy* food from others, merely on the grounds that if Sam permits him to do so, then Sam will also voluntarily give him some food.

I have considered the possibilities both 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 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 not plausible 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.²³ Alternatively, the state could require new immigrants to agree to pay a higher tax rate, sufficient to cover the government's expected costs. 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

²³Kukathas ("The Case for Open Immigration," p. 213) suggests something like this arrangement. The U.S. federal government already bars legal resident immigrants from receiving means-tested federal assistance for five years after their arrival (Tanya Broder and Jonathan Blazer, "Overview of Immigrant Eligibility for Federal Programs," National Immigration Law Center, http://www.nilc.org/dc_conf/flashdrive09/Access-to-Public-Benefits/pb1_overview-immeligfedprograms-2009-11-04.pdf (October 2009; accessed February 22, 2010)). 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).

potential immigrants from the country.

It could be questioned whether the policy suggested in the preceding paragraph is permissible. If foreigners have a *right* to immigrate, one could argue, then the state must allow them to exercise that right, whether or not they agree to waive other rights (including rights that they may come to have in the future). This may be correct. But whether or not it is correct, my argument of the preceding paragraph stands. For my claim was not that the state in fact ought to require potential immigrants to waive their (future) right to receive social services. I claim only that the state ought *not* to prohibit potential immigrants from entering the country, given that there is an alternative method of achieving the same goal, and that this alternative is less coercive and less harmful. It may of course be that *neither* alternative is permissible. But in any event, the unnecessarily coercive alternative is not permissible. 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 even if one may do so, surely one may not employ *more* harmful coercion than is necessary to achieve one's goal.

3.3. *Priority for the least advantaged*

Some believe that the state ought to place greater weight on benefiting the least advantaged members of society than on benefiting other groups. Suppose this view (hereafter, "the Priority View") is correct.²⁴ What would it imply for the issue of immigration?

Joseph Carens believes that the Priority View provides further support for open borders. This is because Carens believes the Priority View should be applied internationally. Many of the globe's least advantaged inhabitants presently reside in foreign countries, and they could be helped by a policy of open borders.²⁵ Other thinkers argue, however, that a national government should apply the Priority View only within the borders of its own nation, thus prioritizing the interests of the least advantaged of its own citizens, rather than the least advantaged people on Earth.²⁶

Why might the Priority View apply only to a government's own citizens? Michael Blake argues that obligations of distributive justice arise

²⁴John Rawls's Difference Principle is an extreme form of the Priority View (*A Theory of Justice*, revised ed. (Cambridge, Mass.: Harvard University Press, 1999), pp. 65-70). The term "Priority View" is from Derek Parfit, although Parfit uses the term to describe a general ethical view, rather than a view regarding the obligations of the state ("Equality or Priority?" 1991 Lindley Lecture, University of Kansas (published 1995), p. 19).

²⁵Joseph Carens, "Aliens and Citizens: The Case for Open Borders," *Review of Politics* 49 (1987): 251-73, pp. 255-62.

²⁶Isbister, "A Liberal Argument for Border Controls"; Blake, "Distributive Justice"; Macedo, "The Moral Dilemma of U.S. Immigration Policy."

from the need to justify the *coercive* aspects of a social system. As a result, the Priority View applies only within the domain of those persons who are subject to the state's coercion, which he takes to mean the citizens of that state.²⁷ Stephen Macedo argues that a state has obligations of distributive justice only to those who are subject to a common system of laws. Considerations of distributive justice do not apply across borders, because individuals in different countries are not under a common legal system. Furthermore, according to Macedo, immigration causes economic disadvantage to those members of the native-born population who are already worst off. This is because immigrants often compete for the lowest-skilled jobs, thus further lowering the wage rates of the lowest-paid workers. The economic gain to consumers and employers may be greater than the economic loss to native-born workers, but, Macedo argues, the state should prioritize the interests of poor American workers over both the interests of wealthier Americans and the interests of would-be immigrants.²⁸ Thus, this version of the Priority View supports tight restrictions on immigration.

The Priority View itself is controversial.²⁹ But, even without challenging the general validity of the Priority View, there are still two things that may be said in response.

First, even if the Priority View is generally correct, it does not justify just *any* way in which the state might prioritize the interests of its least advantaged citizens. When the state has resources to spend, the Priority View tells us that the state ought, *ceteris paribus*, to spend its resources to help its poorest citizens. If the U.S. government is distributing food aid, it ought to give food to poor Americans before giving food to upper- or middle-class Americans. If Macedo and Blake are correct, the government ought also to give food to poor Americans before giving food to poor foreigners. But even those who are sympathetic to the Priority View would typically not, I think, hold that the state ought to promote the interests of its least advantaged citizens by *violating the rights* of foreigners. For example, suppose that the United States government were in a position to *steal* food from hungry people living in Afghanistan, ship the food to America, and give it to poor Americans. Very few, even among the most nationalistic egalitarians, would argue that the state was justified in doing so. Or suppose that the U.S. government could trick poor Afghans into giving the government money by offering to sell them food,

²⁷Blake, "Distributive Justice," pp. 274-84; Michael Blake, "Immigration," in R.G. Frey and Christopher Heath Wellman (eds.), *A Companion to Applied Ethics* (Malden, Mass.: Blackwell, 2003), pp. 224-37, at pp. 227-28.

²⁸Macedo, "The Moral Dilemma of U.S. Immigration Policy."

²⁹See Nozick, *Anarchy, State, and Utopia*, chap. 7, for influential criticisms of this kind of view.

but instead of giving them food, the government could just take the Afghans' money and give it to poor Americans. Or, finally, suppose the U.S. government could kill Afghan citizens, sell their organs, and use the money to help poor Americans. In all of these cases, the U.S. government would be prioritizing the interests of its poorest citizens over those of foreigners. But presumably, these are not valid applications of the Priority View. A plausible account of why these applications of the Priority View are not valid is that the Priority View must be understood as operating under an implicit constraint: the state should promote the interests of its poorest citizens, but without violating the rights of others. If the argument of section 2 is correct, then restrictions on immigration are, *prima facie*, violations of the rights of foreigners; they thus could not be justified by appeal to the Priority View. Of course, we may yet find special circumstances that neutralize or override foreigners' *prima facie* rights in this case. The point here is simply that the Priority View does not point us to such a circumstance: as the examples discussed in this paragraph show, the fact that a particular action would promote the interests of the poorest Americans does not make what would otherwise be a violation of the rights of foreigners cease to be such.

A second response to Macedo and Blake is to argue that the Priority View, if correct, should after all apply to foreigners. This is clear when we consider Blake's view of the principles of distributive justice. Blake holds that such principles apply to all those who are subject to coercion by the state. *Pace* Blake, this group is not limited to the state's subjects. As I have been at pains to emphasize, immigration restrictions are coercive toward foreigners. Would-be immigrants are coercively prevented from immigrating. Therefore, by Blake's own lights, the state does after all owe these people a justification for its coercive activities.³⁰ If, as Blake believes, the justification for official coercion must derive from a hypothetical social contract among all parties subject to the state's coercion, then foreigners must be included in this contract. If the social contract demands a version of the Priority View, then it must be an internationalist Priority View.

Macedo's position is similar to Blake's: Macedo holds that the Priority View arises out of a social contract, to which the parties are all those subject to a common system of laws. Admittedly, foreigners are considerably less subject to U.S. law than U.S. citizens are. They are not, however, entirely exempt from American law. In particular, foreigners are subjected to U.S. *immigration* law, which prohibits most of them from migrating to the United States. Macedo might argue that their sub-

³⁰Arash Abizadeh presses this argument in "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders," *Political Theory* 36 (2008): 37-65, pp. 44-48.

jection to this relatively limited body of law, in contrast to the much larger body of laws from which they are exempt, is not enough to justify their inclusion in the hypothetical social contract. But this, it seems to me, is not a natural position. If legal systems require justification, perhaps because of the way in which they impose coercive restrictions on persons, and if, as a rule, they must be justifiable to all those on whom the laws are imposed, then the most natural view to take is that even limited bodies of law must be justifiable to all those on whom those limited bodies of law are imposed. Thus, immigration law should be justifiable to all those who are subjected to it, which is to say, to all potential immigrants. It seems unlikely that potential immigrants, if included in the hypothetical social contract, would agree in principle to being excluded from the country for the benefit of native-born citizens.

3.4. Cultural preservation

In the views of some thinkers, states are justified in restricting the flow of immigration into their territories for the purposes of preserving the distinctive cultures of those nations.³¹ Joseph Heath argues that citizens have an interest in preserving their culture because the culture helps them form values and decide how to live. If too many immigrants from other cultures arrive, they could disrupt our culture; thus, Heath believes, we have a right to restrict immigration.³² David Miller argues that existing citizens have an interest in seeking to *control* how their culture does or does not develop, and this requires the ability to limit external influence; thus, again, we have a right to restrict immigration.³³

To see this as a persuasive reason for restricting American immigration, we must accept two premises, one empirical and the other ethical. The empirical premise is that American culture is in danger of extinction or at least severe alteration if immigration is not restricted. The ethical premise is that the need to preserve one's culture constitutes a legitimate justification for harmful coercion of the sort involved in immigration restrictions.

Both premises are open to question. Empirically, it is doubtful wheth-

³¹Brimelow, *Alien Nation*, pp. 178-81; Yael Tamir, *Liberal Nationalism* (Princeton: Princeton University Press, 1993), pp. 158-60; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), pp. 38-41. Michael Dummett (*On Immigration and Refugees* (London: Routledge, 2001), pp. 50-52) recognizes a right to restrict immigration to prevent submersion of one's culture, but he believes very few countries have a valid concern about such submersion.

³²Heath ("Immigration, Multiculturalism," pp. 349-50) cites Will Kymlicka (*Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989), pp. 165-66) on the importance of culture, applying Kymlicka's thesis to the question of immigration control.

³³David Miller, "Immigration: The Case for Limits," in Cohen and Wellman (eds.), *Contemporary Debates in Applied Ethics*, pp. 193-206, at pp. 200-201.

er apprehensions about the demise 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.³⁴ McDonald's operates more than 32,000 restaurants in over 100 countries.³⁵ The three highest grossing movies of all time, worldwide, were *Avatar*, *Titanic*, and *The Lord of the Rings: The Return of the King*. All three were made by American companies, but 70% of the box office receipts came from outside the United States.³⁶ 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.³⁷ 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.

Turning to the ethical premise of the argument for restriction, is the desire to preserve American culture a valid 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? Miller is on plausible ground in maintaining that people have a strong interest in controlling their culture. But not everything in which one has an *interest* is something that one

³⁴Daniel Workman, "Coca-Cola Global Sales: India Most Promising International Market," http://internationaltrade.suite101.com/article.cfm/coca_cola_global_sales (December 28, 2006; accessed March 30, 2009).

³⁵Daniel Workman, "McDonald's Global Sales: Big Mac's International Revenues Sizzle in 2006," http://internationaltrade.suite101.com/article.cfm/mcdonalds_global_sales (October 24, 2006; accessed March 30, 2009).

³⁶Box Office Mojo, "All Time Worldwide Box Office Grosses," <http://www.boxofficemojo.com/alltime/world/> (accessed February 22, 2010).

³⁷BBC News, "Millionaire Dominates Global TV," <http://news.bbc.co.uk/2/hi/entertainment/4436837.stm> (April 12, 2005; accessed March 30, 2009); Daily Mail Reporter, "Coming Soon to Afghanistan ... Who Wants To Be A (Sort of) Millionaire?" <http://www.dailymail.co.uk/news/article-1078294/Coming-soon-Afghanistan--Who-Wants-To-Be-A-sort-Millionaire.html> (October 16, 2008; accessed March 30, 2009). *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://www.wz.fujitv.co.jp/quiz/index.html>.

may, ethically, secure through harmful coercion of others, even if such coercion is required to protect one's interest. For instance, I have an interest in having my lawn mowed, but I may not force anyone to mow it, even if this is the only method I have available to secure the desired result. Even when one has a *right* to something, it is not always permissible to protect one's enjoyment of the right through coercion. Suppose that I am in need of a liver transplant, but there are no willing donors available. To preserve my life, I must take a liver by force from an unwilling donor. Even though I have both a strong interest in living and a right to life, this does not imply that I may coerce an unwilling donor.

Why, then, should we assume that our admittedly strong interest in preserving our culture entitles us to harmfully coerce others in the name of cultural preservation? Proponents of the cultural preservation argument have neglected this question. Two hypothetical examples, however, may help us to address it.

First, 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 forcibly expel all Buddhists from the neighborhood. Or you could forcibly prevent any Buddhists from moving in. All of these actions seem unacceptable. Hardly anyone would accept the suggestion that your interest in preserving a Christian neighborhood either negates or outweighs your neighbors' rights not to be harmfully coerced by you.

A society's dominant religion is an important part of its culture, though not the only important part. But similar intuitions can be elicited with respect to other aspects of culture. You may not forcibly prevent your neighbors from speaking different languages, wearing unusual clothes, listening to unfamiliar music, and so on. This suggests that the protection of one's interest in cultural preservation is not a sufficient justification for harmful coercion against others.

Second, consider another variant of the story of Marvin. Again, imagine that Sam has coercively prevented Marvin from reaching the local marketplace, where he would have bought food needed to sustain his life.

His earlier justifications for his behavior having fallen flat, Sam mentions that he 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 most others (though he is able to get along well enough to purchase food), and admires very different kinds of art. Sam became concerned that, if Marvin went to the marketplace and interacted with the people gathered there, he might 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. Because Sam did not want these things to happen, he decided to forcibly prevent Marvin from reaching the marketplace.

Sam had a real interest in preventing the sort of changes that Marvin might have induced. The question is whether this interest is of such a kind that it justifies the use of harmful coercion against innocent others to protect that interest. Intuitively, the answer is no. Sam's desire to be surrounded by people who think and behave in ways similar to himself does not overrule Marvin's right to be free from harmful coercion.

Is this case a fair analogy to the case of immigration restriction? One difference is that Marvin is only one person, and it seems unlikely that he could single-handedly bring about a drastic change in the culture of Sam's society. In contrast, if the United States were to open its borders, *millions* of people would come across, making drastic cultural change a much more realistic possibility.

This difference between the two cases would invalidate my argument, if the reason why Sam's action was impermissible were that Marvin would not in fact have had the effects that Sam feared. But this is not the case. In both of my examples, it should be stipulated that the agent's fears are realistic: in the first example, you have well-founded fears that your neighborhood is becoming Buddhist; in the second example, Sam had well-founded fears that Marvin would have a large impact on the other people in the marketplace. (Perhaps the marketplace is small enough that a single person can significantly influence it.) My contention, with regard to these examples, is not that the cultural change would not happen, but that the avoidance of cultural change does not seem an adequate justification for harmful coercion against innocent others.

3.5. The immigrant flood and the collapse of America

The last reason for restriction that 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 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.³⁸

Each of these predictions merits a lengthy discussion on its own, but limitations of space preclude 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,"³⁹ 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.⁴⁰ 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

³⁸Brian Barry, "The Quest for Consistency: A Sceptical View," in Brian Barry and Robert E. Goodin (eds.), *Free Movement: Ethical Issues in the Transnational Migration of People and Money* (University Park: Pennsylvania State University Press, 1992), pp. 279-87.

³⁹*Ibid.*, p. 281.

⁴⁰D'Vera Cohn and Rich Morin, "American Mobility: Movers, Stayers, Places and Reasons," Pew Research Center, <http://pewresearch.org/pubs/1058/american-mobility-moversstayers-places-and-reasons> (December 17, 2008; accessed April 2, 2009).

each moment, ready to switch paths whenever they identify one with greater expected utility; rather, they remain on their 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.⁴¹ 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.⁴² The 9.1 million applicants constituted approximately 0.3% of the total population of the eligible countries.⁴³ So there are presently about 13 million or so people living outside the United States who have made at least some effort towards moving to the U.S. legally. 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 (among other things, there may be many who have refrained from trying to immigrate only because they believed they would not be permitted to do so). Nevertheless, these facts suggest that Barry has an overly liberal view of people's desire to move, and that his estimate of one billion im-

⁴¹Doug Thompson, "Legal Immigration Waiting List Long, Records Show," *The Morning News*, <http://www.nwaonline.net/articles/2007/05/09/news/051007arlegally.txt> (May 9, 2007; accessed April 17, 2009).

⁴²U.S. Department of State, "Diversity Visa Lottery 2009 (DV-2009) Results," http://travel.state.gov/visa/immigrants/types/types_4317.html (accessed April 9, 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.

⁴³Population statistics are from CIA estimates (U.S. Central Intelligence Agency, "World Factbook," <https://www.cia.gov/library/publications/the-world-factbook/index.html> (accessed April 9, 2009)).

migrants may be off by one or two orders of magnitude.⁴⁴

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.⁴⁵ 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 was 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.⁴⁶ 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 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

⁴⁴After writing the remarks in the text, I found polling data from Gallup indicating that the United States is the most desired destination country for migrants worldwide, with about 165 million people reporting that they would prefer to live in the United States rather than their present home country. See Neli Esipova and Julie Ray, "700 Million Worldwide Desire to Migrate Permanently," <http://www.gallup.com/poll/124028/700-million-worldwide-desire-migrate-permanently.aspx> (November 2, 2009; accessed February 19, 2010). Nevertheless, most of these individuals have not made an observable effort to migrate to the U.S.

⁴⁵Based on U.S. Census estimates, 2009 immigration was about 0.28% of the population (but note that this statistic omits illegal immigrants, an unknown number of whom entered the country in 2009) (U.S. Census Bureau, "Estimates of the Components of Resident Population Change for the United States, Regions, and States: July 1, 2008 to July 1, 2009 (NST-EST2008-05)," <http://www.census.gov/popest/states/NST-comp-chg.html> (released December, 2009; accessed February 22, 2010); U.S. Census Bureau, "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2009 (NST-EST2009-01)," <http://www.census.gov/popest/states/NST-ann-est.html> (released December, 2009; accessed February 23, 2010)). In 1854, immigration was almost 2% of the population (Roger Daniels, *Coming to America: A History of Immigration and Ethnicity in American Life* (New York: HarperCollins, 1990), p. 124). In 1910, 14.7% of the U.S. population was foreign-born (Daniels, *Coming to America*, p. 125), compared with 7.3% in 2004, the latest year for which the Census Bureau has data available (U.S. Census Bureau, "Population by Sex, Age, and U.S. Citizenship Status: 2004," <http://www.census.gov/population/www/socdemo/foreign/ppl-176.html> (February 22, 2005; accessed April 2, 2009)).

⁴⁶All population density statistics have been calculated from U.S. Central Intelligence Agency ("World Factbook" (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.

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

To summarize this section, we have examined the most popular reasons for immigration restriction. They include the concerns that immigrants harm poor Americans through labor market competition, that they burden government social welfare programs, that they threaten our culture, and that excessive numbers of immigrants could bring about the general collapse of American society. While each of these worries provides some reason for restriction, the question of interest is whether any of them provides a reason adequate to justify the harmful coercion entailed by such restrictions. In most cases, the answer is a clear no. This can best be seen by considering simpler, less controversial cases in which an individual engages in analogous harmful coercion for similar reasons. Thus, it seems that Sam may not forcibly prevent Marvin from reaching the marketplace merely because Marvin would compete with Sam's daughter economically. This is true even though Sam has special duties to his daughter that require him, in many other circumstances, to put her interests before those of non-family members. Nor may Sam coerce Marvin to prevent Marvin from (peacefully) causing changes in the language spoken in the marketplace, or the religion practiced by the merchants there, or other social customs. The one concern that plausibly would, if well-founded, serve to justify immigration restriction is the worry that enormous numbers of immigrants would cause a virtual collapse of American society. This concern is also the most speculative and doubtful. Nevertheless, if the worry is valid, it would justify imposing some limits on the rate of immigration, albeit much looser limits than those currently in place. The conclusion is that for the most part, advocates of restriction have failed to satisfy the burden of justification created by the harmful, coercive nature of their favored policy, and that a far more liberal immigration policy is demanded by respect for individual rights.

Those would-be immigrants who have been turned away from America have almost certainly suffered a serious violation of their rights.

4. The Right to Restrict: Club U.S.A.

We have now concluded the main argument for the right to immigrate. But some philosophers have advanced arguments, independent of any particular reasons in favor of restriction, for the conclusion that the state has a right to restrict immigration. The most popular argument of this kind is an argument based upon an analogy between citizenship and membership in other sorts of organizations.

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. Suppose Sam, Betty, and Mike form a private club to discuss philosophy on the weekends. Marvin asks to join. For no particular reason, Sam, Betty, and Mike decide that they don't feel like having Marvin around, so they refuse. Though their behavior is unfriendly, the club members 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.⁴⁷ 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.

There are at least two important objections to this reasoning. The first is that there are a number of important differences between a state and a private club of the sort envisioned above, and some of these differences may be morally significant enough to undermine the analogy.⁴⁸ In the case of states, everyone is compelled to be a citizen of at least one—one has the option of simply not joining any country. In addition, these states provide extremely important services, but some states are much

⁴⁷See Walzer, *Spheres of Justice*, pp. 39-41; Stephen Kershner, "There Is No Moral Right to Immigrate to the United States," *Public Affairs Quarterly* 14 (2000): 141-58, p. 143; Christopher Heath Wellman, "Immigration and Freedom of Association," *Ethics* 119 (2008): 109-41, pp. 110-14. However, those who defend this view generally do not claim that the state may exclude immigrants for just any reason—for instance, the state may not exclude immigrants on racial grounds (Miller, "Immigration: The Case for Limits," p. 204; Wellman, "Immigration and Freedom of Association," pp. 139-40).

⁴⁸Phillip Cole rightly observes that Walzer has failed to show that political communities are relevantly similar to private clubs. See *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000), p. 72. Here, I go further by pointing out some relevant differences.

better than others, such that individuals who belong to the worse states are likely to suffer severe and lifelong deprivation or oppression. Finally, exclusion from a country generally also entails exclusion from any of a vast array of interactions with the citizens of a given country. None of these things is typically true of private clubs. No one, for example, is compelled to belong to a philosophy discussion club. Philosophy discussion clubs, while useful, do not provide services that everyone needs to have a decent life, nor are those who belong to inferior philosophy discussion clubs doomed to lifelong deprivation or oppression. Finally, those who are excluded from a philosophy discussion club are not thereby effectively excluded from a vast array of business and social interactions with the members of the club. They may still visit the club members individually, hire or be hired by them, and so on.

In recognition of these important differences, we might devise another scenario that provides a closer analogy to governmental control over citizenship. Suppose there is an island, on which each individual belongs to one of several "water clubs." The water clubs procure water for their members, and all water on the island (including rain) is controlled by the clubs. Everyone is forced to belong to at least one club, and no one can obtain water except through a water club. Furthermore, some clubs are much better at managing their water, or simply have control of more and better-quality water, than others. As a result, many individuals on the island suffer from chronic thirst and water-borne illnesses. Many of these individuals attempt to join better water clubs, but the privileged members of the latter clubs refuse to admit them. *Some* members of the high-quality water clubs want to admit the less fortunate, thirstier people, but they are outvoted by other members. Furthermore, these privileged water clubs pass rules prohibiting any of their members from sharing water with thirsty people who do not belong to the club, and even from socializing with or doing business with such thirsty people. These rules are enforced through threats of violence.

This last scenario provides a closer analogy to the U.S. government's immigration policy than does the example of the weekend philosophy discussion club. In the water club story, the clubs in question have control over vital goods that everyone needs, everyone is compelled to belong to one, those who belong to inferior clubs thereby suffer serious deprivation, and those who are excluded from a club are also excluded from a wide array of business and social relations with any of that club's members. In all these respects, the water clubs are similar to governments, while the philosophy discussion club is not. And, whereas the philosophy discussion club seems within its rights in excluding unwanted members, it seems to me much more doubtful that the high-quality water clubs in the example are ethically permitted to exclude thirsty, less-fortunate people.

That is one reason why the private club analogy fails to establish its intended conclusion. The second objection takes the form of a *reductio ad absurdum*: if the private club analogy succeeds in showing that foreign individuals have no right to immigrate to the United States and that states have the right to control their membership, then similar arguments can also be used to establish that individuals have hardly any rights at all, and that states have almost unlimited rights to coerce their members. The advocate of the club analogy will have to accept that a state may make demands of its citizens similar to those that a private club may make.

Of course, the advocate of the club analogy need not, initially, accept that states may do *all* things that private clubs may do. But he is committed to accepting that states have the same sort of rights to control the *conditions for citizenship* that private clubs have to control the conditions for membership, for that is the central point of the analogy. And the rights of private clubs are, in this regard, very extensive. A private club is within its rights even when it sets 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 every month (but I may not start a club for murderers). I may not compel anyone to join my club, but once they have joined, I do no wrong by requiring members to abstain from vegetables and flush money down the toilet. Whether I may *punish* members for failing to live up to the conditions of membership is more controversial, but I may at least demand that they either accept punishment or resign from the club. Similarly, the members of a club may (provided that this is in accordance with the club's bylaws) vote to alter the membership conditions. A club initially started for philosophy discussion could become a club for people who eschew vegetables, provided that the change is made in accordance with club procedures. Again, the club could demand that all members either comply with the policy or resign their membership.

Following the analogy between clubs and states, then, a state could demand that all citizens refrain from eating vegetables (or else renounce their citizenship), provided that this policy was adopted in accordance with established legislative procedures. Some readers may not find this result especially disturbing. But now consider some of the other things that could be valid conditions for membership in a private club. I could, if I wished, start a club for people who cut off their left arms. Or for people who refrain from voting if female. Or for people who refrain from expressing political opinions. Again, I could not force anyone to join any of these clubs; I could, however, demand that anyone who belonged to the club either resign or follow the club's stated policies. If we rely on the analogy between states and clubs, then the state could require citizens to cut off their left arms, refrain from expressing political opinions, re-

frain 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. Thus, the state may demand that anyone who wishes to retain their citizenship should follow these laws.

Evidently, there is something wrong with that argument. The state does not have a right to require citizens to cut off their arms, or to prohibit women from voting, or to prohibit the expression of political opinions. The argument leading to those implausible results employed two main premises: one, that states have the same sort of rights of membership control that private clubs have; second, that a private club could impose the above conditions on membership. The first of these premises is the more doubtful and is the one we should reject. Perhaps the asymmetry between states and clubs derives from one of the differences noted earlier in this section between states and most private clubs. Or perhaps there is some other important difference not so far noticed. In any case, the fact that states do not have the same freedom in setting citizenship conditions that private clubs have in setting membership conditions undermines the argument for the claim that the state has a right to restrict immigration. The analogy to private clubs does not give us good reason to conclude that states have such a right.

5. Conclusion

The main argument of this paper ran as follows:

1. Individuals have a prima facie right to immigrate (that is, a right not to be prevented from immigrating). This is because:
 - a. Individuals have a prima facie right to be free from harmful coercion.
 - b. Immigration restrictions are harmful and coercive.
2. The prima facie right to immigrate is not overridden. In particular:
 - a. It is not overridden because of immigrants' effects on the labor market.
 - b. It is not overridden because of the fiscal burden of providing social services to immigrants.
 - c. It is not overridden because of the state's special obligations to its citizens in general, nor its special obligations to its poorest citizens.
 - d. It is not overridden because of the threat immigrants pose to the nation's culture.
3. Therefore, immigration restrictions are wrongful rights violations.

In this final section, I would like to comment, first, on how my argument compares with other arguments on the subject, both in the popular dis-

course and in the academic literature; second, why the majority of citizens continue to support very restrictive immigration policies; and third, why the immigration issue is one of today's most important political issues.

In the popular discourse, most arguments surrounding immigration are restricted consequentialist ones: they are consequentialist arguments in which attention is restricted only to consequences for native-born citizens. Opponents of immigration typically claim that immigrants harm domestic workers, while advocates of more liberal immigration policies claim that immigrants are a boon to the domestic economy. Both sides commonly ignore the welfare of the immigrants themselves, as if they were of no concern, and further ignore any issues of rights and justice beyond economic consequentialism. In counterpoint to this depressingly shallow discourse, I have tried in this paper to draw attention to the rights of the potential immigrants, and to the moral significance of imposing harmful restrictions on people by force.

In the academic literature, many of the arguments in defense of restriction similarly overlook the rights of potential immigrants and the moral significance of coercion, in favor of a focus on the interests of native-born citizens.⁴⁹ This is true when, for example, advocates of restriction argue that citizens have an interest in controlling their society's culture, or that poor citizens have an interest in limiting labor market competition, without attending to the question of whether these interests are of the sort whose furtherance justifies harmful coercion of innocent others. Those who address the question of immigrants' rights most often frame the issue in terms of a right to freedom of movement and/or in terms of rights connected with distributive justice.⁵⁰ I have focused on a simpler, more general right: the right to be free from harmful coercion.

Most of the academic discussion is theory-centered: authors address the implications for immigration policy of some general philosophical theory or ideological orientation. Kershnar, for example, assumes a traditional social contract theory. Blake and Macedo each assume a Rawlsian

⁴⁹Blake ("Distributive Justice," p. 268) recognizes the moral import of coercion but seems to overlook the coercive nature of immigration restrictions.

⁵⁰On the alleged right to freedom of movement, see Joseph Carens, "Migration and Morality: A Liberal Egalitarian Perspective," in Barry and Goodin (eds.), *Free Movement*, pp. 25-47; Miller, "Immigration: The Case for Limits," pp. 194-97; Kershnar, "There Is No Right to Immigrate," pp. 151-53; Barry, "The Quest for Consistency," pp. 283-85. On distributive justice issues, see Wellman, "Immigration and Freedom of Association," pp. 121-30; Miller, "Immigration: The Case for Limits," pp. 197-99; Blake, "Distributive Justice"; Carens, "Aliens and Citizens," pp. 255-62; Veit Bader, "Citizenship and Exclusion: Radical Democracy, Community, and Justice. Or, What Is Wrong with Communitarianism?" *Political Theory* 23 (1995): 211-46, pp. 214-15. Some authors have addressed the problem of harmful coercion (Abizadeh, "Democratic Theory and Border Coercion"; Kukathas, "The Case for Open Immigration," pp. 210-11).

hypothetical contract leading to the Difference Principle. Other authors examine the implications of liberal egalitarianism, liberalism in general, libertarianism, and utilitarianism.⁵¹ As mentioned at the outset, I do not believe that any of these theories has been established. I have therefore sought to build a case upon generally acceptable intuitions about certain cases. These intuitions are not ideologically controversial—one would not, for example, expect liberals and conservatives to disagree over whether it was permissible to forcibly prevent a hungry person from traveling to a marketplace to buy food. The argument for free immigration ought to be persuasive to nearly everyone, regardless of ideological orientation.

Why, then, do most citizens of Western democratic countries oppose the opening of their borders? I believe the best explanation is that most of us suffer from a bias that makes it easy for us to forget about the rights and interests of foreigners. Racial bias once caused white persons to view members of their race as more important than those of other races, and to ignore the rights of members of other races. Sexist bias caused men to view themselves as more important than women and to ignore the rights of women. In modern times, great progress has been made in overcoming these biases. But some prejudices remain socially acceptable today, not even recognized by most as prejudices. Among these privileged prejudices is *nationalist bias*, the prejudice that causes us to view our countrymen as more important than citizens of other countries, and to ignore the rights of the foreign-born.⁵²

When Americans today recall the unabashed racism of earlier generations, we may easily feel ashamed of our forebears. Most of us would cringe at the suggestion that our race is better than other races. We feel that we cannot understand what it would be like to be so prejudiced. How could one not see the injustice in slavery, or racial segregation? But most Americans, like most human beings around the world, in fact have easy access to what it was like to be an unabashed racist. It was to feel about one's race the way most of us now feel about our country. Today's Americans do not cringe when we hear the statement that America is the greatest country on Earth, any more than white people a century ago would have cringed to hear that whites were the best race. We do not cringe to hear that American businesses should hire native-born Ameri-

⁵¹Carens ("Migration and Morality") addresses liberal egalitarianism; Cole (*Philosophies of Exclusion*) and Isbister ("A Liberal Argument for Border Controls") address liberalism in general; Carens ("Aliens and Citizens") discusses libertarianism, utilitarianism, and Rawls's Difference Principle; Wellman ("Immigration and Freedom of Association," pp. 130-37) discusses libertarianism.

⁵²Caplan (*The Myth of the Rational Voter*, pp. 36-39, 58-59, 66, 69-71) discusses several manifestations of the bias against foreigners.

cans rather than immigrants, any more than Americans three generations ago would have cringed to hear that white-owned businesses should hire white people in preference to blacks. Naturally, nationalists may attempt to devise explanations for why nationality is different from race, and why nationalism is really justified. This is not the place to attempt to argue that point. I would like simply to put forward for consideration the thought that perhaps we have no right to feel ashamed of our ancestors, and that our descendants may feel about us the way we feel about our ancestors.

Be that as it may, the question of immigration is surely underemphasized in contemporary philosophy, given its human importance. Literally *millions* of lives are affected in a serious and long-term manner by immigration restrictions. Were these restrictions lifted, millions of people would see greatly expanded opportunities and would take the chance to drastically alter their lives for the better. This makes immigration law a strong candidate for the most harmful body of law in America today. In view of this, it is particularly troubling that these restrictions appear to have so little justification.⁵³

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