

ARE THERE GROUNDS FOR LIMITING IMMIGRATION?

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Is there any “good” reason for a country such as the U.S. to deny entrance to persons who wish to immigrate, but who are not desired as immigrants by some or most of the current citizens?¹ My argument will assume without further justification that an individual has a right to life, liberty, and property in the traditional Anglo-Saxon sense of freedom from coercion by the state or other persons (unless a criminal act has been committed).²

Let us take note of the fact that the present international system is made up of area power monopolies referred to as *countries* (or sometimes ambiguously as *nations*), and any decisions made by a particular country hinge upon that fact. The question at hand does not encompass asking whether a world system without countries is better than a world system with countries. Rather, it takes as given a system of sovereign nations, practically all of which regulate issues of immigration and emigration with respect to their own borders. The question at hand concerns how the United States or a similar nation *ought* to behave about immigration, given that fact, and given the assumptions above. Or, to put it differently, what is *sensible* and *moral* for a nation to do with its power of regulating immigration, consistent with the rights of individuals stated above.

To most persons, the question at hand is likely to seem almost frivolous. To most of the people with whom I have discussed the matter, it seems obvious that there *must* be sound grounds for a

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¹The word “good” is written in quotation marks because various sorts of reasons—economic, moral, legal, ethical—might be offered as justifications for regulating immigration. I do not wish, by using an adjective referring to economics or morality or political philosophy or any other domain, to limit myself in advance the kinds of reasons that might be so offered by myself or by others.

²Those who espouse legal traditions different from the Anglo-Saxon tradition as now exemplified by the United States and Great Britain are not likely to accept this set of assumptions. I do not wish to join in argument with them about immigration on this occasion.

nation to regulate immigration; for many, the matter need go no further than taking notice of the fact that all nations do, in fact, exercise that power. But others challenge the morality of erecting barriers against the entrance of aliens into the United States or another country. Their argument is that if one believes in a “great society” in which all people are treated equally, there is no logical reason to treat a person differently who stands on one side or another of a boundary line, that is, who holds one “citizenship” rather than another. And they point to the period of virtually open borders in the United States—up to the 1920s—as evidence that such a policy need not be disastrous, or even more costly than beneficial. They also point out that only 75 years ago, it was considered uncivilized in the “advanced” countries for a government to restrict people’s comings and goings across their borders for reasons other than health or pauperism.³

A Crucial Intellectual Difficulty: Who Has A Claim?

As with many other questions that seem too preposterous to warrant serious discussion, this one makes for hard going. It may help to begin by identifying an intellectual difficulty in the economics of immigration, and indeed, throughout the economics of population size. Economic discussion customarily starts by assuming a fixed number of possible claimants to whatever resources exist or will be created in the situation under discussion, and proceeds to the allocation of scarce resources among alternative ends implicitly specified by the fixed group of individuals. As soon as the number of claimants is no longer fixed, but instead is a variable (perhaps along with other variables) whose value is to be decided in the course of the analysis, conventional economics is struck dumb, and the analysis loses clarity.⁴ Hence, economic theory is not a rich source of ideas concerning the topic at hand.

Some Economic Consequences that Arouse Concerns

It would seem reasonable that potential immigrants who would be a direct economic burden upon citizens through the public coffers should have no claim to be admitted. That is, no one has a legitimate claim to enter a society and freeload upon others by using more welfare services than taxes paid. But the data show that, on average, immigrants are *not* burdens in this fashion,⁵ and therefore this is a much less restrictive condition than

³See William H. McNeill, “Human Migration: A Historical Overview,” *Human Migration—Patterns and Policies* (Bloomington: Indiana University Press, 1976).

⁴Only the utilitarians (e.g., Sidgwick) have attacked this issue frontally, and their analysis is no longer persuasive to me. See Julian L. Simon, *The Economics of Population Growth* (Princeton, N.J.: Princeton University Press, 1977), chap. 18.

⁵See Julian L. Simon, “Immigrants, Taxes, and Welfare in the United States,”

it might seem. Furthermore, it is a (surprising) fact that immigrants are *more* of a benefit nowadays with the existence of government welfare programs than in earlier eras when there were few or no such programs. The reason is that immigrants tend to contribute more to the public coffers in taxes than they take out in services (though this does not take into account indirect effects such as greater competition for housing or in the labor market).

Another common difficulty is the assumption that immigration implies a net cost to natives. Some writers put heavy weight on a supposed reduction of “wealth and resources” per native because of immigrants.⁶ More generally, much recent philosophical discussion about population has been based on the idea that resources are increasingly scarce with larger populations.⁷

The Concern about Homogeneity and “Alien Values”

An issue to be mentioned only in passing is whether keeping the society homogeneous culturally or racially is a “good” reason for a nation to bar potential immigrants. For many, cultural homogeneity constitutes a reason to limit immigration.⁸ Such a consideration of taste is beyond the scope of this essay, though one could investigate the consequences for such issues as economic freedom of restrictive policies based on cultural homogeneity. A related matter is a group’s desire to “maintain their present way of life.”⁹ This issue involves so many weighty and worthwhile considerations on both sides of the matter that, like the boardinghouse issue in racial discrimination in the United States, it would have to be resolved by a judicial-like process, though the appropriate jurisdiction for such a judgment is not at all obvious.¹⁰

The Concept of Rights: Not the Place to Begin

Which intellectual tools are best fitted to help us tackle the question this paper addresses? The legal–philosophical concept of rights—for potential immigrants, for natives, and for a country—comes quickly to mind. But I have concluded that arguments

Population and Development Review 10, no. 1 (March 1984): 55–69; idem, *The Economic Consequences of Immigration* (Boston: Basil Blackwell, 1989); idem, *Immigration—The Demographic and Economic Facts* (Washington, D.C.: Cato Institute and National Immigration Forum, 1995).

⁶See Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), p. 47.

⁷For example, see Bruce A. Ackerman, *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

⁸Margaret Thatcher, former Prime Minister of Great Britain, voiced this argument, and based her immigration policy upon it.

⁹Walzer, *Spheres of Justice*, p. 47.

¹⁰Certainly, the recent history of international tribunals does not offer much hope that such a forum could be very satisfactory.

involving either natural individual rights, or individual rights derived from other sources, will not be helpful in this case. Any such discussion necessarily brings up the question of who is to be allowed to share the right—persons outside as well as inside the nation's borders, or just those inside it. And to decide that question requires a theory of the state, which would, as I see it, inevitably be tautologous.

Furthermore, the notion of a right of a *country* seems to have little standing in philosophical discourse,¹¹ despite its casual use in common discussion and perhaps in international law. I will forswear the use of such a concept both for that reason, and because such use appears to me unnecessary as well as confusing.¹²

To put it another way, if there is to be a useful discussion of rights in this case, it must proceed similarly to the discussion of other rules for the "great society," a discussion which considers pragmatically which rules provide the best framework for freedom, for the enjoyment of property and family, and for progress toward greater wealth and higher civilization, rather than considering which rights are "natural" or consistent with a theory of the state.¹³ If one accepts that natural rights are not an appropriate concept for this situation, one may also be willing to accept that discussion of abstract rights by itself will not immediately resolve the problem, no matter how enlightened the discussion.

One might also try to draw conclusions about rights—on the part of either potential immigrants or of present citizens—from other rights and privileges. An example would be a citizen's seeking protection by his country when abroad, protection to which a non-citizen is not entitled. But I have not been able to make any headway with this approach; perhaps in other hands it would be more fruitful. Nor have I found relevant such related concepts as the "right" of a nation to require military service of a citizen, but not of a non-citizen.

One of the drawbacks of hanging the issue on a discussion of rights is that the same basic set of assumptions can lead to very

¹¹But see Walzer, *Spheres of Justice*, p. 52.

¹²If one identifies a nation's rights with what international law allows, then the concept takes on some precision. On this, see Henry Shue, "Border-Crossings: National Autonomy and National Responsibility," photocopied, undated. But I think this is not what most persons have in mind when they talk about a nation's rights.

¹³It seems to me that the natural-rights approach, in conjunction with a common-law system, works best for situations concerning which there exists a great deal of experience, the kind of highly structured situation that one encounters in daily legal decision-making.

different conclusions. For example, Carens says he begins at the same place as does Rawls—"the spirit of the moral point of view, i.e., that in reasoning about moral issues we should try to avoid being influenced by self-interested or partisan considerations"¹⁴—but reaches a global view of immigrants' rights, whereas Rawls draws a boundary around nations:

Now clearly knowledge about one's citizenship (e.g., whether one is a citizen of a rich nation or a poor one, whether one is already a citizen of a particular state or an alien who wishes to become a citizen) is knowledge about "specific contingencies" that could "set men at odds." A fair procedure for choosing principles of justice must therefore exclude knowledge of these circumstances, just as it excludes knowledge of one's race or sex or social class.

This leads to a global view of the original position. The principles of justice apply in the first instance to the world as a whole and only derivatively to nation-states. Rawls's attempt to restrict the investigation of the principles of justice to members of a given society is not justifiable because such an approach presupposes the legitimacy of the autonomous nation-state. But the whole point of the original position is to provide a perspective from which to assess the legitimacy of social institutions. The legitimacy of the state as a social institution thus depends upon the extent to which it is compatible with the requirements of the principles of justice.¹⁵

Before leaving the concept of rights, let us consider the possible role of what I shall call secular rights, those derived not from a conception of what is "natural" but instead from a conception of what is necessary for the governance of society under particular conditions. The Hayekian (also the libertarian) idea is that, in the proper governance of a modern "great society," all persons ought to be treated equally; it is as simple as that.¹⁶ The

¹⁴Joseph H. Carens, "Aliens and Citizens: The Case for Open Borders," *The Review of Politics* 49, no. 2 (Spring 1987): 251–73.

¹⁵Carens, "Aliens and Citizens."

¹⁶Some representative observations:

There is . . . a fundamental difference between what is possible in the small group and in the Great Society. In the small group, the individual can know the effects of his actions on his several fellows, and the rules may effectively forbid him to harm them in any manner and even require him to assist them in specific ways. In the Great Society, many of the effects of a person's actions on various fellows must be unknown to him. It can, therefore, not be the specific effects in the particular case, but only rules which define kinds of actions as prohibited or required, which must serve as guides to

Old Testament says the same about treatment of Jews versus foreigners or non-Jews.¹⁷ Were this right not to be opposed by another necessary (?) pragmatic right, or by some consideration of ill consequences that may flow from this right, perhaps it would be enough to enunciate the right for the question to be settled. But I believe that the discussion that follows compels us to think that there are opposing forces that cloud the issue. An example, to be considered now, is the right to be secure in one's property, and the associate right to transfer one's individual property to whomever one wishes, including descendants; this right is fundamental for libertarians and for Hayek.

The right of bequeathing property raises interesting questions. Does a small collective, such as an agricultural cooperative, have the right to bequeath its property to whomever it wishes? May some person be barred from joining the collective on

the individual. In particular, he will often not know who the individual people will be who will benefit by what he does, and therefore not know whether he is satisfying a great need or adding to abundance. He cannot aim at just results if he does not know who will be affected.

Indeed, the transition from the small group to the Great or Open Society—and the treatment of every other person as a human being rather than as either a known friend or an enemy—required a reduction of the range of duties we owe to all others.

Friedrich A. Hayek, *The Mirage of Social Justice*, vol. 2, *Law, Legislation, and Liberty* (Chicago: University of Chicago Press, 1976), p. 90. On page 95, Hayek adds:

To ask for protection against being displaced from a position one has long enjoyed, by others who are now favoured by new circumstances, means to deny to them the chances to which one's own present position is due.

An objection to a global view is what Shue calls "priority for compatriots." He says it is "at the very least acceptable—perhaps necessary or even admirable," and in the name of this principle he respects "cosmopolitanism." See Shue, "Border-Crossings," p. 2. But one cannot accept "priority for compatriots" as a principle for private actions, representing an emotional fact of human nature, and reject it as a principle for legal governmental action.

¹⁷Hayek added, however, that this principle applies only to those who share the same moral values. In personal correspondence to this author, dated May 26, 1984, he wrote:

My general principles clearly apply fully only between people who have a common system of basic moral beliefs. How far this justifies an exclusion of immigrants by the powers of the state I am simply not clear. But I certainly accepted it as fully justified of the inhabitants of the Tyrolean village in which I have now spent my summer holidays for some twenty-five years, [when they] several years ago refused to sell me a piece of land on the ground that they did not do so to foreigners.

However, I do not fully grasp his qualification (that the principle applies only to those who share the same moral values), and I did not have the opportunity to explore it with him, although the following discussion may discover what he had in mind.

the basis of their backgrounds? And what about a larger collective, such as a town? Is there a private–public distinction here that leads to personal property having a different status than common property? At which point does one pass from a situation in which rights are accorded to an individual, or to a partnership, into a situation of a group so large that it cannot be thought of in the same way? A town in the United States may not prohibit any person from purchasing or renting a home on the basis of education or color or religion or other background characteristics. May the nation, then, do so? It would seem that the nation's right to exclude people on the basis of their background characteristics requires that the nation be thought of as an entity fundamentally different from any other entity, either private or public. This would require a compelling theory of the nature of a country-state if one is to make an argument about immigration on the basis of rights. Moreover, the theory would have to be different from the theory of the "night watchman" state, because the latter pertains to the city as well as to the nation, and a city is not permitted (in the United States) to make an immigration policy.¹⁸ These questions will not be pursued now, so as to hurry on to other matters. But I have the impression that it is next to impossible to construct a satisfactory argument for either closed or open borders on the basis of rights alone.¹⁹

ARGUING FROM THE CONSEQUENCES OF AN IMMIGRATION POLICY: SOME NON-PROBLEMS FIRST

There are three possible bases on which to evaluate immigration: natural law, contract law, and consequences. As I see it, the first two approaches do not work, so we must pass on to the third and more general mode of analysis, asking: what *consequences* are likely to follow if an open-borders or a closed-borders policy is adopted? The question about secular rights discussed above may also be seen in this context, of course, in the following form: what will be the consequences for the system of rights if one or another rule is adopted with respect to immigration? But now we focus upon more direct economic and political consequences.

Before proceeding, however, we need some agreement about what is good and what is bad. Therefore we ask: is there any overarching general principle that one can appeal to with some

¹⁸Whether states, such as Hawaii and Oregon and Colorado, that wish to restrict immigration may do so is a matter which the courts have been considering lately.

¹⁹Yet, the discussion will later come around the circle far enough that the reader may feel that it is really founded on a concept of rights.

hope of gaining agreement? I hope that the “Great Society” of Hayek is a goal toward which the U.S. and the world are evolving, and also (but not therefore) should aim at.

The Great Society implies 1) allowing free mobility, and 2) doing no avoidable harm to others. Specifically, some feel harm from “cultural” changes induced simply by others changing the makeup of a community of country. (We can put ill economic effects aside as mostly not occurring.) U.S. society has legislated against the introduction of such “cultural” harm being allowed to matter in public accommodations, hiring, etc., and this is no longer subject to debate. It has been accepted as the “right” and moral thing to do. But this has not been extended to immigration. Nor does the whole world have such rules, so it cannot claim universality and hence “natural law” status.

Now to specifics: as noted earlier, it would seem reasonable that an immigrant be required not to cause general economic harm to natives. This requirement is different for persons outside the nation than for those who are citizens, however. Within a nation, it would be difficult to carry out this policy, even if it were desired and acceptable, especially with respect to particular groups of migrants. For example, we make little or no attempt to prevent persons who may need public assistance from moving from one community to another. But the matter may well be different internationally, both technically and ethically. So it seems reasonable to require that a person have a reasonable probability, based upon his own capacities or the guaranteed help of others, not to become a public burden in the direct sense; this was even a requirement during the open-door days (toward Europe) of the U.S. before 1921.²⁰

But what about indirect burdens, and burdens upon particular sub-groups within the society? An added person may cause added congestion in some areas. An added person causes damage to some individuals by increasing competition in the labor force. It is impossible for an immigrant to enter without doing damage to *some* sub-group, and therefore no one could enter without being challenged by some groups or persons. Hence, I submit that such indirect damage to one or another sub-group cannot be accepted as grounds for automatic disqualification.

What about indirect negative consequences for the community at large, that is, the population within the nation-state? Here

²⁰We ought not tarry on this point, I think, because more difficult and controversial matters await us.

we must discuss which kinds of damage will and which will not be considered relevant. Should *any* kinds of effects that citizens regard as damaging be considered disqualifying? The entrance of people with foreign racial characteristics is, of course, a key issue. Here it would seem to me reasonable that damage to citizens' sensibilities should not be cause for barring a potential immigrant. If a taste test of this kind were acceptable, there would be no reason why some citizens could not use such a test against other citizens in a form of unchecked democracy, with the sorts of majoritarian dangers that worried the framers of the U.S. Constitution.²¹

Racial-exclusion arguments are often made on the grounds that race-mixing leads to social tension and violence. It would seem indubitable that racial differences are *sometimes* the occasion for violence. But I have seen no evidence that the level of tension and violence in mixed societies is greater than in more homogeneous populations. Furthermore, there would seem to be a distinction between conflict that is personally unpleasant to some citizens and conflict that threatens the stability of the state as a whole.

One might argue that an infusion of a "foreign" racial group may lead to pressures to partition a nation into two or more nations. But unless one assumes a value for the existence of the state itself, in contrast to the continued existence of the state for the purposes of facilitating the economic and personal lives of the persons within it, then the argument of potential partition has no weight.

ARE THERE SOME REASONABLE GROUNDS FOR REGULATING IMMIGRATION?

Alteration of the Economic-Political Infrastructure

All agree that predictability of economic structure and rules is a necessary precondition for successful community economic life, because such stability is a precondition for the ability of an individual or an enterprise to influence its own fate secure from arbitrary manipulation by others. And such predictability requires a measure of continuity and stability in a society's political institutions. We may think of a nation as having created an organization that conducts its business with some effectiveness; such an

²¹This is more in the nature of a personal opinion than a reasoned judgment. It should be recognized here that such notables as Margaret Thatcher do not necessarily agree with this point of view, as suggested by word and action.

organization is a valuable asset, just as the firm's organization is for its own affairs. The organization may not be "best" in some abstract sense, and it may well not be the result of "rational" design. But the fact that the organization survives indicates that, whatever its historical roots, it has some continuing value; citizens surely have invested much in dependence upon the continuation of that particular mode of organization.

What if the numbers (or types) of immigrants are sufficiently large as to quickly become a majority in some place or another, or large enough to combine with others to alter the fundamental fabric of the nation, and hence threaten the existence of that mode of organization? For example, consider the case of a large country like China threatening to inundate a much smaller country, say, Singapore, with so many immigrants that the entire political complexion would be changed by means of democratic and constitutional process. And what if this were to be done for Chinese reasons of state, ideological or strategic? Should a nation simply accept the impending disruption or destruction of its economic life, even putting aside the question of the social order and historical continuity?

Perhaps this possibility is what underlies Hayek's idea of a "common system of basic moral beliefs." If it is reasonable to suppose that such a common system of values exists, one may also assume that there is no danger of alteration in the political-economic infrastructure from a given group of immigrants. But discrimination among potential immigrants on such a basis clearly is fraught with difficulties and dangers.

If unlimited immigration presents a threat of this sort, a nation may reasonably put some limits upon its immigration on the grounds of protection of property and economic life. To me, this seems to be the *only* compelling argument in favor of limits upon immigration with the context of a "Great Society."

Having said this much, I wish to back off and take notice that this line of argument is not a general warrant for any arbitrary limits upon immigration that a nation wishes to impose (though the nation might, of course, find other warrants not included in the discussion here). Perhaps an appropriate way to think about the matter is that the burden of argument should be upon a nation to justify restrictions in terms of potential damage, rather than upon potential immigrants to show that the restrictions do not potentially inflict damage. It would not be easy to make a strong showing that a potential immigrant cohort would be large enough or would have the sorts of characteristics (other

than lack of skills, discussed below) that would threaten to alter irreparably the economic, political, or social fabric of the society. Even if the volume of immigration were so large as to constitute a majority within five or ten years, it is not at all clear that this would threaten fundamental change, because of the demonstrated fact in the United States of successful absorption of immigrants no matter how foreign they might seem upon arrival. Perhaps a takeover of a small nation by a large one, of the sort discussed above, might be a real threat, but the world has never yet seen such an event, and therefore it would not seem reasonable to take strong steps to prevent its occurrence.²²

Additionally, the required length of residence prior to acquiring citizenship and the right to vote—a procedure now in effect in the U.S., though under some attack by those who believe that all residents should have the right to vote²³—might

²²Carens, “Aliens and Citizens,” pp. 10–11, makes a similar argument, and expresses similar reservations about whether it would ever apply.

²³Some writers—Walzer, for example—suggest that if delay in receiving citizenship were deemed necessary, it would be better not to admit the immigrants at all.

One might insist, as I ultimately do, that the same standards apply to naturalization as to immigration, that every immigrant and every resident is a citizen, too—or, at least, a potential citizen. That is why territorial admission is so serious a matter. The members must be prepared to accept as their own equals, in a world of shared obligation, the men and women they admit; the immigrants must be prepared to share the obligations. But things can be differently arranged. Often, the state controls naturalization strictly, but immigration only loosely. Immigrants become resident aliens and, except by special dispensation, nothing more. Why are they admitted? To free the citizens from hard and unpleasant work. Then the state is like a family with live-in servants. As Walzer, *Spheres of Justice*, p. 63, states, “That is not an attractive image, for a family with live-in servants is—inevitably, I think—a little tyranny.” On page 52, he stated:

The determination of aliens and guests by an exclusive band of citizens (or of slaves by masters, or women by men, or blacks by whites, or conquered peoples by their conquerors) is not communal expression but oppression. The citizens are free, of course, to set up a club, make membership as exclusive as they like, write a constitution, and govern one another. But they can't claim territorial jurisdiction and rule over the people with whom they share the territory. To do this is to act outside their sphere, beyond their rights. It is a form of tyranny.

There are several reasons why I reject this view. First, it is contrary to fact in the U.S. that immigrants on average do dirtier work than natives. Second, a waiting period for citizenship has always been in force, with little or no complaint. Third, and most important, it forces the preferences of natives upon immigrants, telling them that even though they would prefer non-citizenship worker status to not entering, they are to be considered worse off in that status, and natives would therefore be faced with “not an attractive image,” i.e., this notion is based on the tastes of native, or, more specifically, the tastes ascribed to them by Walzer.

Furthermore, this argument has been used cynically by anti-immigration organizations—i.e., comparing illegal aliens to pre-Civil War slaves—as a way of

avoid the danger of democratic takeover, while allowing all who wish to enter, work, and live to do so.

Negative Learning Externalities

Another possibly relevant issue is what may be called negative learning externalities. People learn from one another in the work place, and if the people with whom one works do not have a high level of technical skill and general economic culture, one's performance is likely to suffer. Indeed, this—along with a defective economic–political structure—is the most plausible explanation of low individual productivity in countries with low average productivity. Therefore, one could object to massive immigration on the grounds that it would lower economic output. Indeed, it would make little economic difference if an individual worked in the U.S. in an environment with 99% new immigrants from very poor countries, or worked in the countries from which those persons came. It is important to note that the phenomenon under discussion is the learning relationship between people, and not complementarities of skill; the latter phenomenon suggests that highly skilled technical persons benefit rather than suffer from the presence of additional low-skill immigrants.²⁴

advancing their own desire for fewer immigrants. As Hayek pointed out, in *Law, Legislation, and Liberty*, p. 90:

Those very groups within the existing states which are loudest in their demands for "social justice," such as the trade unions, are regularly the first to reject such claims raised on behalf of foreigners. Applied to the international sphere, the complete lack of a recognized standard of "social justice," or of any known principles on which such a standard could be based, becomes at once obvious; while on a national scale, most people still think that what on the level of the face-to-face society is to them a familiar idea must also have some validity for national politics or the use of the powers of government. In fact, it becomes on this level a humbug—the effectiveness of which with well-meaning people the agents of organized interests have learnt successfully to exploit.

²⁴William Poole suggested, in personal correspondence (July 22, 1986), that account should be taken

of *why* Backwardia is backward. Per capita production in Backwardia might be low because of poor political and/or incentive systems. Once an individual moves to Richonia, his output might immediately rise to the average level in Richonia. There is, in this case, no reason to expect that immigration will make Richonia more similar economically to Backwardia. . . .

It is often the case, for example, that foreign scholars coming to the U.S. are instantaneously more productive than in their native countries.

For example, the pay of German full professors does not depend upon the quantity or quality of research and writing in their own country, but the incentive structure is different if one moves to the U.S. Change in behavior would then not be expected to depend upon whether a given immigrant German professor worked with native U.S. professors or with other new-immigrant German professors.

As with the effects of massive immigration upon U.S. political institutions, it is certain that people will worry about this phenomenon much more than is warranted, and will use it as a smoke screen for other motives in restricting immigration. Yet, the possibility must be mentioned. And if one begins with the premise of the sanctity of property, there is certainly a potential objection to immigration here. Perhaps the clear-and-present danger doctrine is again the most reasonable reply.

SOME OTHER CONSIDERATIONS

1. It may be illuminating to note that a nation controlling its borders *in extremis* is the opposite side of the coin from a group of people asserting autonomy for the region in which they live; without some possibility of keeping others out, effective autonomy is not meaningful.

2. A more philosophically based approach to this subject may be developed by beginning with an argument by Robert Nozick, even though he is addressing emigration, rather than immigration.²⁵ Nozick considers whether a person should be prohibited from emigrating in light of a possible obligation for a citizen to contribute to the provision of social welfare for other members of society. He concludes in the negative, partly by reference to the ludicrousness of a nation being entitled to kidnap persons outside the country in order to compel such contributions.²⁶ The provision of social welfare does not come into the present discussion

If Poole's point has wide application, then the point under discussion is less important.

²⁵See Robert Nozick, *Anarchy, State, and Utopia* (New York: Harper Torchbooks, 1974), pp. 173–74.

²⁶Nozick's argument is strikingly reminiscent of one made by John Locke in 1690. See Locke, *An Essay Concerning the True Original Extent and End of Civil Government*, in *The English Philosophers from Bacon to Mill*, Edwin A. Burt, ed. (New York: Modern Library, 1939), pp. 406–7:

I desire them to resolve me by what right any prince of state can put to death or punish an alien, for any crime he commits in their country. 'Tis certain their laws, by virtue of any sanction they receive from the promulgated will of the legislative, reach not a stranger; they speak not to him, nor, if they did, is he bound to hearken to them. The legislative authority, by which they are in force over the subjects of that commonwealth, hath no power over him. Those who have the supreme power of making laws in England, France, or Holland, are to an Indian but like the rest of the world—men without authority. And, therefore, if by the law of nature every man hath not a power to punish offenses against it, as he soberly judges the case to require, I see not how the magistrates of any community can punish an alien of another country; since in reference to him they can have no more power than what every man naturally may have over one another.

because, as we have seen, the average immigrant is a net contributor, rather than a net recipient, contrary to popular belief. But the more general notion that may be extracted from this line of thought is that a state surely should have the right to require that a citizen pay his or her contractual debts before leaving—delinquent taxes, for example, or debts owed to another citizen—even if it does not have the right to prevent emigration to extract payments that are not owed by contract or law. And this leads back to the idea that persons in any country have the right to protect themselves in elementary ways; the right of self-protection is asserted and delineated clearly by Locke. And though the concept of right may pertain to individuals and not to groups, there are situations in which individuals can only protect their rights if they do so in a corporate manner, as is clearly the case with a police force, and it would seem to be the case with some aspects of emigration and immigration, too. That is, if some regulation of immigration is absolutely crucial to protect the basic interests of citizens, construed narrowly, this would not seem different from other actions of the “night watchman” state.²⁷

CONCLUSION

Is there any persuasive reason for a country to bar a healthy, law-abiding person from immigrating? That is the question that this essay addresses. Many believe it is in the natural order of things that movement across borders should be limited. But prior to World War I, it was thought uncivilized for nations not to permit free movement, and even passports, for the most part, did not exist.

Arguments about immigration based on “natural rights” all seem to be inconclusive, in part because the concept of rights does not apply to countries as it applies to individuals. Therefore, as with most other policies, we turn to judging the matter by considering its consequences.

The consequence most worried about is that immigrants constitute a financial burden on the public fisc. This worry usually

²⁷The reader might wonder how this line of argument relates to states such as the USSR, which used to require repayment of education costs before persons were allowed to emigrate. There might be a reasonable argument that emigrants ought to pay net costs of some sort before leaving. But the child’s parents, on average, pay taxes in the full amount of the child’s education, and therefore there is no family net obligation. A state might make an argument on the basis of personal independence, but then it would have no grounds to collect taxes from parents to pay for children. Of course, there might be some special circumstances, say, a child receiving extraordinary educational or medical expenses, but this would not be a fruitful path down which to proceed here.

runs contrary to the facts, however, and a variety of policies, many of them already in place, can prevent a welfare burden even in most individual cases.

Job displacement is another major concern. But a considerable body of recent research shows that immigrants do not have general negative consequences on labor markets; rather, the overall consequences are generally positive. Some particular groups may be injured by a particular group of immigrants (mostly in wages rather than increased unemployment); physicians are a case of an occupation being harmed by immigrant doctors. But the concerns about a negative partial effect in the face of a positive general effect are the same as in the case of trade theory, and hence are not likely to be operative here.

The difficult questions—and therefore the possible justifications for controlling entry—arise with respect to externalities. Some externalities can be internalized by appropriate tax measures—for example, the costs of school buildings and roads. But externalities such as native children learning more slowly because schools have so many immigrant children—an unlikely event, but one which must be considered in principle—cannot easily be internalized (though a voucher system might go a long way). It should be noted that other natives are not barred from entering a community on such grounds, however.

Societies which accept as legitimate the idea that persons have greater private obligations to those more closely affiliated with them—an effective mechanism for supplying help to those in need, but one which tended to be suspect in such societies as the Soviet Union, even within the family—might also embody the same principle in governmental actions. But it may well be that while this principle is constructive with respect to personal acts, it is destructive with respect to public action.

The most important externality is alteration in the economic and social system. If a large country were to flood a small country with immigrants for the purpose of taking it over democratically and then changing the system, this would threaten the natives' property in their means of livelihood, because economic activities depend upon the social-political system. But such a possibility is quite unlikely. Furthermore, making the right to vote contingent upon citizenship, which is awarded only after some passage of time, may safeguard against this possibility. The same device should help to ensure that at least the voting populace share basic civic values, a consensus of which many writers argue is crucial for the satisfactory functioning of any society. Having

non-voting residents with different values (at least at first) who might influence citizens—"foreign revolutionaries"—is a possible objection to immigration, but I do not know of any evidence to confirm (or deny) that this is ever a realistic danger.

In short, the negative consequences of any level of immigration which is politically imaginable at present are at most speculative, rather than documented. Therefore, a policy which is both prudent and also consistent with the observations would be to increase immigration quotas in a series of increments of significant size—perhaps half a percent, or one percent, of total population at each step—to check on any unexpected negative consequences, and to determine whether demand for admission even exceeds the supply of places.²⁸

So, where have we arrived? The main point is that it seems reasonable and acceptable for a given population of individuals, at the governmental level of the nation-state, to assert that they have a property right in their social and economic organization. This means that under some circumstances, it may be appropriate for them to decide how many and which potential immigrants are allowed to enter. But it is ridiculously easy to concoct a supposed threat from immigrants to the economic stability and predictability of the nation-state. So this line of thought could be used to justify any restrictions upon entry that a country wished to enact. Therefore, there should be built into the constitution of the country sufficient safeguards against this power being used in situations other than those of clear-and-present danger. We also ought to recognize that to create such safeguards would be a very difficult task, one that goes beyond the bounds of this essay.

²⁸In this connection, we should note the current zero net immigration from Puerto Rico, whose population may freely move to the fifty states.