

The Ethics of Immigration

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This review essay examines recent work in political theory on the ethics of immigration admissions. It considers arguments put forward by Michael Walzer, Peter Meilaender and David Miller, among others, for state control of borders. Such arguments tend to appeal to the value of political communities and/or the exclusion rights of democratic associations, and I argue that neither of these are successful. Turning to work by Joseph Carens, Phillip Cole, Michael Dummett and others who advocate open or much more open borders, the article considers various arguments that would support this stance, including appeals to freedom of movement, utilitarianism and social justice. I argue that rights to immigration need embedding in global principles of resource redistribution. In the conclusion I sketch a cosmopolitan approach to immigration by which impartial criteria such as population density and gross domestic product would determine how many migrants states have a duty to admit.

No one knows how many millions of people migrate each year. Figures are indefinite because states record flows in different ways and because of illegal migration (Ghosh, 2000a, p. 6; Stalker, 2001, p. 10). The United Nations (UN) estimated that in 2002 there were 185 million migrants in the world or about 3 percent of the global population (Castles and Miller, 2003, p. 4).¹ Mass migration has been much investigated by political scientists, sociologists, lawyers, geographers, economists and historians, but not by political theorists, who, despite about 15 years of normative work on the multiculturalism migration so often causes, have in the main oddly bypassed the logically prior question of what rights migrants have to enter a new state. Here I examine recent work that redresses this omission. The principle of open borders has been strongly defended.² Others argue along similarly cosmopolitan lines for more open borders.³ There are also prominent advocates of border controls.⁴ There is something of an emerging research agenda on the ethics of immigration.

Migration has a complex character. Categories of migrants include permanent settlers, contract workers, students, refugees, a nomadic global elite, as well as those rejoining their families, forcibly transported or returning to their home country (Stalker, 2001, pp. 10-2). The great majority of the world's population who do not migrate remain profoundly affected by it through the receipt of emigrants' remittances (a fair proportion of gross domestic product (GDP) in many sending states), new competition over jobs and living space, ethnic conflict, and so on (Stalker, 2001, pp. 100-12; Castles and Miller, 2003, pp. 32-48, 178-97, 220-77). Rational choice explanations for migration focus on 'push factors' (such as poverty or population growth) by which individuals decide to leave their homes and 'pull factors' (such as jobs and higher living standards) that draw them elsewhere; by contrast, structuralist paradigms explain migration through globalised labour markets and richer states' and

firms' economic power (Stalker, 2001, pp. 20-39; Castles and Miller, 2003, pp. 21-32). Migration problematises the very notion of state membership, with much attention now focused on transnational communities - 'a new type of social space' (Stalker, 2001, p. 115; Castles and Miller, 2003, pp. 29-30; Jordan and Düvell, 2003, pp. 75-8) - that exist between states rather than within them such as the circular migration between the US and Mexico (compare Johnson, 2003). This complexity, moreover, is increasing. Not just the volume of migrants, but also the number of sending countries, is rising; a globalised economy means proximity; shared history or cultural affinity are by no means the sole explanations for migrants' choice of destination (there are new social networks such as migrant traffickers); and hence the cultural background, economic skills and social attitudes of those entering rich states is diversifying too (Ghosh, 2000a, pp. 8-14, 18-20; Castles and Miller, 2003, pp. 7-14, 122-53, 278-91). Human rights infringements, environmental degradation and deepening inequalities are all gaining salience as push factors from developing states. Domestic politics, state security and regional relationships are all increasingly affected by migration.

I will have to gloss over this complexity. Following most of the literature I examine, I shall consider mainly economic migrants, not refugees (or other categories such as forced migrants). The majority of the world's migrants move for economic or economic-related reasons such as family reunification. Only about 15 million of the 185 million migrants in 2002 were refugees (Castles and Miller 2003, pp. 4-5). To be sure, that proportion may rise. Bell (2004), for example, has highlighted the phenomenon of environmental refugees whose numbers may grow significantly in the future. Moreover, one could destabilise the distinction between political refugees and many economic migrants through an argument that both groups suffer from states' failures to provide for peoples basic needs like security and welfare (Shacknove, 1985). Nevertheless, there is some distinction to be had, and because I believe refugees raise distinct, albeit critical, claims of justice, I shall not focus on them here.⁵ I shall also be concerned principally with the basic right to enter and reside in a new state, not the subsequent question of admission to citizenship, although there are, I believe, strong grounds in justice, to extend citizenship rights swiftly to those granted the right to reside.⁶

The guiding framework of this article is cosmopolitan. Cosmopolitan justice (stipulatively defined) concerns the principles governing the fair distribution of basic burdens and benefits that people suffer or enjoy; all the people who may be affected by a putative principle. Immigration controls involve considerations of justice because they plainly greatly affect people's life chances (compare O'Neill, 1994; Lichtenberg, 1981; Ottonelli, 2002; Coleman and Harding, 1995, pp. 38-40; Moellendorf, 2002, pp. 30-9). Benhabib, by contrast, argues that 'migration rights cannot be subsumed under distributive justice claims' (Benhabib, 2004, p. 72; compare Walzer, 1983, p. 61). Her two reasons for this claim are, first, that our globalised world is not quite the 'system of co-operation' to which principles of justice properly apply (although it does contain 'significant interdependencies'), and second, that global principles of justice may not be compatible with democratic self-governance (Benhabib,

2004, pp. 95-105). Certainly, just principles of migration must include a space for people's democratic decision-making, but I would rather interpret this as part of the *internal* complexity of justice (where the results of a people's deliberation must be justified to all those affected) than see the task as one of 'reconciling democratic politics with global egalitarian aspirations' (Benhabib, 2004, p. 102; compare Van Parijs, 1993, pp. 140-52). The first point supports a view of justice where the grounds of principles are the effects of people's actions upon each other (Benhabib, 2004, p. 97). Although correct, this view seems unduly restrictive. Justice also concerns what we *can* do for others, whether they have previously been affected by our acts or omissions, and what we *ought* to do for fellow members of our common humanity. There is not the space to defend this view here, but, if correct, it would offer powerful reasons for subsuming immigration controls under principles of justice, over and above the causal contribution that rich states make to poorer people's desire to leave their countries of origin.

The next section of this essay discusses arguments for state sovereignty in matters of border control. On the view of justice I have defended, such arguments must also morally engage those prevented from entering. Cosmopolitan arguments urge more open borders than immigrants currently enjoy on grounds of free movement as a principle of great moral weight - one popular argument - or on welfarist grounds of social justice - the other main argument. I analyse these in the section after next. I conclude by briefly sketching a cosmopolitan argument that tries to integrate global redistributive justice with the value of democratic associations and citizens' special duties to one another.

Arguments for State Control of Borders

Popular arguments for states' right to control the entry of immigrants raise the dangers of overpopulation; welfare tourism; social disorder, crime and terrorism; threats to cultural homogeneity; and job losses and wage depression for the indigenous working population (Hudson, 1984; Meilaender, 2001, pp. 27-30; Harris, 2002, pp. 42-75). Empirically speaking, many of these dangers are more apparent than real. They are vigorously criticised by Harris (2002; compare Hayter, 2000). There is a near academic consensus that migration tends to improve the states' economies, for example (as we shall see in the next section). Normatively speaking, migration sceptics tend to assume, but not argue for, the collective right of states to determine admissions criteria. What might ground that right?

The best starting point here is Walzer's defence of membership restrictions in *Spheres of Justice* (1983). Although dated, it remains much cited in recent literature (for example, Cole, 2000, pp. 60-85; Meilaender, 2001, pp. 155-70; Benhabib, 2004, pp. 109-14), and Walzer still endorses his conclusions (Walzer, 2003, pp. 203-4). Walzer's discussion is rich, allusive, subtle and meandering, resisting analytical deconstruction. However, one general consideration he offers is that the very idea of distributive justice presupposes a bounded political community of which some people are members and others are not (Walzer, 1983, p. 31). Political communities should retain a right of closure in order to

be communities, the critical pre-requisite for justly distributing social goods to members. By contrast, the prior question of acquiring membership of a political community 'is not pervasively subject to the constraints of justice' (Walzer, 1983, p. 61). In effect, then, migrants have no claim in justice for admission (Moellendorf, 2002, p. 62; compare Benhabib, 2004, pp. 95-105). People who want to emigrate from poor state A to richer state B have to rest content that A too has the right to exclude. As I have suggested, this seems an arbitrarily restrictive view of justice if we assume that every person has equal moral worth. But Walzer's discussion is a nuanced one. Thus, in discussing the ethics of admitting refugees and poverty-stricken 'necessitous strangers', he also advances a principle of mutual aid that plainly intrudes upon a political community's collective right to decide on admissions (Walzer, 1983, pp. 46-51). Moreover, in criticising the 'White Australia' policy by which the Australian government overtly discriminated against non-white would-be migrants, Walzer introduces population density as a further criterion of the justice of admission: white Australians' desire to preserve the 'great empty spaces of the subcontinent' was unjust (especially as their ancestors had coercively cleared those spaces of the aboriginal population) (1983, pp. 46-8). It would be unjust for Australia to keep out non-white necessitous strangers, whatever its citizens' views on the matter.

Having said all that, the main thrust of Walzer's position on immigration is to assert the value of democratic sovereignty over the claims of global justice. Walzer's general argument for communitarian justice is that the meanings of goods differs radically between different political communities. But do they always? Of course, membership of Japanese society means something different than membership of American society. But the general concept of membership is pretty much shared, as it surely must be if one wants to advance a view of justice that obtains within a bounded political community of which only some people are members. Alternatively, Walzer might claim that justice without the means of enforcement is no justice at all, merely an abstract hope.⁷ Further, he could argue that the conventionally sovereign state offers the best such means of enforcement. These claims would require some elaboration (see Walzer, 1995).

In the most often cited passage in the chapter on membership, Walzer makes a tangential suggestion:

Admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination. Without them, there could not be communities of character, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life (Walzer, 1983, p. 62).

There seem to be two considerations here. There is a communitarian claim about the overriding value of political societies possessing a certain character: a historical cluster of particular values, tradition and practice. Plainly, large numbers of aliens would challenge that character. Informing this reading is Walzer's likening of political communities to families (1983, pp. 41-2). Here,

then, we have an academic rendering of the prejudice that a mass influx of immigrants would swamp our way of life. The reason why justice should exist largely within and not between states is the overriding values of a cultural community identified with the nation state (multinational states would seem to raise difficulties for the argument). However, alongside the family analogy, Walzer offers an alternative metaphor and a different claim: political societies are like clubs or associations (1983, pp. 40-1). This supports a second reading. No longer bound by an imperative to *preserve*, club members have the freedom to *decide* who is privileged to be admitted. The prize value now is democratic self-determination; the resulting society may be plural and diverse. By contrast, the first, argument about cultural preservation, need not involve any special commitment to democracy. I shall call the first argument the communitarian argument and the second the democratic association argument and consider them in turn.

No serious writer defends the communitarian argument *simpliciter*. Nevertheless, Meilaender's (2001) recent book defending immigration restrictions sometimes comes close. Meilaender believes that Walzer's view of immigration is 'essentially correct' (2001, p. 163). '[S]tates are entitled, within certain limits, to craft immigration policies as they see fit, based upon their particular histories, cultures, interests and desires' (2001, p. 1). The more immigration policies are based on states' history and culture, the more we approach the communitarian argument (which in its pure form would claim that states are mandated to preserve their particular cultures). By contrast, the more states can craft immigration policies based on whatever criteria they deem appropriate, the more we approach the democratic association argument. In communitarian vein, Meilaender suggests that confronted with strangers wanting admission, a people are entitled to ask themselves questions about their political identity and are entitled not to welcome migrants who would threaten it (2001, pp. 81-2). More than Walzer, Meilaender's position is motivated by threats to a state's *political* culture and institutions. That may seem to found a rather weaker defence of restrictions, if any at all: immigration will more likely change our shared culture than our legal and political institutions. Meilaender, however, sees no sharp division between political culture and culture more generally, a claim which surely has more plausibility for non-liberal rather than liberal societies. Indeed, he maintains that liberalism is not the only legitimate way of life, given subscription to certain minimum moral standards - these are his 'certain limits' above (2001, pp. 5-7). Political cultures provide stable context needed for persons to develop, and they can contain ideas and traditions of universal worth.

There is much to say in reply to the communitarian argument. First, how far migration affects a society's character depends on many factors: how many migrants enter (borders that are not closed need not be borders completely open), where the migrants come from and states' population densities to name just some. Second, if a society's character is multicultural then preserving it would hardly licence restrictions on immigration from those states where constituent cultures originate (compare Bader, 1995, pp. 217-21; Perry, 1995, pp. 121-4; Gans, 1998). Third, national cultures change over time. There is the

daily production of a shared life world (O'Neill, 1994, pp. 75-7; Meilaender, 2001, p. 163). However, if cultures change, where do those certain features that yield the normative authority to support the right to exclude? Cultures are not like paintings to be framed and preserved. Fourth, just because a culture has a character does not mean it has value: character is a claim about distinctness: each snowflake has its 'character' because it is different from all the others. Could not an influx of migrants augment the value of a nation's culture, through offering new ways of life that come into contact with the old (Benhabib, 2004, p. 86; compare Hudson, 1984, pp. 212-8)?

So much is familiar to anti-communitarians. More interesting is the democratic association argument. Following Walzer, Meilaender also points to an essential interest in democracy between free and equal people (2001, p. 167). Brian Barry has stated bluntly that '[i]t is a general characteristic of associations that people are free to leave them but not free to join them' (Barry, 1992, p. 284). Is the state an association with this right? If 'general' means universal, then Barry's claim is incorrect. While often true of clubs, the right to refuse admission is not generally true of associations. Having the qualifications, I would have had reason to regard it as unjust had my application to the Association of University Teachers been denied. More crucially, most associations operate in the private sphere, where our intuitions about freedom of association are at their strongest and where the goods denied to outsiders (golf club membership, for instance) are not always vital. States, by contrast, help constitute the public domain, where goods are more basic and hence impartiality is more critical (Ackerman, 1980, pp. 341-6; compare White, 1997). It is the state from which we seek ultimate recognition of our freedom and equality (Ackerman, 1980, p. 93). Associations typically seek to deny outsiders goods available to members (Coleman and Harding, 1995, pp. 25-34; Jordan and Düvell, 2003, pp. 34-5). The associationist analogy draws much of its appeal from the fact that outsiders remain entitled to basic goods by the state. Hence, the state is one institution against which the analogy cannot be pressed.

Appealing directly to the value of states, David Miller maintains that citizens have a basic interest in controlling their culture and shaping it according to their judgement (Miller, 2005, pp. 199-200). They are entitled to judge which elements of their public culture are worth preserving (their language, for instance) and which may be developed and adapted to suit changed circumstances. This is the democratic association argument with a communitarian twist. However, Miller gives a robust defence in justice to non-admitted would-be migrants who would lose by such a policy. Every autonomous person has a legitimate interest in an adequate range of life options to choose between (Miller, 2005, p. 196). However, provided your own state provides you with an adequate range, you have no basic interest in being able to migrate to another state. Such an interest is less vital than a people's interest in controlling their political association.

Miller's last point seems less relevant when one considers that most migrants do not move in pursuit of Millian, 'experiments in living', but simply in order

to improve their economic welfare. Be that as it may, how wide a range of life options is 'adequate'? If one person wants to be a hunter, a fisherman and a critic but another is content merely to hunt and fish, then should we encourage the latter to take up a little criticising, or do we reprimand the former for having an expensive taste? Different states offer wider or narrower ranges of options; people living in a fairly homogenous society might have a basic interest in migrating that citizens in a more pluralistic one would not.

Miller has a further argument. Open borders would give developing countries an interest in 'exporting' their surplus populations to the rest of the world (Miller, 2005, pp. 201-2). The right to close borders helps forestall that possibility. This raises questions about how responsible a poor state's people are for their high population growth (perhaps richer states share some responsibility?) (compare Miller, 2004).

Miller's arguments around democratic association, adequate options and overpopulation appeal to a common intuition: a people's social infrastructure should be able to satisfy their basic interests; hence (refugees aside), immigration is rarely a claim in justice. In a few remarks in *The Law of Peoples* Rawls elaborates on this assumption (Rawls, 1999, pp. 8-9, 38-9). A state's territory, however arbitrary its origin, is its people's collective asset or property (compare Kymlicka, 2001, pp. 265-7; O'Neill, 1994, pp. 70, 85-6). In a 'realistic utopia' (absent wars, persecutions, famines and so on), a territory should be able to support its people in perpetuity. Pressure to emigrate can only mean that a people has not sufficiently taken care of its territorial asset. However, the burden of their irresponsibility cannot be shifted onto others without their consent. In a realistic utopia peoples' territories can support them in perpetuity and problem levels of immigration would be eliminated. Until then, states that are more fortunate have duties of assistance towards 'burdened societies'.

In connecting a people with their unique place, Rawls seems to return us to the communitarian argument (indeed he explicitly endorses Walzer (Rawls, 1999, p. 39, note 48)). Most states have diverse *peoples*, not a singular people: what distinguishes them is a common set of legal and political institutions (compare Benhabib, 2004, pp. 78-80). The cogency of Miller's and Rawls's assumption that a state should meet its people's interests turns in part on whether we regard migration as exceptional - only a small minority of the world's population migrates even in an open-borders regime like the European Union (EU) - or the norm - migration has been endemic throughout human history and created states like the present USA. A neutral liberalism of the kind Rawls once espoused that might try to achieve some impartiality between would-be migrants and those who prefer sedentary lifestyles (compare Jordan and Düvell, 2003, p. 143). Elsewhere in his work Rawls appeals to the normative ideal of free and equal individuals as a critical lever on collective social arrangements of which his reliance on peoples is also an instance (Rawls, 2001, pp. 18-24; Benhabib, 2004, pp. 82-4).

The democratic association argument, advanced in different ways by Walzer, Meilaender, Miller and Rawls, offers a moral endorsement for the way immi-

gration policy currently stands. Unlike open borders, it does not foist on receiving states an ideal far removed from their citizens' actual motivations. Moreover, democratic association is not just a practical reality; it is a normative ideal. One of the freedoms that free and equal citizens ought to have is the freedom to decide on matters of common concern with their fellow citizens. The moral problem is when this collective freedom impacts upon the interests of those excluded from the ambit of decision-making, or to put it concretely, when immigration restrictions keep out those who would stand hugely to gain. I shall return to the tension between the ideals of democratic sovereignty and cosmopolitan justice in the conclusion.

Arguments for Opening Borders

If the chapter on membership in *Spheres of Justice* is the *locus classicus* for academic immigration sceptics, then Joseph Carens's article 'Aliens and Citizens: The Case for Open Borders' (1987) is the point of departure for cosmopolitans. In more recent work Carens has distinguished between realistic and idealistic approaches to the ethics of immigration (1994, pp. 143-52; 1996; 1999, pp. 1084-6; 2001, pp. 17-29; 2003, p. 95), and remained doggedly attached to the principle of open borders as an ideal towards which we should strive (1992; 1994, pp. 149-50; 1999, p. 1083; 2001, pp. 28-34). In his 1987 article Carens sought to recruit an overlapping consensus for open borders by suggesting that, once interpreted consistently, Rawlsian, Nozickian, utilitarian and even Walzer's communitarian arguments would all support it. Walzerian reasoning supports open borders because principles of freedom and equality are a deeply rooted part of our tradition. The early Rawls focus on the least advantaged would mean that parties behind his original position would licence the right to immigrate as a basic liberty (compare Whelan, 1988, pp. 7-11; Kymlicka, 2001, p. 267). The distribution of borders across the world is, after all, arbitrary from a moral point of view. Because Nozickian individuals have unfettered freedom to control their own property, there is no moral basis for the state to exclude migrants. Utilitarians would likewise support open borders because the consensus is that both migrants and established citizens make economic gains.

Libertarian approaches to immigration have not excited the interest of many besides its converts (Steiner, 1992; compare Cole, 2000, pp. 154-60). While Carens points out that states would lack the moral authority to keep immigrants out, this authority would merely pass to individual or corporate property-holders whose right to exclude who they wish is absent from any requirement of public justification (1987, pp. 253-4). Libertarianism hardly supports open borders. Indeed, as Steiner suggests, property-holders' absolute rights to their territories leaves them free to secede from their state and join other owners to create new libertarian states (notwithstanding obstinate facts of world geography) (Steiner, 1992, pp. 92-4).

In this section I focus on arguments for opening borders grounded in cosmopolitan appeals to social justice. Before doing so, however, let me consider a distinct cosmopolitan argument, namely that if we have the right to free

movement then we have the right to immigrate across other states' borders (compare Carens, 1992, pp. 26-8; Woodward, 1992, pp. 60-4). A number of writers endorse this argument. Carens himself refers to the 'important human right' of free movement (1999, p. 1083; compare Kukathas, 2005, p. 210) and suggests that, barring reasons of national security, public order or the dangers of a large influx of people with anti-liberal attitudes, it should normally be a presumption (Carens, 1992, pp. 28-31). Dummett similarly argued that there is a presumption in favour of individual freedom, barring serious overpopulation or complete cultural submergence (Dummett, 2002, pp. 57-72; 2004, pp. 117-18).

At a tangent to this, Cole (2000) seeks to show the incoherence of liberalism on the immigration issue. The fundamental principles of liberalism regard people as free and equal, and liberals criticise states that fail to respect these values in law. However, liberal states' attitudes to immigration reveal their liberalism to be arbitrarily restricted in scope: entry restrictions mean that liberalism 'comes to an end at the national border' (Cole, 2000, p. 13). Hence, 'there is no strategy of membership control that can be consistent with central liberal principles' (2000, p. 193). Moreover, Cole stresses the asymmetry between entry and exit. That emigration restrictions are plainly unjust shows our deep commitment to the principle of free movement. Restrictions on immigration are therefore anomalous (Cole, 2000, pp. 43-59; compare Carens, 1992, p. 27; Miller, 2005, pp. 196-7).

This argument raises two issues of, first whether immigration centrally involves freedom and, second how freedom is best conceptualised. With regard to the first issue, Kant, in his *Perpetual Peace*, argued for a right to free movement based on humanity's common ownership of the earth, but he distinguished this 'right to visit' from a person's 'right to be a permanent visitor' in a new state 'which would require a special, charitable agreement to make him a fellow inhabitant' (Kant, 1983, p. 118; compare Bauböck, 1994, p. 321; Perry, 1995, pp. 106-10). True, the right to reside elsewhere need not involve the acquisition of citizenship. But a new immigrant nonetheless participates in social and economic institutions alongside the indigenous population in a way that tourists, for example, do not: thus, something more substantial than the mere free movement is involved in immigration (this is the insight of the communitarian and democratic association arguments) (Coleman and Harding, 1995). On the second issue, it should be pointed out that freedom of movement is not a simple phenomenon. Our freedom to move about the territory of our own state is not absolute but limited by others' property ownership and regulated by the state (for example, traffic control, mass demonstrations) (Miller 2005, p. 195). Further, one might argue that free movement is not so much permitted by state institutions as enabled by them: states provide roads, railways, public transport and so on, and a criminal justice system to ensure citizens can move unharassed. On this view, it would be a substantive moral question whether those transnational institutions that enable movement across state borders should be strengthened to empower mass migration. Alternatively, freedom might be identified with rights. Is there an absolute right to free movement across state boundaries? If rights are grounded in moral interests then this

would depend on a judgement involving the interests of both immigrants and their hosts. Moreover, as several authors point out, many rights are conditional in nature: the right to immigrate might be like the right to marry; one has to find a person (state) willing to take one (Barry, 1992, pp. 280-3; Miller, 2005, p. 197; compare Woodward, 1992).

The problems around the two issues just discussed suggest that, however attractive from a liberal cosmopolitan perspective, it is problematic to argue for open borders merely through an appeal to free movement. We do better to turn to social justice.⁸ This after all is the chief reason for most primary migration: people move to improve their economic well-being. Social justice arguments grounded in the impartially considered interests of all affected parties have been popular in the literature.

Economistic approaches to the ethics of admission have often defended open borders. In part, this is on grounds of consistency: if the free market means goods and capital can move around the world, then why not labour too (Barry and Goodin, 1992)? Indeed, the 1957 Treaty of Rome that established the EU called for free movement of labour as a goal to be achieved, and the open-borders regime within the (established) EU states today has primarily been rooted in an economic conception of citizenship (Kostakopoulou, 2001; Geddes, 2003). In the main, however, this is a quasi-utilitarian argument: opening borders would make both migrants and indigenous populations better off.⁹ Harris claims that in opening borders there lies '[p]erhaps the greatest opportunity for the eradication of world poverty' (Harris, 2002, p. 91). Economic migrants escape the poverty and paucity of opportunity at home and direct their talent and industry to where they can be put to better use. They receive higher wages in their countries of destination; they are keen, able and ready to work, often in low-paid jobs that locals are reluctant to do, or in dirty, difficult and dangerous occupations (Harris, 2002, pp. 76-81; Stalker, 2001, pp. 23, 30-1; Castles and Miller, 2003, pp. 178-97). Some start new businesses and thus create wealth and jobs. All of them are new consumers. Highly skilled migrants such as doctors or CEOs disproportionately benefit their states of destination. Migrants send substantial remittances back to their countries of origin, often for many years after they migrate (Stalker, 2001, pp. 107-12; Castles and Miller, 2003, pp. 169-70). This is not quite utilitarianism because opening borders may not make migrants and their hosts as well off as they feasibly might be. But maximisation aside, the focus on economic well-being retains much of utilitarianism's flavour.

There are three problems with the quasi-utilitarian argument: (i) it is contingent on the costs outweighing the benefits; (ii) it neglects the distributional impact of migration; and (iii) it ignores moral considerations that utilitarians find hard to accommodate such as sovereignty and membership. With regard to the first problem, advocates of opening borders recognise there are costs too. Non-working family members of migrants such as children and retired parents impose relative burdens on receiving states. Economically active - sometimes highly skilled - citizens who leave may be just those who their sending state can least afford to do without. Once they have arrived in the

receiving country, they may suffer from discrimination and marginalisation. Imperfect information and non-optimal markets may mean that migrants do not complement but compete with locals for the same sorts of jobs, while labour shortages remain (Kleinman, 2003, pp. 61-2). Plainly, utilitarian arguments only work if gains consistently outweigh losses. As to the second problem, the distributional impact of migration, the very poorest people in the world do not migrate: they cannot afford to (Stalker, 2001, pp. 128-9; compare Ghosh, 2000a, p. 11). Remittances sent home may not go to the poorest communities. While host countries enjoy a net gain from migration, it is quite likely to be their less well off citizens who compete with migrants in the labour market or in the consumption of welfare. As to the third problem, a consistent utilitarian argument would need to show that open borders significantly raised non-economic sources of well-being (assuming the economic gain is not so great it would outweigh non-economic losses). Suppose, with the communitarian and democratic association arguments, that a people's attachment to their own society is a legitimate moral consideration (even if not a decisive one). Utilitarianism would need to represent this as a complex kind of associational preference that depended on others having preferences of a similar sort. Further, the truth in the democratic association argument - that to avoid tyranny and effect justice, the world must be divided into units within which people should have a say in matters affecting them (compare O'Neill, 1994, pp. 71-5; Whelan, 1988, pp. 23-7; Pogge, 2002, pp. 168-95) - is also hard for utilitarianism to model. Self-determination is a value *sui generis*, not a further source of well-being. Only a diehard utilitarian would be happy pursuing a reductionist strategy on these diverse moral considerations.

Dummett (2002, pp. 22-6), Cole (2000, pp. 198-202), Isbister (1996) and Carens (1992, pp. 34-6; 1994, pp. 144-50; 2001, pp. 28-31) in writings since his 1987 article all maintain that opening borders would help promote the global spread of equal opportunity. Abolishing border controls would enable far larger numbers of people to travel from the poor world to the rich to take advantage of the opportunities there. Up to a point, this is true - although it is not an argument for opening borders between states that are relatively affluent (compare Carens, 1992, pp. 36-40). However, that policy is not likely to meet all the demands of a distributive principle such as equality of opportunity, equality of outcome or giving priority to the worse off (compare Woodward, 1992, pp. 60-72; Somek, 1998, pp. 120-5; Whelan, 1988, pp. 10-12; Tan, 2004, pp. 123-31). The first problem (i) arising from the quasi-utilitarian argument and, especially, the second (ii) remain in similar form. (Nor do distributivist arguments, on their own, do much to address the issue of self-determination, which relates to the third problem (iii).) The problem with (ii) is that we do not usually devolve sole responsibility for fulfilling principles of social justice to agents undirected by political authorities. Open borders *permit* people to move. However, a state, seeking to realise equality of opportunity within its own borders, will use legal and policy levers to *direct* citizens in certain ways (forbidding job discrimination, for example, or taxing private education). Opening borders would certainly further some people's opportunities - those able to migrate and their relatives - but not many others whose interests

nonetheless come within the ambit of a global principle. Contradicting Harris, Bader maintains that opening borders would do little to alleviate global poverty (Bader, 1997, p. 29; compare Pogge, 1997).

Several writers argue for principles of global redistributive justice that, if effective, would forestall the need for mass migration.¹⁰ Goodin and Bader suggest the current regime of fairly closed borders lacks moral legitimacy just because richer states fail to meet their human rights obligations to the poor (Goodin, 1992, p. 8; Bader, 1997, p. 30). There are, in my view, two powerful reasons to prefer a global regime of redistributive social justice to open borders. First, for the reasons given earlier, redistribution is far more likely to be an effective agent of justice than mass migration. Second, while some people will always want to strike out and make a new life abroad, the majority of migrants would prefer to enjoy more opportunities in their countries of birth. Lifting immigration restrictions should not carry the load of addressing the maldistribution of resources and opportunities across the globe.

In a just world, immigration would probably be less but would it, nonetheless, include more open borders? Kymlicka argues that 'if states do meet their obligations of international justice, then it is permissible for them to regulate admissions so as [sic] preserve a distinct national community' (Kymlicka, 2001, p. 271). By contrast, Bader maintains that redistributive global justice is consistent with 'fairly open borders' (Bader, 1997, pp. 36-8). But if states that meet their duties of global redistributive justice have only limited rights to control their borders - because they are only *fairly* open - then we need to know a bit more about which migrants such states do have a duty to admit before we can declare the two positions consistent. For example, there is a tension between the claim that affluent liberal democracies should admit poorer migrants and Kymlicka's criterion of preserving a distinct national community. Poor migrants mainly come from poor parts of the world. Admitting large number of poor migrants with ethno-cultural identities quite different from their host population is not likely to preserve the distinctness of the host's national community.¹¹ Perhaps rich states should substantially open their borders to immigrants from poorer states (to whom they also owe weighty duties of redistributive justice) while imposing greater restrictions on immigration from equally affluent states whose citizens nonetheless have similar collective identities?¹² As Tan puts it, '[B]order restrictions on the part of well-off countries can be justly maintained only in a context of a global arrangement [of distributive justice] that those kept out can reasonably accept as reasonable' (Tan, 2004, p. 176).

Jordan and Düvell's dense analysis of migration highlights the problem that, if borders are fairly open for those with fortunate economic endowments, they can sort themselves into new membership systems that impose very harsh conditions on the excluded (Jordan and Düvell, 2003, pp. 69-71, 97-8, 106). Those able to make substantial economic contributions can reap considerable rewards (capital and investment), while imposing harsh measures on vulnerable people left outside - economic rents and an end to welfare risk-pooling. For the fortunate few, political communities become, like associations, objects of choice; for the majority they become communities of fate - and often deprivation

(Jordan and Düvell, 2003, p. 31). Nevertheless, just principles must aim at a certain kind of impartiality between the sedentary and the footloose. Jordan and Düvell's solution is radical: 'the whole world's population should get a universal global basic income (GBI)' and 'each should be supplied with health, education, and other social services through systems of overlapping clubs, regulated at the regional or national level' (2003, p. 140). A GBI helps tackle the privileges of states as clubs. Overlapping authorities help risk-pooling, cost-sharing and other forms of interdependence. Much of this could be contested. A universal GBI might rather restrict state sovereignty, for example (compare Jordan and Düvell, pp. 140-3). In addition, Jordan and Düvell's rather economic approach to migration, I think, underplays people's communitarian attachment to their own society. Nevertheless, their work is a bold and impressive synthesis of global justice, migratory movements and the value of democratic associations in a single coherent position.

Conclusion

King wrote some years ago that 'trying to push this [immigration] issue inside a particular philosophical frame generates rather extreme recommendations for policy' (King, 1983, p. 531). State control and open-borders arguments seem to speak past each other. Notwithstanding the value pluralism often said irredeemably to mark contemporary political theorising, I believe that we should try - following Jordan and Düvell and Benhabib - to incorporate the value of democratic associations within a broadly cosmopolitan position (Jordan and Düvell, 2003; Benhabib, 2004).

Let me conclude by outlining briefly one possible cosmopolitan view of the ethics of immigration. It begins with an abstract normative ideal of a decent life to which every person in the world has a right. A decent life requires freedoms, resources, opportunities *and* particular relationships with others, including one's fellow citizens. The idea of a decent life is a comparative notion so that person A's life may be less decent just because person B enjoys more resources, opportunities and so on (compare Feinberg, 1974). Therefore, in order to effect the right to a decent life of peoples living in the world's poorer states, rich states need to redistribute resources and opportunities towards them. As I have suggested already, insofar as there are alternatives we should prefer global redistributive justice to open borders. To put it bluntly, it is better to shift resources to people, rather than permitting people to shift themselves towards resources.

Citizens - especially citizens in rich states - have powerful duties to help build a just global order, one in which all persons are able to lead decent lives. Once achieved, this need not include completely open borders, although there are good reasons - not least to encourage the spread of cosmopolitan sentiment - for borders to be more open than they currently are. Until we realise that ideal, and perhaps even if we do, rich states have substantial duties to admit poor outsiders. (And of course, we need criteria governing admissions policies for poor states too.) Schuck has interestingly argued for a system of refugee

burden-sharing by which an international agency would distribute quotas to states based on fair criteria such as comparative GDP (Schuck, 1998, pp. 306-17; compare Miller, 2005, pp. 202-3; Cole, 2000, pp. 148-54). This idea could also be applied to economic migrants. Besides GDP, impartial criteria might include population density and the quality of the environmental infrastructure. On this view, then, states would have substantial, though varying, duties to admit outsiders. No state would have a right to close its borders, but nor would it be under a duty to open them completely. Moreover, we could envisage a system of tradable quotas for economic migrants, perhaps linked to states' cosmopolitan duties of resource redistribution.

If a decent life includes particular relationships with others, there remains the question of what special duties citizens owe one another. In particular, if a rich state fulfils its duties of cosmopolitan justice, should its citizens' desire to preserve their national identity be a legitimate criterion governing the ethics of admission? To answer this question, it is worth distinguishing again between the democratic association and the communitarian arguments for restrictive admissions policies. The former appeals to the values of democracy, sovereignty and collective self-determination. Here Jordan and Düvell's idea of a network of overlapping political authorities is useful. We could imagine a global system of multilevel governance that could meet citizens' legitimate interest in democratic sovereignty, but not situate that exclusively in the nation state (compare Pogge, 2002, pp. 168-95). For one thing, each state should have some input in governing the international agency that determined immigration quotas, as outlined above. There remains the communitarian argument for immigration restrictions. I have argued that particular instantiations of national identity at a particular time lack the normative authority to ground reasons for restrictions. Nevertheless, I believe citizens do have special duties to reflect on the normative value of their national identity that only they can properly perform (compare Moellendorf, 2002, pp. 30-50). The ideal is an 'epistemic community' that reflects on the nature of just those public relationships that citizens share (compare Kostakopoulou, 2001, pp. 101-26). This points to strengthening of citizenship virtues among citizens, established and recently arrived, and lowering barriers to acquiring citizenship to immigrants. But the ideal of an epistemic community by itself has few implications for numbers admitted - besides, perhaps, a bias against admitting large influxes of peoples immune from citizenship virtue (Whelan, 1988, pp. 20-2). It is mainly the impartial criteria outlined earlier that should govern principles of admission.

This rather compressed outline of the ethics of immigration can no doubt be contested at many points. However, I do want to claim that a normative theory of immigration must be embedded in a cosmopolitan view of social justice and must incorporate the values of democracy and sovereignty. That is no easy theoretical task, but the increasing numbers of migrants across the world mean that arriving at a normative view of the ethics of admission to inform public policy is both urgent and important.

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Notes

- 1 Migrant numbers can be measured by stocks or flows. For stock purposes, they are defined by the UN as those residing in a new country for 12 months or more.
- 2 Nett (1971), Ackerman (1980, pp. 92-5), Carens (1992), Cole (2000), Dummett (2001; 2004), Harris (2002), Hayter (2000), Johnson (2003) and Kukathas (2005; compare 2003, pp. 586-7).
- 3 Gibney (1986, pp. 76-105), Perry (1995), Bader (1995, pp. 214-5; 1997, pp. 49-51), Somek (1998), Ghosh (2000a, p. 25; 2000b), Isbister (1996), Jordan and Düvell (2003), and Benhabib (2004).
- 4 Walzer (1983), Rawls (1999), Meilaender (2001) and Miller (2005).
- 5 See Walzer, 1983, pp. 48-51; Singer and Singer, 1988; Schuck, 1998, pp. 243-97; Dummett, 2001, pp. 22-45; Edwards, 2001; Kukathas, 2003, pp. 581-5; Gibney, 2004; Miller, 2005, pp. 202-3.
- 6 Compare van Gunsteren, 1988; Bauböck, 1994; Hampton, 1995; Preuss, 1998; Carens, 2000, pp. 212-5; Kostakopoulou, 2001, Kymlicka, 2003 and Miller, 2005, pp. 202-3.
- 7 The growth of global institutions makes this claim less plausible in 2005 than it may have been in 1983.
- 8 On the variety of social justice arguments applied to immigration, see the essays collected in Schwartz, 1995 and, especially, Barry and Goodin, 1992. Cole (2000, pp. 192-205) and Gibney (1986, pp. 79-85) consider more open borders on grounds of restitutive justice, and Van Parijs (1993, pp. 140-52) discusses Marxism and migration, but unfortunately there is not the space properly to evaluate these ideas here.
- 9 Simon, 1989; Ghosh, 2000b, pp. 231-3; Harris, 2002, pp. 76-124; Stalker, 2001, pp. 63-89; Johnson, 2003, pp. 235-8; Kleinman, 2003.
- 10 Gibney, 1986, p. 105; Goodin, 1992, pp. 7-8; Bader, 1997, pp. 30-8; Pogge, 1997; Moellendorf, 2002, pp. 66-7; Tan, 2004, pp. 123-31.
- 11 I am grateful to an anonymous referee of this journal for this point.
- 12 This is a precise inversion of the policy currently pursued by the EU.

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