## 1NC (3:33)

I negate and value morality.

The only agent that can recognize a human right to immigrate is a government. Two warrants: A. Even if it is an international body that recognizes rights, they are made up of governments. B. Immigration is defined as “the action of coming to live permanently in a foreign country” meaning that the actor that can recognize this right is the foreign country, or the host country. Thus, our primary obligation is to preserve the existence of a government. Legitimate governments maintain their ability to arbitrate rights through self-determination.

Blake in 2011,[Michael Blake (University of Washington, Michael Blake is a Professor of Philosophy and Public Affairs; he is also the Director of the UW's Program on Values in Society. He received his bachelor degree in Philosophy and Economics from the University of Toronto, and a PhD from Stanford University. He obtained some legal training at Yale Law School, before running away to become a philosopher. He is jointly appointed to the Department of Philosophy and to the Daniel J. Evans School of Public Affairs. ) “Debating the Ethics of Immigration: Is There a Right to Exclude? Reviewed by Michael Blake”, Christopher Heath Wellman and Phillip Cole, Debating the Ethics of Immigration: Is There a Right to Exclude?, Oxford University Press, 2011, 352pp., $24.95 (pbk), ISBN 9780199731725. SK]

Wellman's argument begins, then, with the idea of self-determination. **Legitimate states are**, he asserts, **entitled to their own authority over self-regarding affairs**; a country that has a less-than-optimal system of criminal law is not, in virtue of that, subject to being taken over or otherwise controlled by some outside agency (17). (If the criminal law becomes bad enough, of course, the human rights of the individuals in question might be violated -- in which case, the state is no longer legitimate.) **The country would be wronged if we were to annex it,** even in the admittedly rare circumstance that we were doing so in the name of its inhabitants, could actually run the criminal law better than the current institutional agents were doing, and were actually committed to democratic governance within the new country created by our annexation. **This wrong**, though, **seems to involve the right of a country to be free from unwanted alteration in the membership of that country.** **We wrong the country by denying it self-determination**, and our insistence on annexing it denies it self-determination by denying it the right to control who shall be a part of that country. If this is right, though, **the right of political self-determination includes the right to exclude unwanted changes in the membership of polity**. **This**, however, **entails a right to keep out unwanted would-be immigrants:** the right to **self-determination demands** that **legitimate states not be subjected to the wishes of others in determining the membership of that state**. Wellman's argument thereby defends the right of a country to exclude non-members -- even if the needs of these non-members are exceptionally great. While wealthy countries have obligations to help the members of illegitimate regimes, and the inhabitants of poorer countries, these obligations do not rise to an obligation to admit these people to membership. Instead, Wellman argues that the obligations of the wealthier countries of the world are disjunctive in form: help prevent the circumstances giving rise to such would-be immigrants through intervention and institution-building, or admit such would-be immigrants to some form of membership within one's own borders (117-124). The importance of self-determination entails the right of legitimate states to be free from unwanted members, even when those members would be benefitted enormously by membership in such a society. Wellman's contribution includes a response to several theorists defending more open borders, a brief discussion of exit rights and the obligations of countries admitting highly skilled immigrants from developing countries, and an analysis of the moral wrongness of guest worker programs. Throughout, however, Wellman's contention is unchanged: a legitimate country may have many obligations to the global poor -- but the obligation to allow them to immigrate is not one of them. SK

A government’s only obligation is to its society which it represents. The government represents the people who make up those who create the government, or the citizens of the state.

Kennan 91 explains, [George F Kennen, “Morality and Foreign Policy,” Foreign Affairs 205-206, http://faculty.arts.ubc.ca/price/373/kennan.pdf]

“Second, let us recognize that the functions, **commitments and moral obligations of governments are not the same as those of the individual. Government is an agent, not a principal. Its** primary **obligation is to the *interests* of the national society it represents, not to the moral impulses that individual elements of that society may experience**. No more than the attorney vis­ a-vis the client, nor the doctor vis-a-vis the patient, can govern­ment attempt to insert itself into the consciences of those whose interests it represents. Let me explain. **The interests of** the national society for **which government has to concern itself [is]** are basically those of its military security, the integrity of its political life and **the well-being of its people . These needs have no moral quality. They arise from the** very **existence of the** national **state** in question **and from the status of national sovereignty it enjoys. They are the** unavoidable **necessities of a national existence and therefore not subject to classification as either "good" or "bad.”** They may be questioned from a detached philosophic point of view. But the government of the sovereign state cannot make such judgments. When it accepts the responsibilities of governing, implicit in that acceptance is the assumption that it is right that the state should be sovereign, that the integrity of its political life should be assured, that its people should enjoy the blessings of military security, material prosperity and a reasonable opportunity for, as the Declaration of Indepen- dence put it, the pursuit of happiness. For these assumptions the government needs no moral justification, nor need it accept any moral reproach for acting on the basis of them. SK

#### This is substantiated by the fact that the definition of a “human right” varies from state to state. Within regional borders, there are definitions of human rights, but there is no international recognition of a universal right. As such, morality itself can only be defined within boundaries.

Osaka states in 2015, [HURIGHTS OSAKA (Collaborative group of many different authors: HURIGHTS OSAKA has been undertaking different initiatives on the promotion of human rights in Asia and the Pacific in collaboration with local, national, regional and international institutions. In 2009, HURIGHTS OSAKA obtained a special consultative status with the Economic and Social Council (ECOSOC) of the United Nations. In 2012, HURIGHTS OSAKA became a general foundation under Japanese law, HURIGHTS OSAKA aims to promote human rights in the Asia-Pacific through collection and dissementation of information on, about and for human rights. In partnership with institutions in the region and beyond, HURIGHTS OSAKA seeks fulfillment of human rights in the societies of Asia and the Pacific), “Human Rights and Cultural Values: A Literature Review” (This is a slightly different version of the article of the same title that was published as Chapter 1 in Jefferson R. Plantilla and Sebasti l. Raj, SJ, editors, Human Rights in Asian Cultures - Continuity and Change, HURIGHTS OSAKA (New Delhi: 1997)), 2015, Asia-Pacific Human Rights Center, Accessed 6-2016. SK]

Among human rights writers, **there exists a clear range of views on the question of human rights** concept. The differing views reflect the academic as well as political debates on the definition and focus of human rights. Somehow some of the views mirror the Cold War scenario and the north-south divide. One can also detect the view that is fit for political expediency agenda of some governments. The varying views, however, can also be seen as results of the different histories of evolution of the idea of human rights. The writers trace the conceptualization of human rights based on the ideas coming from people with dissimilar backgrounds. One author summarizes the different dimensions of the human rights conceptualizations as follows: a. Whether rights claims are based on status as an individual human being or status as a member of some community or group of persons; b. The extent to which differential treatment of persons is permitted on grounds of achievement and ascription; c. The emphasis on rights compared to duties or obligations and the extent to which rights and duties are thought to be interdependent; d. The emphasis on so-called economic and social rights compared to the emphasis on civil and political rights, sometimes conceived as a difference between positive rights of governmental obligation to provide economic and social well-being and the negative rights of governmental obligation to refrain from abridging political and civil rights; e. The extent to which rights are viewed as absolute or relative. (Johnson 1988: 42-43). [emphasis ours]  It is said that these dimensions are inter-related though separately classified. This classification can be used as an analytical framework. Classical **Western** liberal **notion of human rights emphasizes absolute individual political and civil rights** **while** most non-Western, **Third World traditions place greater emphasis on the community basis of rights and duties**, on economic and social rights and on the relative character of human rights. Marxist/socialist ideas highlight economic and social rights and duties absolutely grounded in collectivist principles. (Johnson 1988: 43) **Traditional cultures do not always view the individual as an autonomous being possessed of rights above society**. The individual is often conceived as an integral component of a group, or the family or clan, the tribe, or the local community, which is regarded as the basic unit of society. (Pathak 1989: 8) This must not mean, however, that the individual has to lose any protection from abuses of the society. As one author puts it: [F]acing the frequently overwhelming power of communities over the individual, the individual certainly needs special protection in order to preserve some independence. Communities, in turn, might benefit from critical contributions made by their emancipated members and also comments by outspoken dissidents. In any case, critical independence and solidarity do not form an insurmountable contradiction, but rather, belong together in shaping human life freely and responsibly. Hence, one should be suspicious of the purportedly general antagonism between individualism and communitarianism sometimes invoked by "liberals" and "communitarians". What is at stake in human rights is not an abstract individualism but rather the principle of equal freedom which, as a critical demand, always affects individuals and communities simultaneously. (Bielefeldt 1995: 592 )  He further explains that the nature of human rights will not lead to excessive individualism as portrayed of the Western individualism. He states that: ...although human rights clearly enlarge the scope of individual freedom, they are by no means merely individualistic. They are not meant to lead to an "atomistic society" devoid of communitarian solidarity. Against the widespread confusion of human rights and Western individualism, human rights always imply a social dimension because human freedom can unfold only in relation to fellow persons. A purely individualistic concept of religious liberty, for instance, would almost amount to a contradiction in terms, because religious life is hardly conceivable outside of religious communities. Accordingly, religious liberty entails not only the rights of individuals to hold and express their personal creeds, but also includes the rights to worship together and to organize religious communities independent of government interference. To give another example, freedom of expression does not focus only in the private discourse in civil society. These examples are intended to demonstrate that the emancipatory claim to equal freedom that underlies human rights does not entail the dissolution of communitarian bonds. However, it does challenge authoritarian traditions within communities. Undoubtedly, human rights are incompatible with some traditional practices such as child marriage, the persecution of religious dissenters, and the social ostracism of political dissidents. To put it in a different way, human rights can, and ought to, reshape communities and societies critically, in accordance with the equal respect owed to every person. It remains an open question, though, how exactly this is to happen and how conflicting interests between individuals and communities can be settled justly. (Bielefeldt 1995: 591-592)  Considering the varied cultural contexts which are supposed to be the cause for the different conceptualization of human rights, several opinions on the issue were identified : a. traditions other than Western liberalism lack concepts of human rights, the Western liberal tradition is either the only or the most legitimate concept of human rights; b. non-Western ideas about human rights are not only comparable but compatible with the ideals of Western liberalism; c. non-Western traditions may differ even to the point of incompatibility but it is possible to reconcile various views; d. human rights concepts differ and cultural relativism means that no particular view can be held more valid than others. (Johnson 1988:43)  These opinions show the debate among human rights writers. One group would submit that Western culture is much more advanced, in opposition to some elements of the non-Western cultures, and thus would support human rights. This contention provokes the accusation that Westerners do not understand non-Western cultures and arrogantly impose their own culture on others on ground of superiority of ideas (cultural imperialism). Others believe that there are principles that exist in non-Western cultures that parallel human rights principles. And these principles are realized using systems appropriate to these cultures rather than those developed in the West. Despite the differences in opinions about the Western and non-Western ideas on human rights, there is a generally accepted notion that human rights as understood today developed in the West, or at least highly influenced by Western thought. **The issue is whether or not the present conceptualization of human rights relate to all people** **with diverse cultures**. SK

Thus, a governments obligation is to its own citizens. Thus the value critereon is **promoting primary governmental obligations**.

My sole thesis and contention is that immigration as a human right is not consistent with government obligations.

**First**, a human right is absolute and cannot be restricted. It must be provided at all times.

Prabhat Singh, S., Difference Between, Apr 5 2010 Prabhat Singh is a human rights defender and journalist, reporting for Patrika newspaper on the situation in the tribal region of Bastar. During the past three months, he has been reporting on allegedly false cases brought against tribal villagers in the areas of Chhattisgarh affected by an insurgency by Maoist groups. He has also reported on harassment of and attacks on human rights defenders and journalists in the region. He has been a strong critic of the Chhattisgarh police and has played a key role in highlighting several cases of police brutality and involvement in human rights violations in the Dantewada district of Chhattisgarh. Prabhat Singh has also played a vital role in organising peaceful protests and discussions devoted to the drafting and implementation of a law that would ensure the independence and security of journalists reporting from areas affected by the Maoist conflict in Bastar. ["Difference Between Human and Civil Rights", http://www.differencebetween.net/miscellaneous/politics/difference-between-human-and-civil-rights/] bcr 6-12-2016

**Every individual is entitled to certain basic rights, which are either inherent or obtained through the constitution. Human rights and civil rights are the two basic rights that are often debated upon. Both human rights and civil rights have their own features and characteristics. Human rights are those rights that an individual enjoys because he is [of being] human. No government body, group or person can deprive human rights to an individual. Some of the basic human rights are the right to life, education, fair trail, protection from torture and freedom of expression. Human Rights was conceived soon after the second World War. Human rights was widely accepted after the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948. Civil rights are rights that an individual enjoys by virtue of citizenship. Civil rights have the protection of the constitution. Civil rights protect the individual from discrimination and unjustifiable action by others, government or any organization. Having a philosophical and legal basis, civil rights is an agreement between the nation and the individual. Civil rights are related to the constitution of each country, whereas human rights are considered a universal right. While human rights are basic rights inherent with birth, civil rights are the creation of society. While human rights do not change from one country to another, civil rights differ from one nation to another. Civil rights basically depend on the laws of the country. Human rights are universally accepted rights regardless of nationality, religion and ethnicity. On the other hand, civil rights fall within the limits of a country’s law, and pertain to the social, cultural, religious and traditional standards, among other things.**

The affirmative derives benefits off of the right to immigrate being enforced, but this makes immigration a civil right, not a human right. If states accept to human rights being held in their country, they tailor the norm to their nation, making it a civil right, and if they oppose recognizing the right they do not recognize the rights. Immigrants are citizens of a foreign country, so the state cannot provide rights to them before they enter into the social contract with the government.

**Second**, a government has the primary obligation to its own citizens so immigration would only be valued for the home nation not the immigrants themselves. What this means is that immigrants are used as a means to an end, which violates their inherent human dignity.

Rachels states, [Rachels, James (James Rachels, the distinguished American moral philosopher, was born in Columbus, Georgia, and graduated from nearby Mercer University in 1962. He received his Ph.D. in 1967 from the University of North Carolina, Chapel Hill, studying under Professors W. D. Falk and E. M. Adams. He taught at the University of Richmond, New York University, the University of Miami, Duke University, and the University of Alabama at Birmingham, where he spent the last twenty-six years of his career. 1971 saw the publication of his groundbreaking anthology Moral Problems, which helped ignite the movement from teaching metaethics in American colleges to teaching concrete practical issues. Moral Problems sold 100,000 copies over three editions. In 1975, Rachels wrote "Active and Passive Euthanasia," arguing that the distinction so important in the law between killing and letting die has no rational basis. Originally appearing in the New England Journal of Medicine, this essay has been reprinted 300 times and is a staple of undergraduate education. The End of Life (1986) broadened and deepened these ideas. Created from Animals (1990) argued that a Darwinian world-view has widespread philosophical implications, including drastic implications for our treatment of nonhuman animals. Can Ethics Provide Answers? (1997) was Rachels' first collection of papers; The Legacy of Socrates (2007) was his second. Rachels' textbook, The Elements of Moral Philosophy, is currently the best-selling book in philosophy. Shortly before being diagnosed with cancer, Rachels finished Problems from Philosophy, an introduction to his subject, published posthumously. Over his career, Rachels wrote 6 books and 86 essays, edited 7 books and gave about 275 professional lectures. His work has been translated into Dutch, Korean, Norwegian, Italian, Japanese, Indonesian, Spanish, Portuguese, Chinese, and Serbo-Croatian. He is widely admired as a stylist; his essays and books are remarkably free of jargon and clutter. A major theme in his work is that reason can resolve difficult moral issues. He has argued for moral vegetarianism and animal rights, for affirmative action (including quotas), for the humanitarian use of euthanasia, and for the idea that parents owe as much moral consideration to other people's children as to their own). "Kantian theory: the idea of human dignity." Elements of Moral Philosophy. Random House. p (1986): 114-117. Accessed June 2016. SK]

Scholars have wondered ever since why Kant thought these two rules were equivalent. They seem to express very different moral conceptions. Are they, as he apparently believed, two versions of the same basic idea, or are they really different ideas? We will not pause over this question. Instead we will concentrate here on Kant’s belief that **morality requires us to treat persons “always as an end and never as a means only.”** What exactly does this mean, and why did he think it true? When Kant said that the value of human beings “is above all price,” he did not intend this as mere rhetoric but as an objective judgment about the place of human beings in the scheme of things. There are two important facts about people that, in his view, support this judgment. First, **because people have desires and ‘goals, other things have value for them**, in relation to their projects. Mere “things” (and this includes nonhuman animals, whom Kant considered unable to have self-conscious desires and goals) have value only as means to ends, and it is human ends that give them value. Thus if you want to become a better chess player, a book of chess instruction will have value for you; but apart from such ends the book has no value . Or if you want to travel about, a car will have value for you; but apart from this desire the car will have no value. Second, and even more important, **humans have “an intrinsic** worth, i.e., **dignity**,” **because they are rational** agents - that is, free agents capable of making their own decisions, setting their own goals, and guiding their conduct by reason. Because the moral law is the law of reason, **rational beings are the embodiment of the moral law itself.** The only way that moral goodness can exist at all in the world is for rational creatures to apprehend what they should do and, acting from a sense of duty, do it. This, Kant thought, is the only thing that has “moral worth.” Thus-if there were no rational beings, the moral dimension of the world would simply disappear. **It makes no sense**, therefore, **to regard rational beings merely as one kind of valuable thing** among others. **They are the beings for whom mere “things” have value**, and they are the beings whose conscientious actions have moral worth. So Kant concludes that their value must be absolute, and not comparable to the value of anything else. SK

**Third**, a right to immigrate would be restricted based whether or not it benefitted the host nation, so it could not be a “human right” which is applicable at all times. A human right is unconditional and something every human is entitled to on account of being human. If the right to immigrate is given to immigrants to benefit citizens of the home nation, it is not a *human* right as it is *conditional* on immigration helping the home nation.

Miller in 2015, [Miller, David (I was initially trained in philosophy at Selwyn College, Cambridge and in politics at Balliol College, Oxford, and after spells teaching at the Universities of Lancaster and East Anglia, I was appointed to my present post at Nufield College in 1979. I am affiliated to the Universitys Department of Politics and International Relations, and to the Faculty of Philosophy, and between 2012-2014 I will be on partial secondment to the Blavatnik School of Government to co-ordinate the Foundations component of the Masters of Public Policy course. I supervise students in all three of these units. What is perhaps most distinctive about my work is its use of evidence from the social sciences to inform debates in political philosophy. My longest standing interest is the idea of justice, originally social justice, but now also global justice. I have published three books about this: Social Justice (Clarendon Press, 1976), Principles of Social Justice (Harvard University Press, 1999) and most recently a collection of essays, Justice for Earthlings (Cambridge University Press, 2013). During the 1980s I worked on the idea of market socialism and published a book defending that system Market, State, and Community (Clarendon Press, 1989). This led me to ask questions about the kind of political community within which policies of social justice could be pursued, leading to a sustained engament with ideas of nationality and citizenship, including On Nationality (Clarendon Press, 1995) and Citizenship and National Identity (Polity Press, 2000). In the last decade I have combined work on national issues with work on global issues, culminating in National Responsibility and Global Justice (2007). For a full list of my book and article publications, please visity my personal website.) “ Is There a Human Right to Immigrate?”." Migration in Political Theory: The Ethics of Movement and Membership, 2015, Oxford Politics, Accessed 6/2016. SK]

Is there a human right to immigrate? The importance of this question may need no underlining, but just to spell it out briefly: **all states in today’s world proclaim their right to control their borders**, deciding who should be admitted and who should not. Moreover in many cases this right is coercively enforced, through the familiar apparatus of border control, and the harsh measures that await would-be immigrants if they fail to satisfy the legal requirements for entry. **If there was indeed a human right to immigrate, all of this would be unacceptable.** **States would have to open their borders to all**-comers unless they could show that there were specific individuals whose admission posed a threat to the human rights of others. So the question I have posed, if answered in the affirmative, would have very radical practical implications. But that is no reason not to explore it. **Human rights can make heavy moral demands on us**. 2 The fact that **acknowledging this right would oblige us to abandon policies that may also serve important ends** – if we think that immigration controls are necessary for social cohesion, or preservation of the national culture, or other values – 2 This is true of human rights that have s gained widespread recognition, such as the right to subsistence. CSSJ Working Paper SJ033 April 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 3 would not be sufficient. We would at the very least have to show that these ends are so essential to human welfare that they can justify overriding a human right. But the issue does not arise unless it can be demonstrated that there is a genuine human right to immigrate. How might this be done? If we tried to answer our question by consulting any of the standard human rights documents, the answer we would get would be an immediate No. **A human right to immigrate means**, I assume, **a universal right to cross the borders of any state and remain within them for as long as one chooses.** As I have just pointed out, **to accept such a right would deprive every state of** one of the **powers** it currently prizes, namely the right to decide whom to admit to its territory and on what terms.3 Not surprisingly, therefore, since the main documents in which human rights are encoded have been drawn up and agreed to by states, or their representatives, this particular right is notable by its absence. The Universal Declaration of Human Rights of 1948 asserts, in Article 13, that: (1) Everyone has the right to freedom of movement and residence within the borders of each State. (2) Everyone has the right to leave any country, including his own, and to return to his country. The failure of Article 13 to mention any right to enter is mitigated slightly, but only slightly, by article 14, which states that: (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.4 3 States may in certain instances decide to relinquish this right, as the European states that have signed up to the Schengen agreement have done. But note that even here the relinquishing is only partial since the EU as a whole imposes tough controls on immigration from outside its boundaries. 4 I. Brownlie and G. Goodwin-Gill (eds.), Basic Documents on Human Rights, 5th edition (Oxford: Oxford University Press, 2006), p. 26. CSSJ Working Paper SJ033 April 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 4 The rather lengthier International Covenant on Civil and Political Rights of 1966 sets out, in Article 12, essentially the same rights as in Article 13 of the Declaration, only pausing to draw them more narrowly by adding a list of grounds (‘national security, public order (ordre public), public health or morals or the rights and freedoms of others’) on which they may be restricted. The European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 makes no mention of the issue of migration in either direction (though a Protocol added in 1952 closely follows the wording of the International Covenant).5 This of course does not settle the matter, since it is widely recognized that these formal documents may well not capture all and only those provisions that deserve to be counted as human rights. If we consider the main philosophical treatments of the idea of human rights, however, the purported right to immigrate is rarely discussed. It does not feature, for example in James Nickel’s, Making Sense of Human Rights, or in the third chapter (‘Human Rights’) of Allen Buchanan’s, Justice, Legitimacy and SelfDetermination. 6 James Griffin discusses the right to freedom of movement and residence in On Human Rights, but only to argue that even in domestic settings there is no such unlimited right. 7 We are more likely to find the right to immigrate defended as part of a more general argument in favour of open borders, and it is in fact tentatively asserted, although only in passing, in at least two of Joseph Carens’ articles on immigration.8 Something closer to a defence can be found in Michael 5 Brownlie and G. Goodwin-Gill, Basic Documents on Human Rights, pp. 362, 612- 16, 625. 6 J. Nickel, Making Sense of Human Rights, 2nd ed (Oxford: Blackwell, 2007); A. Buchanan, Justice, Legitimacy and Self-Determination: Moral Foundations for International Law (Oxford: Oxford University Press, 2004). Buchanan does however mention immigration when discussing ‘the place of distributive justice in international law’. He argues that ‘the struggle for distributive justice often takes place in areas whose connection to standard conceptions of human rights is unclear or at least indirect, and mentions ‘the right to immigrate to states that offer greater economic opportunities’ as one such area (p. 194). 7 J. Griffin, On Human Rights (Oxford: Oxford University Press, 2008), pp. 195-6. CSSJ Working Paper SJ033 April 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 5 Dummett’s On Immigration and Refugees, though Dummett draws back from claiming that there is a strong right to immigrate.9 He does so on the grounds that **a genuine, obligation-imposing right must be unconditional**, whereas he acknowledges two grounds on which **states may justifiably set limits to immigration**, one being their people’s risk of being ‘submerged’ by immigrants from a different culture, the other being population density. SK

#### Thus, as states also have a right to restrict entry into their borders, it imposes an obligation on governments that they cannot uphold, which means making immigration a human right is not in the state’s interests.

## On Case

### NIB overview (0:32)

#### Any affirmative must prove the following three missing links in order to be considered a legitimately grounded argument. To clarify, meeting these three does not automatically entail that the affirmative is legitimate, but these three are necessary.

Miller in 2015, [Miller, David (I was initially trained in philosophy at Selwyn College, Cambridge and in politics at Balliol College, Oxford, and after spells teaching at the Universities of Lancaster and East Anglia, I was appointed to my present post at Nufield College in 1979. I am affiliated to the Universitys Department of Politics and International Relations, and to the Faculty of Philosophy, and between 2012-2014 I will be on partial secondment to the Blavatnik School of Government to co-ordinate the Foundations component of the Masters of Public Policy course. I supervise students in all three of these units. What is perhaps most distinctive about my work is its use of evidence from the social sciences to inform debates in political philosophy. My longest standing interest is the idea of justice, originally social justice, but now also global justice. I have published three books about this: Social Justice (Clarendon Press, 1976), Principles of Social Justice (Harvard University Press, 1999) and most recently a collection of essays, Justice for Earthlings (Cambridge University Press, 2013). During the 1980s I worked on the idea of market socialism and published a book defending that system Market, State, and Community (Clarendon Press, 1989). This led me to ask questions about the kind of political community within which policies of social justice could be pursued, leading to a sustained engament with ideas of nationality and citizenship, including On Nationality (Clarendon Press, 1995) and Citizenship and National Identity (Polity Press, 2000). In the last decade I have combined work on national issues with work on global issues, culminating in National Responsibility and Global Justice (2007). For a full list of my book and article publications, please visity my personal website.) “ Is There a Human Right to Immigrate?”." Migration in Political Theory: The Ethics of Movement and Membership, 2015, Oxford Politics, Accessed 6/2016. SK]

How might **a direct argument for the human right to immigrate** be constructed? It **would have to meet three conditions**. **First, it would need to show that the grounds on which the right is being claimed are sufficiently strong.** Suppose, as suggested earlier, that the grounding will take the form of showing that the right is needed to protect certain human interests. We can leave it as an open question for present purposes how these interests are to be understood – whether they are interpreted as ‘human needs’ or ‘conditions for human agency’ or ‘conditions for human dignity’ etc. All that matters is that the interests should be ones that all human beings share and that they carry enough moral weight to support human rights.16 **Second, it would need to show that the right was feasible, in the sense that the obligations that would be created by recognizing it were ones that it was possible for other human beings to discharge**. How this feasibility condition is to be understood is again something that needs to be left open,17 since there can be different views about how ‘realist’ or 16 **This condition rules out grounding human rights on a strong form of autonomy,** **which otherwise might be used to justify an expansive right to free movement**. **Autonomy** in this sense, which goes beyond the requirements for human agency, is highly esteemed by liberals, but **cannot plausibly be represented as an interest shared by all human beings**. For further elaboration of this point, see my critical discussion of James Griffin’s view in ‘Personhood versus Human Needs as Grounds for Human Rights’ in R. Crisp (ed.), Griffin on Human Rights (Oxford: Oxford University Press, forthcoming). CSSJ Working Paper SJ033 April 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 10 ‘utopian’ our account of human rights should be, but it would not make sense, for instance, to claim that there is a human right to a life entirely free from illness simply on the grounds that people would have an interest in enjoying this. **Third, the grounding argument must show that recognizing the** candidate **right would not interfere with other rights that have already been recognized**, or if it would, that the relevant human interests are best served by admitting the new right and retrenching upon others. This, then, is a compatibility requirement. We know that the exercise of some rights we might think of as human rights can impact on others, either by imposing costs or by imposing obligations. An unlimited right of free speech may infringe rights to privacy – so we must either limit the former right by disqualifying speech that consists in revealing information about people that they have a strong interest in remaining private, or we must weaken the right to privacy so that speech does not count as infringing it. Or, another case, we might rule out a very expansive right to education or medical care on the grounds that this would impose excessive obligations on those who would have to provide the necessary resources. SK

### Means to an End Overview

**Second**, a government has the primary obligation to its own citizens so immigration would only be valued for the home nation not the immigrants themselves. What this means is that immigrants are used as a means to an end, which violates their inherent human dignity.

Rachels states, [Rachels, James (James Rachels, the distinguished American moral philosopher, was born in Columbus, Georgia, and graduated from nearby Mercer University in 1962. He received his Ph.D. in 1967 from the University of North Carolina, Chapel Hill, studying under Professors W. D. Falk and E. M. Adams. He taught at the University of Richmond, New York University, the University of Miami, Duke University, and the University of Alabama at Birmingham, where he spent the last twenty-six years of his career. 1971 saw the publication of his groundbreaking anthology Moral Problems, which helped ignite the movement from teaching metaethics in American colleges to teaching concrete practical issues. Moral Problems sold 100,000 copies over three editions. In 1975, Rachels wrote "Active and Passive Euthanasia," arguing that the distinction so important in the law between killing and letting die has no rational basis. Originally appearing in the New England Journal of Medicine, this essay has been reprinted 300 times and is a staple of undergraduate education. The End of Life (1986) broadened and deepened these ideas. Created from Animals (1990) argued that a Darwinian world-view has widespread philosophical implications, including drastic implications for our treatment of nonhuman animals. Can Ethics Provide Answers? (1997) was Rachels' first collection of papers; The Legacy of Socrates (2007) was his second. Rachels' textbook, The Elements of Moral Philosophy, is currently the best-selling book in philosophy. Shortly before being diagnosed with cancer, Rachels finished Problems from Philosophy, an introduction to his subject, published posthumously. Over his career, Rachels wrote 6 books and 86 essays, edited 7 books and gave about 275 professional lectures. His work has been translated into Dutch, Korean, Norwegian, Italian, Japanese, Indonesian, Spanish, Portuguese, Chinese, and Serbo-Croatian. He is widely admired as a stylist; his essays and books are remarkably free of jargon and clutter. A major theme in his work is that reason can resolve difficult moral issues. He has argued for moral vegetarianism and animal rights, for affirmative action (including quotas), for the humanitarian use of euthanasia, and for the idea that parents owe as much moral consideration to other people's children as to their own). "Kantian theory: the idea of human dignity." Elements of Moral Philosophy. Random House. p (1986): 114-117. Accessed June 2016. SK]

Scholars have wondered ever since why Kant thought these two rules were equivalent. They seem to express very different moral conceptions. Are they, as he apparently believed, two versions of the same basic idea, or are they really different ideas? We will not pause over this question. Instead we will concentrate here on Kant’s belief that **morality requires us to treat persons “always as an end and never as a means only.”** What exactly does this mean, and why did he think it true? When Kant said that the value of human beings “is above all price,” he did not intend this as mere rhetoric but as an objective judgment about the place of human beings in the scheme of things. There are two important facts about people that, in his view, support this judgment. First, **because people have desires and ‘goals, other things have value for them**, in relation to their projects. Mere “things” (and this includes nonhuman animals, whom Kant considered unable to have self-conscious desires and goals) have value only as means to ends, and it is human ends that give them value. Thus if you want to become a better chess player, a book of chess instruction will have value for you; but apart from such ends the book has no value . Or if you want to travel about, a car will have value for you; but apart from this desire the car will have no value. Second, and even more important, **humans have “an intrinsic** worth, i.e., **dignity**,” **because they are rational** agents - that is, free agents capable of making their own decisions, setting their own goals, and guiding their conduct by reason. Because the moral law is the law of reason, **rational beings are the embodiment of the moral law itself.** The only way that moral goodness can exist at all in the world is for rational creatures to apprehend what they should do and, acting from a sense of duty, do it. This, Kant thought, is the only thing that has “moral worth.” Thus-if there were no rational beings, the moral dimension of the world would simply disappear. **It makes no sense**, therefore, **to regard rational beings merely as one kind of valuable thing** among others. **They are the beings for whom mere “things” have value**, and they are the beings whose conscientious actions have moral worth. So Kant concludes that their value must be absolute, and not comparable to the value of anything else. SK

### Freedom of Movement

#### Appealing to the freedom of movement fail to justify immigration as a human right – normative considerations force us to evaluate the interests of others

Dr. Jorge M. Valadez, Cosmopolitanism in Context: Perspectives from International Law and Political Theory pp. 224, 2013, Associate Professor of Philosophy, Our Lady of the Lake University, USA; main research fields: Theories of Justice, Deliberative Democracy, Ethics of Immigration, Philosophy of Multiculturalism, and Native Rights [Google Books] bcr

We should begin by noting that there are numerous restrictions and regulations on our freedom to move. We cannot, for example, move into private property without the owner's consent (except perhaps dur- ing emergencies or when we have special right of access). And since most property is privately owned, this means that we are in general significantly restricted regarding where We can move. Moreover, even public space is heavily regulated. For instance, we cannot drive our car on the streets in any direction we please or at any rate of speed. Neither can we decide to live on publicly-owned open spaces such as national parks or on publicly-owned buildings such as city libraries. Taking note of these familiar and well-accepted restrictions on movement reminds us that our freedom to move is usually constrained by numerous con- siderations that involve the individual and collective interests of others. We cannot, in other words, simply assume that we are free to engage in any particular form of movement without taking into account how this might affect others. Appealing to freedom of movement by itself fails to provide a moral ground for recognizing immigration as a human right because physical movement is in general a significantly constrained activity and we cannot automatically assume that relocation to another political community is among those forms of movement that should be unconstrained.

### Never Enforced – Means you can’t exercise

#### Recognition of immigration as a human right doesn’t ensure it’s realized – enforcement is left to the state and its sociopolitical station which ensures unequal administration

Dr. Ruth Gavison, Israel Law Review 43(7) pp. 15-16, 2010, Professor Emerita of Human Rightsfields of interest: Legal Theory, Legal Process, Philosophy of law, Human Rights, Law and Morals, Judicial and Administrative Discretion, Law and Society, Law, Language and Ethics, State and religion, Law, Democracy and Civil Society. Main Page: Gavison, Ruth, Haim H. Cohn Professor of Human Rights Law at Hebrew University Law Faculty. Born in Jerusalem. Received an LLB (cum laude) in 1969, LLM (summa cum laude) in 1971, and BA in economics and philosophy (1970), all from Hebrew University. Law clerk at the Israel Supreme Court (Justice Benjamin Halevi). Admitted to the Israeli bar in 1971. In 1975 she received a D.Phil. in legal philosophy from Oxford University. Her dissertation (Legal Protection of Privacy) was written under the supervision of H.L.A. Hart. ["IMMIGRATION AND THE HUMAN RIGHTS DISCOURSE: THE UNIVERSALITY OF HUMAN RIGHTS AND THE RELEVANCE OF STATES AND OF NUMBERS", http://law.huji.ac.il/upload/Gavison(2).pdf] bcr

The same tension is exhibited in the different enforcement and monitoring mechanisms adopted for different rights within the body of human rights conventions themselves. Initially, the international community only succeeded in proclaiming on December 10, 1948 the UDHR, which is a document expressing aspirations, and does not impose binding obligations. Naturally, the UDHR set a common standard, but the enumerated rights did not come with any qualifying provisions, and there was no institutional mechanism set up to monitor or enhance its implementation. The force of the declaration is primarily moral. The strength of the recognition was expected to be moral and social. The differences in strength and scope reflecting tensions within the HRD are clearer when we compare the key provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).15The difference between the two conventions relating to the standard of obligation of signatory states suggests that despite claims of universality, the international regime accepts two main and related facts: First, when the recognition of rights, and especially when meeting obligations under this recognition, involves substantial amounts of money, it is not advisable and practical to impose on states obligations that limit their power to formulate social and economic policy. In fact, even within states it is common to draw a very powerful distinction between CP rights and SEC rights.16 Second, while the rights are universal, most of the corresponding duties are imposed on specific states. The effectiveness of meeting these obligations may depend on many features of states, including their own priorities and political and social constraints. This is not only a fact of the matter. Many think this is a desirable aspect of the world order.17 It follows that—within human rights constraints—the exact scope of the rights individuals enjoy may legitimately and inevitably depend on the political regime and economic stability of the states involved. Moreover, the international regime of rights also presupposes—to some extent—the integrity and the autonomy of states. This may include some state autonomy in determining who will count as a member of its civic community. Most relevant to our concerns, the level of recognition of (universal) human rights may thus depend on the individual’s civic status of citizenship and residence within a state. This is thus a major immanent tension within HRD itself.

### Representation Turn

#### Simply recognizing the human right to move without granting political rights marginalizes immigrants by denying self governance

Dr. Jorge M. Valadez, Cosmopolitanism in Context: Perspectives from International Law and Political Theory pp. 222-223, 2013, Associate Professor of Philosophy, Our Lady of the Lake University, USA; main research fields: Theories of Justice, Deliberative Democracy, Ethics of Immigration, Philosophy of Multiculturalism, and Native Rights [Google Books] bcr

If we understand the right to immigrate in a weaker sense than potential membership in a political union, we run the risk of accepting as legitimate a democratically unsustainable scenario in which some individuals are part of a political body without being able to partici- pate in the process of democratic self-governance. Even though politi- cal membership usually comes in degrees and rights of citizenship can be disaggregated into distinct political and social privileges, if a politi- cal union or community neglects to eventually fully integrate into its political institutions the individuals living within its boundaries, it cre- ates an unjust situation in which some of its inhabitants will be out- side the realm of its institutional framework for self-governance. These marginalized people will become "political internal foreigners" who will be unable to fully participate in the democratic self-governance of the political community in which they live. Thus, unless we are willing to accept as legitimate political bodies that are democratically unjust, the right to immigrate when properly understood involves the option ofeventual full membership and integration into any political body of one's choice. This is much stronger than the claim that immigration merely involves freedom of movement.

### Focus Turn

#### Simply focusing on individual rights obscures deeper causes of migration and exploitation which worsens inequality

Jaya Ramji-Nogales, Vanderbilt Journal of Transnational Law, Vol. 477, November 25 2013 Professor Jaya Ramji-Nogales specializes in immigration law, international law, procedure and process. She currently teaches civil procedure, evidence, gender and migration, and refugee law and policy. Prof. Ramji-Nogales’ research areas include empirical assessment of asylum adjudication, international and comparative migration law, and transitional justice. Along with her Georgetown University co-authors, Prof. Ramji-Nogales has published several quantitative and qualitative studies of the U.S. asylum system. Their first study, Refugee Roulette: Disparities in Asylum Adjudication and Proposals for Reform, was the first empirical study of decision-making at all four levels of the American asylum process. Their most recent co-authored study, Lives in the Balance: Asylum Adjudication by the Department of Homeland Security, provides an in-depth examination of the first level of that process, enriching its quantitative findings with interviews and surveys of asylum adjudicators. Both works offer suggestions for systemic reform. Prof. Ramji-Nogales also explores questions of process and systemic design in the transitional justice context. Her work in that field suggests that existing efforts are under-theorized and inadequately tailored to local contexts and offers a pluralist theory to guide future transitional justice projects. As a Senior Legal Advisor to the Documentation Center of Cambodia for over fifteen years, Prof. Ramji-Nogales has authored several pieces on transitional justice in Cambodia, the lessons of which inform all of her work in the field. She is also the co-editor of Bringing the Khmer Rouge to Justice: Prosecuting Mass Violence Before the Cambodian Courts. Finally, Prof. Ramji-Nogales writes in the field of international and comparative migration law, focusing on forced migration as well as the intersection of immigration and international human rights law. Her most recent work critiques human rights law as insufficiently attentive to the interests of undocumented migrants. Prof. Ramji-Nogales has also written on the situation of forced migrants under international criminal law and international humanitarian law. She is a Senior Research Associate of the Refugee Law Initiative of the School for Advanced Studies at the University of London. Prior to joining academia, Prof. Ramji-Nogales practiced law as a Staff Attorney at the American Civil Liberties Union in New York and as an Associate at the international law firm Debevoise & Plimpton. She was previously awarded a Robert L. Bernstein Fellow in International Human Rights to create a refugee law clinic at the University of the Witwatersrand in Johannesburg, South Africa. Prof. Ramji-Nogales received a B.A. with highest honors from the University of California at Berkeley; a J.D., in 1999, from the Yale Law School; and an LL.M. with distinction from the Georgetown University Law Center. Prof. Ramji-Nogales is a senior editor of the IntLawGrrls blog. [“Undocumented Migrants and the Failures of Universal Individualism”, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2321728>] bcr

Human rights law's narrow focus on individual rights prevents inquiry into the root causes of migration as well as the benefits that developed nations receive from both the labor of undocumented migrants and the economic policies that push undocumented migrants to leave home. This myopia stifles not only legal decisions concerning the rights of undocumented migrants but also broader debate about the situation of the undocumented. Universal individualism pushes out of view questions about distributive inequality and the political choices that determine current economic structures. Instead of protecting the vulnerable from the harmful effects of globalization, universal individualism enables global inequity.

### Econ Turn

#### Migration enhances income inequality

Black Et al. , Natali, and Skinner 06 [(Richard Black, Claudia Natali, and Jessica Skinner, Development Research Centre on Migration, Globalisation and Poverty, University of Sussex) “Migration and inequality” World Development Report 2006] AT

Yet it is also clear that migration - and perhaps especially **international migration - is an activity that carries significant risks and costs**. As such, although **migration** is certainly rooted, at least in part, in income and wealth inequalities between sending and receiving areas, it **does not necessarily reduce inequality in the way intended by many migrants.** Much depends on the distribution of these costs and benefits, both within and between sending and receiving countries and regions. Also important in terms of the aggregate impact of migration on sending societies is the selectivity of migration itself. Clearly if most migrants were to come from the poorest sections of society, and they were to achieve net gains from migration, this would act to reduce economic inequality at least, all other things being equal. But **migrants are not always the poorest, they do not always gain, and other factors are not equal. Over twenty years ago, Michael Lipton argued that not only was inequality a major cause of rural-urban migration, but that its ‘after-effects’ - remittances and return migration - tended to increase interpersonal and inter-household inequality** within and between villages.2 Lipton’s observations, based on rural micro-evidence primarily but not exclusively in India, include a number of important insights. For example, he argued that **inequalities within sending areas were also crucial in generating migration - more unequal villages send more migrants**. In turn, the fact that **migrants come from the most productive age groups, that unequal power structures within villages go unchallenged as a result, and that migrants from wealthier backgrounds do better, all conspire to ensure that migration enhances inequality.**

## Frontlines

### AT: Human Rights not Absolute

**1.** **First, even if there are three types of rights, there already is a qualified and limited human right to immigrate, so logically the affirmative must defend an absolute right to immigrate**

**2. If human rights are not absolute, then the affirmative does not solve the problems s/he talks about. If the government can violate human rights whenever they want to, then the right to immigrate will just be a façade**

**3. If the right to immigrate is just a façade, governments can justify preventing further reform by saying that it is a human right already.**

**4. Human rights that are not absolute do not have any moral weight – empirically proven by the UN which sets up human rights that are always arbitrarily violated without any punishment by countries.**

### AT: Non-Government Actor

### AT: United Nations/iLaw

#### International law upholds state interests as paramount. If any international law conflicts with state’s interests, states have ample leeway to avoid the international law.

Masahiro in 2016, [Masahiro, Miyoshi (Professor Emeritus of International Law, Aichi University). "Sovereignty and International Law." *Sovereignty, Territory & International Law*, Aichi University, Japan: 4-5, 1 April, Track 1 Session 1 2016, Accessed 6-7-16, SK]

Yet at the same time **international law allows the State to stick to sovereignty** in a variety of ways. **It has allowed the State**, for example, **persistently to object to the formation of such a customary rule of international law as may run counter to its own vital interest**.8 It does not, or cannot, effectively prohibit nuclear threat by Iran or North Korea in a world of general prohibition of the use of force under the United Nations Charter and customary international law. Above all, **there is the unchanged concept of territorial sovereignty**. When the UN Charter says “territorial integrity” and “political independence” in connection with the prohibition of the use of force,9 these notions are not unrelated with territorial sovereignty. **This is an integral part of the notion of the** 8 See, for example, the Fisheries case of 1951 in which the Norwegian case for its straight baseline system was upheld as an exception, or as an application of the general rule to the special circumstances, in view of its long peculiar dependence on the coastal fisheries interests when the normal baseline was the norm of the day. 9 UN Charter, Art. 2, para. 4. 6 **State as it is defined under the Montevideo Convention on Rights and Duties of States of 1933**.10 The State defined therein is a sovereign entity. This is evidenced in the actual state of the international community: sovereign States generally refrain from interfering in the domestic affairs of the others.11 Whatever political regime and social institutions a State may have is a matter for it within its own territorial limits. But political leaders of some developing countries tend to be conservative and reluctant to change the ongoing plans of economic development in a bid to catch up with the developed economies. Such reluctance is backed, if anything, by a sense of State sovereignty. If they are criticised of their reluctance, they would come up with a rebuttal for the alleged principle of non-intervention in domestic affairs. This principle has been so firmly established in international law over a long period of time that unless intervention from an external authority in a human rights or humanitarian or environmental issue can be accepted as falling under a principle of jus cogens (peremptory norm), such a rebuttal could not be easily defeated. **It does not follow**, however, **that sovereignty is absolute**. Should it be absolute, it would deny the very idea of an international legal order of mankind. To rely on sovereignty as a fundamental attribute of the State does not necessarily entail exemption from international law either in the form of general international law or treaty obligations. Manifold legal **obligations of States co-operating within a network of international instruments may restrain their freedom of action and consequently their exercise of sovereignty, but are in fact a form of exercising their sovereignty** and may rather enhance the preservation of their legal status of sovereignty politically and economically. Such obligations neither deprive States of their sovereign status nor diminish it.12 It would be safe to conclude, as does Steinberger, that 10 See text accompanying note 5 above. 11 UN Charter, Art. 2, para. 7, also provides that the world body itself has no authority to intervene in “matters which are essentially within the domestic jurisdiction of any state” or “require the Members to submit such matters to settlement under the present Charter”. 12 Steinberger, loc. cit., note 1, at 512, 517. 7 “Sovereignty in the sense of contemporary international law denotes the basic international legal status of a State that is not subject, within its territorial jurisdiction, to the governmental, executive, legislative, or judicial jurisdiction of a foreign State or to foreign law other than public international law.”13

#### This also means that international law is not absolute. A side constraint on international law is the obligations of individual member states, which also means that the negative framework functions as a side constraint on the affirmative.

#### Also, the negative framework comes before the affirmative, as a state only engages in international law if it is in the state’s interest.

### AT: Immigrants become Citizens

#### 1. The resolution only asks about the process of immigration, which means that immigrants are not citizens yet.

#### 2. Even if immigrants become citizens, that doesn’t mean that governments have an obligation to them *because* they have the potential to become citizens. This would place an unreasonable obligation on a government; every individual has at least a very minimal chance that they would become a citizen of a nation they immigrate to, which would indicate that the government would have an obligation to everyone in the world.

### AT: Rawls

Dauvergne in 1999, [Dauvergne, Catherine (Catherine Dauvergne took up the Deanship of the Peter A. Allard School of Law in July 2015. Professor Dauvergne has been working in the area of refugee, immigration, and citizenship law for twenty years. She has written three books that take a broad perspective on the theoretical underpinnings of these areas of law, including considering how human rights principles and discourses fit into a migration and citizenship framework. Dauvergne has recently held a major research grant examining the failure of Canada’s Charter of Rights and Freedoms to protect non-citizens. She is currently working on an Australian Research Council grant analyzing gendered aspects of refugee determination. From 2013 to 2015, Dauvergne was the Research Director for the Michigan Colloquium on Challenges to International Refugee Law. In 2012, Catherine Dauvergne was made a Fellow of the Trudeau Foundation in recognition of her contributions to public discourse in Canada. Her book The New Politics of Immigration and the End of Settler Societies will be published by Cambridge University Press early in 2016). "Amorality and humanitarianism in immigration law." Osgoode Hall Law Journal 37 (1999): 597-623. Accessed June 2016. SK]

He claims justice is not abstract and that we must look at actual policy decisions to see which conceptions of justice underlie them: "[I]n immigration policy, justice is achieved by adjudicating among various utilities and normative rights criteria, as well as the capacity of the society to absorb those immigrants and refugees." 46 **Adelman views justice as- a variable concept**; its moral content is determined by its context. He examines various types of immigration decisions and considers how justice standards could be inserted into the decisionmaking. This yields a set of principles for policymaking, however, rather than a model of liberal justice. While ultimately of great use to decisionmakers, in many instances his taxonomy of values driving decisions is more explanatory than normative. For example, he discusses how an ecological perspective can lead to support for either more or less immigration depending on whether national or global ecology is emphasized, and how economic self-interest can take policy in diverging directions depending upon what other values are also considered. 47 Adelman would agree that his aim is to articulate principles to guide enlightened policymaking. The principles he outlines do, in some instances, incorporate the perspective of admission applicants. What Adelman ignores is that **Rawlsian justice is inapplicable to the immigration and refugee context because, as the open/closed borders debate shows, Rawls assumes community and this assumption is not easily cast aside**. Adelman's own work, like that of Scanlan and Kent and of Shacknove, demonstrates that principled policymaking stems from the values of one society and puts the needs of members first. He is compelled to develop flexible principles because no liberal justice 44 See H. Adelman, "Justice, Immigration and Refugees" in H. Adelman et al., eds., Immigration and Refugee Policy: Australia and Canada Compared, vol. 1 (Carleton, Vic.: Melbourne University Press, 1994) 63 [hereinafter "Justice, Immigration and Refugees"]. 45 A similar type of analysis is seen in Jules Coleman and Sarah Harding's essay, where justice is also deduced from current practice: see J.L. Coleman & S.K. Harding, "Citizenship, the Demands of Justice, and the Moral Relevance of Political Borders" in Schwartz, ed., supra note 14, 18. 4 6 "Justice, Immigration and Refugees," supra note 44 at 70. 4 7 Ibid at 72-73. 80. [VOL. 37 No. 3 Amorality and Humanitarianism standard fits the context he is considering. By **arguing that what is just depends upon our goals** (including our desire to be humanitarian) in a given context, Adelman **demonstrates that there is no one standard that applies to immigration and that the goals of non-members are irrelevant to "fair" policymaking**. SK

### AT: Moral Value

### AT: Government Obligation Immigration Policy

### AT: Gov’t obligation to foreigners

### AT: Reciprocal violation of dignity

A. This argument does not apply to the negative case. A human right is recognized to emphasize the human dignity of the person holding the right, in this case, the immigrant. As the state only cares about itself making the right to immigrate would only be enforced if it benefits the home nation, so immigrants are used as a means to the end of the home nation. What this means is that the right is *not recognized for immigrants*, but is recognized for state interests, so it is no longer a human right to immigrate.

### AT: Virtue Ethics

**1.** Virtue ethics is not functional because people’s character is fluid, not fixed. Moral character is always in a state of flux, especially due to the time period. For example, it was once believed that slavery was a virtue, not a vice; however, that knowledge soon changed. Virtue ethics therefore cannot ground objective moral truth since it basis virtues that are constantly changing.

**2.** Virtue ethics does not account for out of character acts – even the most virtuous people end up committing moral evils. Virtue ethics fails because it can only address the issue of right and wrong in a derivative manner, which prevents the theory from judging decisions and failing to guide morality.

**3.** The framework fails because it is impossible to determine what actually is virtuous, in other words, there is no way to tell who is virtuous. Their framework presumes that we have the capacity to delineate between the virtues and vices.

**4.** Virtue ethics cannot function as a practical guide to action because concepts like honour or courage cannot be turned into rules.

Robert Louden, Virtue Ethics pp 205-206, 1997, I received my Undergraduate degree from the University of California, Santa Cruz, in 1975, and completed my Ph.D. at the University of Chicago in 1981 with a Dissertation entitled "The Elements of Ethics: Toward a Topography of the Moral Field." My areas of interest in philosophy are Ethical Theory, History of Ethics, and the history of Philosophy. I am a member of the American Philosophical Association, The North American Kant Society, and the American Society for 18th Century Studies. Before teaching at USM, I taught at Iowa State University, Indiana University Northwest, and at Barat College in Illinois. My favorite philosopher is Immanuel Kant. [Google Books] bcr

It has often been said that for virtue ethics the central question is not "What ought I to doT but rather "What sort of person ought I to beV1 However, **people** have **always expect**ed **ethical theory to tell them** some thing about **what they ought to do**, **and** it seems to me that **virtue ethics is structurally unable to say much of anything about this issue**. If I'm right, one consequence of this is that a virtue-based ethics will be particularly weak in the areas of casuistry and applied ethics. A recent reviewer of Foot's Virtues and Vices, for instance, notes that "one must do some shifting to gather her view on the virtues." "Surprisingly," he adds, "the studies of abortion and euthanasia are not of much use."8 And this is odd, when one considers Foot's demonstrated interest in applied ethics in conjunc? tion with her earlier cited prefatory remark that a "sound moral theory should start from a theory of virtues and vices." But **what can a virtues and vices approach say about specific moral dilemmas?** As virtue theorists from Aristotle onward have rightly emphasized, **virtues are not simply dispositions to behave in specified ways, for which rules and principles can always be cited.** In addition, they involve skills of perception and articulation, situation-specific "know-how," all of which are developed only through recognizing and acting on what is relevant in concrete moral contexts as they arise. **These skills of moral perception and practical reason are not completely routinizable, and so cannot be transferred from agent to agent as any sort of decision procedure "package deal."** Due to the very nature of the moral virtues, there is thus a very limited amount of advice on moral quandaries that one can reasonable expect from the virtue-oriented approach. We ought, of course, to do what the virtuous person would do, but it is not always easy to fathom what the hypothetical moral exemplar would do were he in our shoes, and sometimes even he will act out of character. Furthermore, if one asks him why he did what he did, or how he knew what to do, the answer?if one is offered? might not be very enlightening. One would not necessarily expect him to appeal to any rules or principles which might be of use to others.

**5.** Their framework cannot generate either obligations or prohibitions. In order to prove an obligation or even a prohibition it is necessary to recognize harms or benefits to an action, in relation to either the agent or the community. In order for an ethical theory to be obligating, it must be tied to an authority to demand that individuals comply with its precepts. Otherwise, individuals could always recognize the truth of a particular moral theory but still choose to act against it. Authority is required to restrict the human will, and without it, everything is permissible.

**6.** Their framework says acting in a virtuous manner is desirable, but desirability can only be justified by the fact that it’s a desirable action, making their framework circular.

8. This violates the rule of falsifiability for argumentation, which is that an argument must be capable of being refuted. Unfalsifiable arguments cannot be used in a debate setting, which requires logical argumentation.