

**“Citizen of the World: Immigration and the  
Cosmopolitan Assumption”**

by  
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## Introduction: Uncommon Assumptions

First, I will assume that those we refer to as “Mexicans,” “Latin Americans,” and even “immigrants” are people. I do not think this principle should be controversial. I mention this explicitly because flashes of anti-immigrant rhetoric, some other-than-human associations evoked by the word “alien,” and certain habits of depersonalized bureaucratism produced by US Immigration and Customs Enforcement all suggest disagreement on precisely this point.<sup>1</sup> Nevertheless, I will not argue any further for it here.

More generally, I will assume that all human beings qualify as people, and as such have equal moral worth regardless of characteristics such as race, nationality, or country of origin. This equality implies certain basic rights that are not dependent on nationality. It also implies responsibilities that, however they may be fulfilled in practice, are ultimately the responsibility of the entire human community.<sup>2</sup> All of this together I will call the cosmopolitan assumption.

The positive rights I will take to include what is genuinely necessary to sustain human life; they include a right to nutritious food, adequate clothing, basic shelter, basic healthcare, and reasonable security.<sup>3</sup> They also include what is necessary to secure basic independence and respect; therefore, they include a right to an education sufficient to qualify a person for a job

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<sup>1</sup> U.S. Immigration and Customs Enforcement, *Office of Detention and Removal*.

<sup>2</sup> Brock and Brighthouse, introduction to *The Political Philosophy of Cosmopolitanism*, 4.

<sup>3</sup> Contrary to what political rhetoric might have one believe, healthcare and security cost money to provide, require economic tradeoffs, and exist in degrees. My standard for the level of healthcare that amounts to a right would be intermediate between what the poor in developing countries have and what affluent Westerners enjoy. Treatment for common life-threatening or crippling diseases for which treatment or cure is inexpensive by developed-country healthcare standards, such as infectious diseases curable by existing antibiotics, would count as a right. Treatment that is relatively expensive by such standards, such as state-of-the art cancer treatment, would not. My standard for the right to security is similar: the standard would far exceed the security that currently exists in informal communities in border towns, but need not be as stringent as that of the American middle class. Short of asserting that the current state of healthcare in Chiapas does not meet it, and the state of healthcare for the US well insured exceeds it, I leave the task of drawing the exact line to someone else.

such that they can pay for their food, clothing, and shelter via their own labor instead of depending on others. Negative rights include the traditionally recognized rights against direct harm to life. This implies a negative right against harms that result in the loss of access to food, clothing, basic shelter, basic healthcare, reasonable security, and basic education, and the uncompensated loss of the ability to secure any of these things through one's own labor.

I will argue that, by the cosmopolitan assumption, if one is lacking basic positive rights in one's home country, one has a right to immigrate to a country where one can secure these rights. (I will focus on immigration for economic reasons to secure positive rights. The right to immigration for the purpose of securing negative rights against direct threats to life, liberty or freedom is much more generally recognized.) One also has a presumptive right to immigrate in other cases; however, such a right may be limited by other functions of a state, including freedom of association and the interest of solving coordination and collective action problems. However, none of the interest of national security, the interest of freedom of association, and the interest in solving coordination and collective action problems can legitimately justify the categorical exclusion or limitation of the immigration of entire ethnic groups. The most they can justify is requiring adherence to foundational political norms by anyone who wishes to enter. Moreover, citizens of any country have a very strong negative right against economic harm that would cause loss of access to the means of securing basic human rights. In cases where one country's economic decisions have harmed the basic human rights of the citizens of another country, any cultural or freedom of association rationale for barring economic immigration by those who have been harmed is overridden by the duty to compensate for harm.

## Chapter 1: Compensation for Economic Harm

Mexicans have a right to immigrate to the United States as compensation for harm that we have inflicted them via unjust and inequitable trade and agricultural policy. The basic structure of the argument is as follows:

- I. Our trade and economic policies inflicted severe harms on Mexican smallholding farmers; justice requires that such harms be compensated.
- II. Methods of compensation other than permitting immigration of those harmed are all impracticable, unlikely, or insufficient.
- III. Therefore, those on whom severe harm was inflicted have the right to immigrate.

Thomas Pogge, in the book *World Poverty and Human Rights*, takes the premise “It is wrong severely to harm innocent people for minor gains” as central to Western morality.<sup>4</sup> I will generalize and strengthen this principle slightly, to read “innocent people have a negative right against harm.” This principle directly implies that “people have a negative duty not to harm the innocent, and indirectly implies that “people have a positive duty to undo or compensate for any harms they have caused other people.” I do not think these principles are controversial and will not argue for them.

Next, I will argue that economic losses for those living at or near subsistence qualify as morally objectionable harms. Clearly, not all economic losses are moral harms. Some economic losses, even major ones, to the very rich do not materially affect their basic opportunities, rights, capacities, or ability to fulfill obligations. Any redistribution of wealth along egalitarian lines entails a loss to those who originally held most of it, and sometimes producing greater gains overall—even in a moral sense—requires localized economic losses, even when that does affect

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<sup>4</sup> Ibid.

opportunities, rights, or capacities for the affected people. However, when a loss is a result of inherently unfair or inequitable trade rules, the loss is a morally objectionable harm. More importantly for the case of immigration, when an economic loss causes a loss of rights, capacities, or opportunities for some in exchange for an economic gain to others that has morally insignificant effects, the economic loss to the first group is indeed a harm. This is the case for economic losses to subsistence farmers and other segments of the world's poor.

US trade and agricultural policies, including NAFTA, have caused substantial, foreseeable, and avoidable harm to the Latin American and Mexican rural poor. US subsidies to US growers of Latin American staple crops lower the market-clearing price of those crops below what it otherwise would have been without government intervention, pricing farmers in Latin America, many of whom are poor, out of the market—all to the advantage of larger farms in the United States. NAFTA eliminated Mexican tariffs that were protecting Mexican smallholders and forced the repeal of Article 27 of the Mexican Constitution, which had guaranteed that certain parcels of Mexican land would be held by Mexican subsistence farmers.<sup>5</sup> Moreover, it was well-known before 1994—indeed, clear from basic economic theory—that liberalizing trade between Mexico and the United States, mandating the end of Mexican subsidies to Mexican farmers, and eliminating smallholder protections in the Mexican Constitution, all while failing to end US subsidies to US growers of Mexican staple crops, would cause mass dispossession of the Mexican smallholding poor.<sup>6</sup> Chiapan (and, to a lesser extent, Central American) small farmers are now experiencing greater poverty and dispossession than they would have if US trade and agricultural policies, including NAFTA and subsidies to US growers of Latin American staple crops, had not taken effect.

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<sup>5</sup> Fernandez-Kelly and Massey, “Borders for Whom?” 2; *ibid.*, 5.

<sup>6</sup> James K. Galbraith, “What Mexico Wants,” 29-32.

I should note that my argument is not an argument against free trade itself—the economic theory that claims, in coarse outline, that removal of trade barriers around the world will result in a larger, more efficient world economy and, despite localized losses, overall economic gain—*per se*. My argument is neutral with respect to the morality of free trade principles, or of trade itself independent of its effects on the poor. My argument is instead that NAFTA removed Mexican legal and economic barriers that protected Mexico against preexisting US *distortions* of the market, and that the resulting economic relationship between a less-protected Mexican economy and a neighboring, market-distorting power *violates* principles of free trade in a way that benefits American farmers at the expense of the Mexican smallholding poor.

Such harms were avoidable. NAFTA could have been negotiated in such a way that Mexican subsidies to the poorest of Mexican farmers were still allowed and that constitutional smallholder protections for Mexican peasants were maintained. Alternatively, the US could have, in exchange for the end of Mexican subsidies to small farmers, agreed to end its own subsidies of crops also sold by smallholders in Mexico. Either of these measures would have prevented at least some Mexican smallholders from being driven out of business by the subsidized, artificially low price of staple crops grown widely in both Mexico and the US. Such policies would have had a slight or moderate cost to American or multinational farmers—loss of US subsidy, loss of opportunity to buy Mexican land, or fair or lightly-subsidized competition from Mexican smallholders—in exchange for preventing desperate poverty for the then-28% of the Mexican population working in agriculture.<sup>7</sup>

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<sup>7</sup> Central Intelligence Agency, “Mexico,” *World Factbook 1993*. About 15% of the Mexican population worked in agriculture in 2005. Much of the decrease is attributable to population growth over that period; it is not principally the result of displacement.

Since 1) persons have a right against others inflicting severe poverty on them, 2) the US is causally implicated in the causes of poverty and displacement, and 3) the effects of US actions were foreseeable and avoidable, the US has a moral obligation to alleviate the resultant poverty and displacement. The US, in addition to the duty to return to fair terms of trade, has a responsibility to the workers displaced by agricultural policy in NAFTA: to restore their former occupation, to provide a comparable or better opportunity, or to compensate them for the harm.

There are many ways this could conceivably be done. The first is that the US could lobby for and pay for the cancellation of some of Mexico's \$181.2 billion in external debt.<sup>8</sup> This would theoretically free up funds for the Mexican government to institute social insurance for former smallholders or otherwise alleviate the plight of its poor. This would allow the government of those affected, rather than the US government, to determine the best way to use the freed-up funds, as well as help resolve the ethical issues already involved in such loans. (Most were granted on terms favorable to US and other major creditors, and the original proceeds from the loans, while helpful in the short term, were likely not beneficial to the borrowing countries in the long run.<sup>9</sup>) A disadvantage of this method of compensation would be that it does not address the possibilities of outright corruption and of elite capture of redistributive institutions; however, while likely, these possibilities are arguably external to the US moral calculus. The most important drawback with debt cancellation as compensation for economic harm is that it is unlikely. Given the power and entrenched interests of the creditors, the likelihood of debt cancellation, in more than token amounts, is remote.

A second possibility would be to reinstate smallholder protections for those that need them, or to allow Mexico to do so without interference from US trade negotiators. These

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<sup>8</sup> Central Intelligence Agency, "Mexico," *World Factbook 2008*.

<sup>9</sup> Ferraro and Rosser, "Global Debt," 332-355.



protections arguably should never have been eliminated. Before NAFTA negotiations, Article 27 of the Mexican Constitution guaranteed smallholders parcels of *ejido* land; this served as a noncash form of social insurance that was relatively immune from government corruption. Preserving this tradition would have eliminated at least some of the negative effects of NAFTA on smallholders; they would not lose their land or as much of their livelihood, and they would have a genuine choice between farming and factory work or destitution. Meanwhile, most of the treaty's gains for other parties—tariff-free and increased trade, lower crop prices, savings to the US and Mexican governments, savings to the urban grain-consuming poor, and more-efficient production on land not subject to *ejido* protection—would be preserved. Overall, such a policy would substantially benefit the rural Mexican poor while having no or relatively slight negative effects on all other parties. All of this would add up to a “deadweight loss” from a pure macroeconomic perspective, due to the loss in intensive cultivation of the *ejido* land. However, since the moral claims of rural smallholders to jobs that will maintain their livelihood are far stronger than the claims of most large producers to additional land or the interest of (at least non-poor) consumers in lower grain prices, the tradeoff would be worth the cost from an ethical perspective. If any alternatives to smallholding later developed that were provably preferable for the rural poor, and that the rural poor actually chose, the protection could be discontinued or ended of its own accord, and even the deadweight loss would disappear.

Unfortunately, while maintaining such protections or postponing their elimination would likely have been the most ethical solution while NAFTA was negotiated, it is likely too late; farmers protected by the *ejido* land provisions have already lost their land and left, and there is

little self-interested incentive in the United States to allow smallholder protections to be reinstated.<sup>10</sup>

Another possible method of compensation for the economic harm done by the US would be to permit a revision of NAFTA to allow Mexico to subsidize small farmers at previous levels. This would aid both the poorest sellers in Mexico and all buyers in both countries, with a minimum of distortion relative to other possible economic policies with the same goal. It would allow Mexico a way to counteract US market distortions that hurt small farmers. Again, if significantly better economic opportunities than smallholding did indeed appear for Mexican farmers as a result of NAFTA, this policy would likely end of its own accord as smallholders left their land for more desirable occupations elsewhere. However, revising NAFTA to allow subsidies would require a change in a treaty that would be very politically difficult to alter.

The single most obvious action the US could take to ameliorate the situation is to end its own subsidies of Mexican staple crops. This would raise the price of such crops across the market, ensuring that more small Mexican farmers could earn a living even after NAFTA, without requiring a change in NAFTA itself or the free-trade architecture. United States has the resources to subsidize staple crops to an extent that Mexico does not, and does so at the rate of \$12 billion per year; the magnitude and scope of such subsidies in the US is a major underlying cause of economic damage abroad, not to mention a violation of the principles of free trade itself.<sup>11</sup> This is also more politically feasible in the US than the previously mentioned alternatives for compensation. Although the subsidies benefit farmers and arguably lower the price of staple crops, only 1.2% of the US population is employed in agriculture, and there are

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<sup>10</sup> Massey, *Borders for Whom?*, 99.

<sup>11</sup> Oxfam America, *Farm Bill 101*, 6.

several domestic interests in the United States that would support a repeal.<sup>12</sup> The drawback of considering this strategy a compensation for harm done by agricultural policy and NAFTA is that it is simply just agricultural policy. Eliminating such subsidies would restore justice, but not constitute compensation for past harm; something more than this would have to be done to compensate for the harms done by trade distortions that have happened already.

In theory, the most ideal method to compensate for past harms would be to provide funding for Mexican development and trade adjustment, which would allow Mexican ex-farmer citizens to make a living in their own country.<sup>13</sup> This strategy has worked in the past for analogous situations in Europe, such as the integration of Eastern Europe, Greece, and Spain into the European Union.<sup>14</sup> It would eliminate the costs of migration while securing the main benefit thereof, a better livelihood for displaced Mexican farmers. In addition to improving welfare in Mexico, a major advantage of this strategy is that, if implemented effectively, it would reduce undocumented migration from Mexico to the US—a problem with which, justly or not, the American populace is concerned.

From the point of view of justice, this would be optimal. It compensates adequately for both past and continuing harm while eliminating the need to migrate to find opportunity and escape poverty. Nevertheless, it is unlikely to happen for political reasons. The US had the power to drive NAFTA through without this provision; adding it at this point would require the

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<sup>12</sup> The statistic on agricultural employment is from Central Intelligence Agency, “United States,” *World Factbook 2008*.

<sup>13</sup> “Development” is a multivalent term. The type of development in Mexico that has been pursued in Mexico by US investors to date—for example, a “free-trade zone” of factories on the northern border that is supported with tax breaks and subsidies from the Mexican government but, other than providing jobs for a small fraction of the Mexican labor force, is detached from the rest of the economy—is not the same as genuine development in the sense I use it here.

<sup>14</sup> Massey, “Caution: NAFTA at Work.”

US to overcome entrenched ethnic biases, and would cause costs that the US seems unlikely to accept.

Given that small farmers Mexico have been harmed by US trade and agricultural policy, and given that the alternative methods of compensation are unlikely, impracticable, or insufficient, small farmers have a right to immigrate the US to escape the severe poverty caused by US policies. Migration, even in its current, largely undocumented form, allows Mexican workers displaced by agricultural and trade agreements to find a new occupation with better remuneration here, and to remit some of that wealth to the very communities at home disproportionately affected by NAFTA.

I should note that this justification of immigration from Mexico—compensation for economic harm—would disappear if the US adequately compensated for such harms in other ways, such as development assistance altruistically pursued. I should also note that, even in the absence of such alternate avenues of compensation, my argument so far would only grant the right to immigrate to the US to those who were affected, directly or indirectly, by US agricultural, trade, or other policies, or by NAFTA. I hold that the immigration by Mexican nationals who do not fall into those categories is justifiable in cases where immigration would nevertheless secure their basic human rights. However, that will require a separate strand of argument.

## Chapter 2: Immigration and the Functions of a State

Any political theorists who hold that the existence of a state itself is illegitimate or unjust must, *a fortiori*, hold that the state's forcible limitation of freedom of movement (i.e. immigration) into its territory is also unjust, and that, therefore, freedom of movement between states is legitimate. I will argue no further for the right to immigration under anarchist theory. Meanwhile, all political theorists who hold that states may justifiably exist hold that they exist to serve certain legitimate functions. I will go through each of these functions and see what justifications for the exclusion of immigrants each function would legitimate. (Presumably, after every possible justified limit to immigration is drawn out of a correct and exhaustive list of the legitimate functions of states, any remaining immigration, the limitation of which cannot be justified by a legitimate function of states, should be allowed.)

All who agree that states should exist at all hold that their primary purposes are to provide security against external threats and preserve internal order. This permits states to exclude immigrants who are threats to these interests, but the number of people whose migration would indeed pose such a threat is relatively small, and cannot be determined by ethnicity or nationality. Most theorists, except the strictest of libertarians, hold that states should solve coordination and collective action problems. This would justify restriction of immigration based on the carrying capacity of a territory, or by the need to maintain a shared culture; however, both of these restrictions are far less extensive than commonly thought. Those political theorists and politicians who support welfare states hold that states should also, in addition to the first three functions, provide public goods and provide for the economic security of current citizens. This function, however, while it might support limiting the welfare benefits immigrants can draw from the state for a given period of time, does not support categorical restriction on immigration.

Finally, on top of all of these concrete functions, states also serve an important symbolic one: they protect the fundamental interest of group identity, sometimes by excluding foreigners. This function of a state, if legitimate, would be the justification for immigration restriction with the largest scope. However, permitting states to enforce group identity forcibly, while it might be accommodated to some extent by cosmopolitan theory due to the great weight individuals tend to place on it, is fundamentally and practically dangerous to the rights of individuals granted by the cosmopolitan assumption.

First, one legitimation for the existence of a state is to provide security against external and internal threats. Therefore, in the service of this interest, states would have a legitimate right to exclude everyone who is a credible threat to internal or external security. For example, members of groups with whom the state is at war, or members of groups that are credibly and verifiably committed to harming citizens of the state, would be legitimately barred from entry. In addition, any individual prospective immigrant whose past behavior indicates they are likely a current threat—e.g. someone with a documented history of violent crime—would justifiably be excluded in order to preserve internal security in the receiving state. However, except for the wartime exception mentioned above, never is it the case that all members of a particular nationality are, or may be legitimately presumed to be, threats to external or internal order. Any such *a priori* assumption amounts to little more than bias, and in the case of economic migration, the available evidence does not back up such an assumption. For example, in the US-Mexico case—and in direct contradiction to widespread stereotype—the crime rate among immigrants from Mexico to the US is lower than the crime rate for US citizens of comparable age and gender.<sup>15</sup> Moreover, any immigrants—legal or illegal—to the US who are found guilty of

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<sup>15</sup> Hagan and Palloni, “Sociological Criminology,” 617.

violent crime are deported immediately after they serve their sentence. After unsubstantiated stereotypes are set aside, it becomes clear that such threats are best judged case by case instead of at the level of nationality or culture. Therefore, while the state's function of providing security against external and internal threats justifies limiting the immigration of those who would pose such threats, it does not justify either the limitation of immigration of those of a particular nationality categorically, and it does not justify the restriction of immigration of economic migrants who lack any verifiable intent to harm citizens and any history of past behavior indicating that they could be a current threat.

Another function of the state, held to be legitimate by all but libertarians, is to solve coordination and collective action problems. Therefore, a state would have the right to decide that those within its territory are bound by its laws, and the right to enjoin on people in the territory the obligation to obey laws. However, it is not clear that this entails a right to exclude foreign nationals categorically. One may derive, out of the state's function of solving coordination and collective action problems, a right to exclude foreigners who are unwilling to abide by the state's laws or contribute to the state's solutions to its collective action problems. However, those are not the vast majority of potential migrants; the vast majority of immigrants, like the vast majority of nationals, are willing to abide by the state's laws; to contribute their share of labor and taxes to the support of a state; and to help solve collective action problems through labor (if not taxes) far more than they contribute to them.

In theory, to the extent that immigrants do contribute to any collective action problems, restriction of immigration into a territory may be justified. Environmental overshoot, unavoidably caused due to the mere presence of too many people in one territory, seems to be the most pertinent example of this. In the case where the receiving country has too many people

living in the territory for the natural resources there to be able to satisfy the basic needs of all in perpetuity, restriction of immigration into that territory would be justified in order to preserve current citizens and their descendants in perpetuity.<sup>16</sup> However, it must be the case that the political actions in the receiving country did not actively harm the poor and therefore cause them to immigrate. If that is true, the obligation to limit immigration in order to preserve the territory's capacity to support its population in perpetuity must be balanced against the rights of the immigrants to compensation for unjust harm done them by the receiving country. It must also be the case that environmental depletion is caused by necessary use in the service of basic human rights, instead of locals wasting natural resources on luxuries; otherwise, the moral solution would not be restricting immigration, but instead more principled use of natural resources such that enough remain to support those whose rights require them. In any case, even if these provisos are met, the limited carrying capacity of a given territory is a justification for limiting absolute numbers of immigrants; it is not a justification for discriminating on the basis of country of origin.

Moreover, the carrying capacity justification for the limitation of immigration into a given territory does not hold in the current situation between Mexico and the United States. (There may be exceptions to this by region; in the southwestern US, the water table is not in fact sufficient to support the current population residing on desert land at current water consumption rates.)<sup>17</sup> However, even if conservation such that each resident or prospective resident were permitted to take only enough water as was necessary to fulfill her basic human rights was not sufficient to eliminate the prospect of a future water shortage, while limiting immigration

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<sup>16</sup> This objection is alluded to in Rawls, *The Law of Peoples*, 8.

<sup>17</sup> Stromberg, Tiller, and Richter, "Effects of Groundwater Decline," 113; Sheridan, "Colorado Without Enough Water."



generally would be justified, this would not be a satisfactory justification for restricting immigration into the United States as a whole. There are US cities farther north, to which immigrants could move, that have enough water to support more than their current population; with proper conservation efforts, the United States as a whole would indeed have enough natural resources to support those who would want to immigrate here.<sup>18</sup> However, in the future, shortage of natural resources in the US or in other states may no longer be a trivial concern with respect to immigration rights.

A related objection to immigration on collective-action grounds is the overpopulation moral hazard problem—the possibility that free immigration in a world with largely open, or more open, borders will remove the incentive for individual states to control population growth in their own territories, leading to an overpopulated world and a global collective action problem. However, there are ways other than immigration restriction to eliminate the moral hazard problem. If all human rights on a broader definition are respected within a given state, including for women, and that education and a job sufficient to support oneself is available to all, including women, fertility rates within that state will drop; if this becomes true worldwide, immigration restriction would be less necessary as an incentive for population control.<sup>19</sup>

A final potential justification for the restriction of immigration on collective-action grounds is the culture justification. This runs as follows: to the extent that a shared culture is necessary to maintain the social and political institutions of the state, the state has the right to exclude those who do not share that culture. To the extent that this justification is true, restriction

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<sup>18</sup> Neoclassical economics aside, the claim that an unmanageable number of people would immigrate to the US if restrictions were lifted is simply untrue; see Massey, Durand, and Malone, *Beyond Smoke and Mirrors*, chap. 2. According to that analysis of “the new economics of labor migration,” the flow would peak and eventually halt as Mexico became industrialized and reached the other side of its demographic transition.

<sup>19</sup> Rawls, *Law of Peoples*, 9; *ibid.*, 109-110.

on immigration may be justified. However, culture is not the same as race or ethnicity; to the extent that this objection is merely covering racial or ethnic bias by the use of different terms, this objection to immigration contradicts the cosmopolitan assumption. Any immigrant who does share or is capable of and willing to share, the culture of the receiving country to the extent necessary to maintain the social and political institutions of the state, the culture objection should not be a bar to the immigration of that person, regardless of their ethnicity or nationality.

Moreover, in a state where the culture is and has been fundamentally pluralistic, such as the US, restrictions to immigration based on culture objection are extremely weak. Blocking those of a particular religion or language would not be justified, unless those of that religion were not willing to abide by the basic social and political institutions of the state—and this, in most cases of economic immigration, is simply not true. In a state where the religion *is* the basic social and political institution of the state, the coordinated-culture justification may indeed justify exclusion on the basis of religion. However, the claim that allowing members of a given religious minority into a state will destroy the state itself must be based on fact, and not just on outgroup bias; and individuals should be given the option instead to abide by the social and political institution—that is, to convert. The cosmopolitan assumption, grounded as it is in the equal moral worth of all human beings regardless of creed, does not support exclusion on the basis of religion *per se*. It only does so to the extent that a particular religion is a political organizing force necessary to solve coordination and collective action problems within a state. Also, it is clear, from the experience of pluralistic states, that such problems can be solved without a common creed.

A fourth function of states, held by those who support the welfare state as legitimate, is to provide public goods and provide for the common good of current citizens. On this view—not held by everyone—states would have a right to exclude those whose presence, or whose claims

on a welfare state, would interfere with the state's ability to provide public goods for current members. Therefore, states have a right to exclude those whose basic human needs and other state-granted benefits they cannot afford to support.

This also raises the question of why people who are current citizens have a more of a right to getting support from a particular state for their basic human needs than people outside the state do, when the non-citizens' needs are not being met by their state of origin. Saying that current citizens have a prior right over non-citizens to such benefits, merely in virtue of their group identity as citizens, does not cohere with the cosmopolitan assumption. One has to show either that group identity is as fundamental an interest as the interests in individual life and respect protected by basic human rights, or that citizenship tracks another characteristic that would itself grant a prior right to such benefits.

One such quality might be a history of contributing to the support of the state. Citizens, arguably, are more likely to have contributed to the support of the state's welfare programs than immigrants, and on its face this appears plausible. Nevertheless, the ability to support the state is not a generally a condition of citizenship (although potential to become a burden sometimes is); For example, children often gain citizenship in a country in virtue of their birth; this is the case in the US.

One obvious counterreply is that, while citizen children cannot contribute to the support of the state, and may not do so for a decade or two, their families likely have done so; therefore, at the level of the family, citizens still have contributed more to the support of the welfare state in the past than recent immigrants have. This is true in most cases. In the US, however, parental citizenship is not a condition of citizenship for their children; even the US-born children of recent immigrants count as citizens under our laws. (I should note that in Europe, this is not

universally the case. Austria, Denmark, Estonia, Finland, Greece, Israel, Italy, Latvia, Spain, and Sweden do not recognize citizenship by right of being born in a territory; one's parents or at least one more distant ancestor must share the child's nationality.<sup>20</sup>)

To the extent that this objection—that migrants have not contributed sufficiently to the welfare state from which they benefit—is not fully met by the above, some scheme short of total exclusion could be put in place to ensure that immigrants to welfare states do begin to make a positive contribution to the state before the welfare benefits concomitant with citizenship vest—e.g. require that a person live and work here for several years before being eligible for unemployment assistance. Even to the extent that this objection is valid, exclusion of immigrants would not be necessary to meet it. (Of course, to the extent that specific citizens of one state suffered moral harms due to the economic decisions of their richer neighbor, and to the extent that the benefits of the welfare state for immigrants serve as compensation for such harms to those individuals, the objection to free immigration on grounds of lack of contribution to the welfare state is otiose. Moreover, to the extent that economic relationships create obligations to foreign nationals whose labor makes life such as is enjoyed in modern welfare states possible, but who do not enjoy a share in the welfare state, allowing those who wish them the benefits of a modern welfare state might be just support of their human rights and recognition of their contributions to our own economic well-being. More on this later.)

An alternative, arguably superior way to argue that a state has a prior duty to provide for the basic needs of its own citizens first is to say that the duty to fulfill the basic human rights of a would-be migrant rests with the sending state, and not any potential receiving one. On its face, this simply looks like the most logical way to assign rights and duties. All else equal, the state

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<sup>20</sup> Weil, "Access to Citizenship," 17-20.

that has power over you is the state that has the most power to help, and in a world of welfare states, one's welfare is already counted as the responsibility of the state one lives in. Why should it be the responsibility of any other?

But all else is not equal. States in our world have vast disparities in wealth, power, and quality of governance; some do not have the capacity to fulfill the basic human rights of all their citizens, whereas others have enough power to supply all their citizens with luxury, should they choose. Given this reality, while assigning states primary responsibility for meeting the basic human needs of their citizens may be justified, assigning them ultimate responsibility will not be sufficient to ensure everyone's needs and rights are met.<sup>21</sup>

Moreover, in our modern world, assigning the duty to fulfill basic human needs to states may not even be the most convenient or logical way to do so. Some states affect basic human rights, for better or for worse, in many other states. Meanwhile, other states, due to factors for which the citizenry bears responsibility or factors for which the citizenry does not, do not or cannot ensure basic human rights for their own nationals; in such cases, some assistance or intervention from other states may be justified.<sup>22</sup> Admitting immigrants/refugees whose basic human rights (defined as I defined them earlier, and not as in current refugee law) are in arrears is a simple way to meet such an obligation without getting embroiled in the theoretical dilemmas and practical quandaries of territorial sovereignty.

Another reason given for excluding immigrants from welfare states is that, basic needs aside, modern welfare states could not support all the immigrants who might want to come at the customary level of wealth enjoyed by individuals in a welfare state. This objection might be valid—in a case where the would-be immigrants have their basic needs met in their own state.

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<sup>21</sup> Rawls, *Law of Peoples*, 105-113.

<sup>22</sup> *Ibid.*, 106-112.

However, given cosmopolitan assumptions about individual rights in a world where states often cannot meet such needs, there is arguably a duty on the part of welfare states to allow those foreigners who are not excluded for another reason and whose basic needs are not met access to such resources, at least until the immigrants' own basic human rights are fulfilled. Even with this duty recognized, one might argue that states have a right to exclude those whose basic human rights they can't afford to fulfill without compromising current citizens' basic human rights. This, while perhaps true, is certainly not relevant to modern welfare states today; those states could easily support the basic human needs of as many potential immigrants as are reasonably likely to arrive with either current infrastructure or infrastructure that the immigrants themselves would willingly help construct.

The last function of a state, probably the most important for the purposes of immigration debate, is protecting the fundamental interest of group identity. States realize forcefully a fundamental right to freedom of association that preserves the state's group identity, often at the cost of excluding outsiders.<sup>23</sup> Even when such a group identity did not exist beforehand, modern nation-states will assist in constructing one. This function, of creating and preserving a group identity, would give the state a right to exclude those who do not share the defining characteristics of the group's identity (such as race, religion, language, national origin, common history, shared culture and institutions, etc.), regardless of whether such criteria were significant or morally arbitrary. In the strongest reading of this view, freedom of association is a right as fundamental as the basic human rights suggested earlier.<sup>24</sup> Therefore, the state may be able to exclude justly those who do not share the group's defining characteristics, even if the excluded

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<sup>23</sup> Wellman, "Immigration and Freedom of Association," 109-141.

<sup>24</sup> See Walzer, "The New Tribalism."

outgroups do not have other basic human rights fulfilled and do not interfere with any other functions of a state.

Unfortunately, this strong right to freedom of association at the expense of outsiders' human rights contradicts the cosmopolitan assumption. According to that assumption, all people have equal moral worth and basic human rights, and all others share an ultimate duty of fulfilling them, however those duties may be contingently organized in the contemporary world. A universal human right to food, clothing, and shelter is prior to the right to freedom of association, at least at the level of institutions that do have the power to provide food, clothing, and shelter to large groups of people.

The first reply to this is intuitive: people do recognize, for better or for worse, group identity and group self-determination as a very basic right, and people prefer to join a religious, cultural, or national ingroup with a cohesive social identity, even if this identity is formed at the expense of subordinating or excluding outgroups whose members should, on the cosmopolitan assumption, be treated as the moral equals of the ingroup members.<sup>25</sup> Whatever moral abstractions might say, the human desire in practice to identify with a particular group and develop a mythology and narrative surrounding that identity appears a bit too basic and primitive for the taste of cosmopolitan theory.<sup>26</sup>

One way of resolving the paradox is by organizing people into states whose boundaries roughly match group identities, or whose group identities are created to match the borders. The states are then assigned the primary duty to meet the (other?) basic human rights of their citizens.<sup>27</sup> Cross-border duties then only come into play when one state cannot or does not meet

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<sup>25</sup> See Walzer, "The New Tribalism," 164-72.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

its basic obligations to its own people. In this construction of an ideal world, those who view group identity as a fundamental interest, and exclusion of foreigners as part of their fundamental right to freedom of association protecting that fundamental interest, can have both worldwide basic human rights grounded in a cosmopolitan assumption of the equal moral worth of individuals, and states that regulate membership and exclude based on group identity, so long as such states either make exceptions for those whose basic human rights are threatened, or ameliorate successfully basic human rights violations elsewhere in such a way that physical inclusion of foreigners within the state's own territory is not required.<sup>28</sup>

This resolution of the paradox, if not something even less demanding, seems to be the rough consensus of the contemporary world. However, this resolution is not without its problems. The first problem lies in the tendency of ingroups to dehumanize outgroups: the natural tendency of the nativist ingroup to dehumanize foreigners, combined with a lack of experience of the native-born with members of other nations, would make it difficult for the ingroup to continue to recognize the equal moral worth and equal human rights of those categorically excluded from its territory.<sup>29</sup> The international human rights record of the twentieth century suggests that, however elegant such a solution appears in theory, the prospects for maintaining any cosmopolitan moral consciousness within a nation that excludes foreigners for the purpose of allowing national identity to rise unchecked are dismal or outright horrific; such a state is as liable to do positive harms to non-citizens as it is to assist them.

A second difficulty with this Rawlsian-Walzerian resolution is that it is simply obsolete. States built around group identity do not genuinely line up with global social and economic

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<sup>28</sup> This is roughly the picture in Rawls's *Law of Peoples*, although Rawls' definition of human right is more restrictive, including "freedom from slavery and serfdom, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide" (78-9).

<sup>29</sup> Massey, *Categorically Unequal*; Anderson, "Fair Opportunity in Education."



interrelationships and the global power structures; claiming that foreign nationals from a particular country are perfectly acceptable partners for long-distance trade purposes, but unacceptable as full and present members of our communities, leaves a wide space for depersonalization, dehumanization, and abuse. Such abuses, now widespread, would not be committed as consistently by the powerful or tolerated as easily by the less-powerful if, in virtue of their equal humanity, citizens of less-powerful states with whom more-powerful states have economic relationship were accorded the effective right to become members of our own society. This may be true even if members of the less-powerful state do not routinely use their immigration right.

The third objection to a restriction of immigration in virtue of the fundamental interest of group identity is the obvious one: the danger inherent in permitting a group the use of the fundamental coercive force of the state to enforce group identity based on what (given the cosmopolitan assumption) are morally arbitrary characteristics. Such permission makes it very easy and dangerous for a powerful state, after defining the citizens of a foreign nation as inadmissible, to abridge their basic human rights, either within or outside the territory; and a quick review of 20<sup>th</sup>-century world history suggests that this is a far from speculative fear.

This solution also runs into difficulties given certain empirical facts. It allows states to exclude those whose basic human needs the members of the state do not wish to support, so long as the duty to provide for them is assigned to some other entity with the capability to do so. However, there may be states that, ostensibly, should have been able to provide for their people, but did not for reasons under the society's own control; are other states obligated to help citizens of the state in such cases? Also, what about states that cannot provide for the basic needs of their people due to the unjust actions of a colonizing power, which power technically has the duty to

make amends for the situation, but in fact did not and never will—do bystander states have obligations in such cases?

A very simple Singerian argument suggests they do:

- I. Citizens of a given state lack basic human rights.
- II. Another state has the capacity to fulfill those rights, without relinquishing anything morally significant.
  - a. If they do so, the rights of those citizens will be fulfilled.
  - b. If they do not, the rights of those citizens will not be fulfilled.
- III. If a state has the capacity to fulfill these rights without relinquishing anything morally significant, it should do so.

Conclusion: The other state should fulfill those rights for those citizens.<sup>30</sup>

In some cases, permitting immigration would be an effective and relatively low-cost way to fulfill those rights—namely, provision of a job that allows a person to earn enough to obtain food, clothing, and shelter through their own labor; and the resources for that person to provide for the basic needs of the sending family and community.

Someone who took freedom of association to be a fundamental right would just reply that allowing immigration would indeed be giving up something morally significant—a unitary group identity. It seems that allowing the interest in group identity to be as basic as individual human rights is contradictory; one may accept the assumption that human rights are ultimately the responsibility of the entire human community, or one may accept the assumption that the interest in group identity is more fundamental than one's responsibilities to that community; accepting both, however, is a contradiction.

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<sup>30</sup> Singer, "Famine, Affluence, and Morality."

I am inclined to the former. While one may assign primary duties for fulfilling human rights to states of origin, and permit exclusion of those whose rights are already fulfilled, unfulfilled basic human rights trump the presumptive right to exclude. Therefore, even if, in an ideal world, giving states a right to bar immigration based on morally arbitrary characteristics such as race or nationality might be justified, so long as the would-be immigrants' state of citizenship is responsible for and capable of fulfilling their somewhat-broadly-defined human rights itself, both facts of human psychology and practical effects of such a policy on the positive and negative rights of real human beings suggest that, in this nonideal world, states might well be obligated to have borders more open than that.

### Chapter 3: Immigration and Economic Relationship

When the people of one country establish an economic relationship with the people of another, the relationship triggers certain positive duties of justice. One such duty is ensuring that the relationship is mutually beneficial to the citizens of both countries, especially the least advantaged. This means, at minimum, not treating the less-powerful group as a mere means to the gain of the more-powerful group; not treating the poorest people within the worse-off group as a mere means to the gain of elites or majorities of both groups; and not violating any human rights (as defined above) as a direct or indirect consequence of the agreement.

When a wealthier country establishes an economic relationship with a poorer one, the agreements defining the terms of the relationship, if they are to be just, must therefore:

- 1) benefit, or at least not harm, the poorer country as a whole;
- 2) benefit, or at least not harm, the poorest people in the poorer country.<sup>31</sup>

Otherwise, the agreement is unjust, even if it increases total world GDP, the GDP of the richer country, or even the GDP of the poorer country taken as a whole. If an agreement or set of agreements benefits the rich country at the expense of the poor, it is *prima facie* unjust, and therefore unethical, barring special circumstances, for the rich country even to propose it. If the agreement increases aggregate wealth in each country, but still harms the poorest members of the poorer country, adjustments must be made so that the poor, too, benefit by their own standards. Otherwise, it is unjust for representatives of the poorer country to agree to it, even if the agreement would benefit the elites or the total GDP of the worse-off country. (NAFTA appears to have violated—predictably—the second condition; it displaced poor subsistence farmers in Mexico and left many in a state of poverty more severe than before; while not all economic loss

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<sup>31</sup> Inspired by Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

constitutes harm, it does when loss of income entails lack of access to resources required to fulfill one's human rights.)

In addition, an economic relationship entails a political and social relationship. Therefore, if an agreement between states is to be fair, it must show respect for the equality, needs, and rights of all people affected, even if before trade there were lacunae in the original spectrum of human rights enjoyed by one state's citizens, or vast differences in material wealth. If there are two potential alternative agreements, one of which would improve the lot of a party that is worse off on some morally relevant dimension at trivial cost to the better-off party, the agreement that improves the lot of the worse-off party is more just.<sup>32</sup> Therefore, on this view, when the monetary and non-monetary cost of immigration is relatively small for the current citizens of the potential receiving country, but citizens of the potential sending country would benefit greatly from the opportunities created by the freedom to migrate, a trade agreement that includes freedom of migration is more just than one without.<sup>33</sup> In the US-Mexico case, the function of a restrictive immigration policy seems to be to exclude the worse-off from certain economic benefits currently only available in the United States, while still allowing United States citizens to benefit from Mexican labor. Given that a political relationship does exist, and that permitting migration of labor could have been allowed with small and remediable cost to the US, restrictive immigration laws combined with a free-trade agreement seems to violate the principle of equal respect for those with whom one is in relationship. (In a case where the two countries

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<sup>32</sup> Thomas M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998).

<sup>33</sup> This claim—that the cost of immigration, especially that of unskilled laborers, is small for citizens of the rich country—is controversial; authors such as George Borjas would argue that the cost to the worst-off native citizens of the rich country is actually quite large in economic and moral terms. I hold that, whatever the facts (which are themselves in dispute), such an objection holds no force once the powers and duties of better-off natives toward both worse-off natives and foreigners are taken into account. See the following chapter for a fuller discussion of this issue.

had no trade relationship at all, or in a case where the economic benefits available in one country were also available in the other, such as between the US and Germany, an otherwise analogous restriction on immigration would not be as objectionable.)<sup>34</sup> In comparable situations of economic integration, where the citizens of one country genuinely respect the citizens of the other as equals, such a provision would likely be included; for example, when Europe integrated its economy with those of Greece, Spain after Franco, and the Eastern European bloc, free movement of labor was part of the agreement in each case.<sup>35</sup> The fact that, in the negotiation of NAFTA, it was not indicates a likely lack of such respect.<sup>36</sup>

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<sup>34</sup> Anderson, personal communication, April 8, 2009.

<sup>35</sup> Massey, "Caution: NAFTA at Work."

<sup>36</sup> Ibid.

#### Chapter 4: Immigration and its Discontents

George J. Borjas argues empirically, in *Heaven's Door* and other works, that the immigration of unskilled workers (such as most Mexican immigrants to the U.S. are) drives down the wages and increases unemployment of unskilled natives. He then states that, if one assumes the moral premise that one should maximize the well-being of the native population, especially that of unskilled natives, protection of the interests of unskilled workers who are already citizens permits and requires limiting the immigration of unskilled non-citizens.<sup>37</sup>

I will not debate Borjas's economics, beyond noting that this position is controversial. David Card's study of the labor market of Miami, Florida before and after the Mariel boatlift showed that "the influx of Mariel immigrants had virtually no effect on the wage rates of less-skilled non-Cuban workers. Similarly, there is no evidence of an increase in unemployment among less-skilled blacks or other non-Cuban workers."<sup>38</sup> Borjas argues that the data from studies such as Card's and others occurs because immigrants to an individual city merely displace other workers and potential workers to elsewhere in the US. Therefore, an effect of large numbers of migrants on the wages and unemployment of previous migrants and natives may occur on a US national scale, even if no measurable differences are apparent locally. Counterreplies to this examine emigration rates along with immigration, wages, and unemployment in individual cities; interpretations of such data continue to differ.<sup>39</sup>

To the extent that Borjas's empirical premise is false—and this, as Card claims, is quite possible—then Borjas's argument lacks a sound basis in experience. If the immigration of unskilled workers does not reduce the wages or job opportunities available to natives, then

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<sup>37</sup> Borjas, *Heaven's Door*, 184 and 186.

<sup>38</sup> Card, "Mariel Boatlift," 256.

<sup>39</sup> Borjas, *Heaven's Door*, 63-86.

protecting the interests of native workers is a valid justification for barring immigration. I will argue no further. To the extent that Borjas's empirical premise is true—that there is, indeed, a tradeoff between the immigration of the unskilled and the wages and employment available to native workers—I will argue that his normative premise—that restrictions on immigration are justified to protect the economic interests of native workers—is still false.

The Borjas argument assumes that the economic structure that both immigrants and native workers are facing is a given when it is not. The wealthier classes in the United States bear primary moral responsibility for both the lack of skills of categories of natives and the harms done to Mexican citizens through economic policies and trade agreements. The wealthier classes of the United States set up and continue to maintain an educational system that funnels resources and opportunities to their own children while neglecting the education of less-well-off and often nonwhite groups, and a spatial allocation of housing opportunity that concentrates American blacks and US lower classes into areas with the least educational and economic opportunity.<sup>40</sup> Had the education and housing of citizens from all social classes been secured according to the demands of a decent system of domestic justice, fewer US citizens would be unskilled or unemployed, and any damage to the economic well-being of the lower classes by unskilled immigrant labor would become much less significant. Any economic damage due to immigration that remained could be ameliorated by the restoration of a social safety net that ensures minimum economic security even in the face of job loss. Restricting immigration to protect the opportunities of unskilled natives reallocates the cost of the effects of social and economic injustices and imperfections from powerful US classes to foreign immigrants—who were not causally or morally implicated in the domestic denial of educational opportunity to the

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<sup>40</sup> Massey, *Categorically Unequal*; Anderson, *Fair Opportunity in Education*, 601.



lower classes of the United States, who have their own claims to employment as a human right that are unfulfillable (for whatever reason) in their country of origin, who have rights to the US labor market in particular in virtue of their countries' economic relationships to the US, and who have suffered damage from the effects of certain US economic policies. Ideally, however, the powerful US classes should fulfill duties of justice both to immigrants and to unskilled natives; pragmatically, they have plenty of resources and power to do so.

Another major objection to immigration, cited loudly and often in the current American political debate, is a putative threat to security caused by allowing relatively free migration. However, this fear, while widespread in the US and backed by much argumentative effort, is spurious. People of Mexican origin have been crossing that border for centuries without causing greater security threats to Americans than any other group, natives included. Moreover, reasonably effective screening procedures are already being used, and would be just as effective for immigrant workers as they are for other immigrants, visitors, and airline travelers. Most obviously, those Mexican ex-farmers displaced by NAFTA, having little education, few resources, and no money to buy American arms, are extremely unlikely to be able to piece together a terrorist plot or crime ring. I will grant that drug cartels, smuggling rings, and criminal networks exist on the Mexican side of several major border metropolises, and that preventing such networks from spilling over into the US is a legitimate security concern. However, this population is separate from that of migrants and finds it extremely difficult, if not impossible, to enter the United States. US regulations and screening procedures that prohibit the immigration of those with significant criminal records or intent to engage in terrorist activities

are already in place.<sup>41</sup> These could be applied to any new class of legal immigrants. Most importantly, the current immigration enforcement regime on the current US-Mexico border, by creating demand for illegal smuggling services, has caused and not halted the growth of those networks; many potential security measures, such as stricter limits on gun sales in border states, would be much more effective at neutralizing any threat than forbidding the immigration of uninvolved ex-subsistence farmers. Granting displaced Mexican workers without criminal records the legal right to immigrate would, by decreasing demand for illicit services, likely decrease the overall influence of criminal networks in border areas. I find it hard to believe that granting such a right would increase any threat to the United States in any significant way.

Christopher Heath Wellman presents a different objection to relatively open borders: that a relatively strong right of compatriots to freedom of association provides a presumptive case for a state to exclude whomever they choose from entering. However, in the US-Mexico case, the two countries have already chosen to associate via trade and economic agreements. While we are not full compatriots in the traditional sense, the interconnected economies of the US and Mexico cause it to be the case that domestic US decisions—such as farm subsidies and NAFTA provisions—drastically affect, for better and for worse, the ability of Mexicans to continue in their occupations or find other employment, and the trade agreements do indeed limit traditional sovereignty of the two countries in economic matters. Because the United States and Mexico are already in a substantial political and economic relationship, and (by the cosmopolitan assumption) Americans and Mexicans have equal moral worth, concerns about relational equality—what Wellman calls “relational egalitarianism” and claims does not obtain in relations

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<sup>41</sup> U.S. Department of Homeland Security, “Crossing U.S Borders”; Profesor José Antonio Rivera Cortes, director of the State Center for Migrant Affairs, Nogales, Sonora, Mexico, personal communication, 2007.

between states—do become relevant; and, given that a voluntary relationship between the two countries already exists, looser immigration restrictions would help fulfill the relational-egalitarian moral obligations that such a voluntarily chosen association brings with it, by giving citizens of either country a more nearly equal chance at employment, a livelihood, and relative economic security. In addition, despite Wellman’s attempt at an analogy, immigration of citizens into a state, and closer associations such as club membership, are importantly disanalogous. The extent to which having new citizens in a state changes or violates the way of life of current citizens, on pure freedom of association grounds (as opposed to economic, national security, or territorial carrying capacity grounds, which I address elsewhere) is quite trivial relative to the rights typical immigrants have to migrate under the cosmopolitan assumption.

A related objection is the common-culture objection; that immigration of those whose values, language, or culture is vastly different may be restricted because shared culture, values and norms are necessary to maintain social and political institutions in a common state.

However, culture is not the same as race or ethnicity; to the extent that this objection is merely covering racial or ethnic bias by the use of different terms, this objection to immigration contradicts the cosmopolitan assumption. Also, to the extent that this objection implies an inherent superiority of American culture, it is likely incorrect. I will grant that America’s vaunted recognition of democracy (in theory), equality (in theory), and human rights (in theory) is remarkable. However, American insensitivity to international opinion, rapacity and wastefulness with respect to natural resources, and militaristic priorities are qualities of our culture that few others want to emulate. American culture seems to generate mental illness at rates that are alarmingly high relative to those in “Third World” countries. Groups from

countries with low rates of mental illness who choose to immigrate here begin their American life with rates similar to those in their country of birth, but end up with rates similar to ours within a generation.<sup>42</sup> Also, the equality present in law and theory is not always cashed out in practice. Women, despite theoretical equality, continue to get paid less than men for work requiring similar education and skill; and African-Americans, despite equality in theory, continue to experience *de facto* segregation and discrimination everywhere. This does not prove that American culture is bad—it is wildly successful in several ways—or that other cultures lack equivalent flaws. However, any objection to immigration on the basis of preserving one’s culture must be very sensitive to the possibility that we overrate our own culture’s advantages and are blind to its faults. Heterogeneity of culture is as likely to be an improvement as a fault; suggesting that any admixture of a different culture would necessarily be bad is too quick an inference to make.

To the extent that the interest in cultural homogeneity is just that—a genuine interest in maintaining enough homogeneity of culture to preserve its social and political institutions, and not a cover for racial or cultural superiority arguments—I would argue that it can be fulfilled by a means short of immigration restriction. Whatever the popular image of the US may be, the United States has never been a homogenous people, but has always been a heterogeneous, polyglot, pluralistic state with many subcultures. To the extent that there is homogeneity of political culture (e.g. acceptance of the rule of law and the US Constitution; freedom of speech, religion, and the press, etc.), acceptance of the fundamentals of that culture could be made

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<sup>42</sup> For example, Burnam et al. found that higher acculturation among Mexicans was associated with higher rates of phobia, alcohol abuse or dependence, and drug use or dependence (“Acculturation and Lifetime Prevalence”). Ortega et al. found that Mexican-Americans are less likely than non-Hispanic whites to have any psychiatric disorder, but that higher levels of acculturation by Mexican-Americans predict higher mental illness rates (“Acculturation and Lifetime Risk”).

conditions of immigration for anyone who would like to enter. As freedom of speech, religion, and political opinion are defining features of our own political culture, it is hard to see how a difference in religion or values *per se* could be made a valid reason for restriction of immigration to the US. Any intent to *act* in a way that is a threat to US citizens is already covered by the security justification for restriction on immigration; any intent to *act* in a way that goes against social order is covered by the coordination justification for restriction on immigration; and it is a fallacy in most cases to infer either directly from adherence to a particular religion or value system. Given the social organizing function of religion in non-pluralistic political cultures, in states where adherence to a particular religion or set of cultural norms is indeed a defining feature of the *political* order, some restriction of immigration on grounds of cultural homogeneity might be justified.<sup>43</sup> However, given the cosmopolitan assumption with which I began, and the principle of compensation for harm, such a restriction is unjustified in the cases of immigration to secure basic human rights and immigration to secure compensation for economic harm.

The most fundamental practical difficulty with allowing free migration is simply the one mentioned above in the context of providing resources for Mexican development: overcoming the perception of Mexico and Mexican nationals as “other.”<sup>44</sup> If Mexicans were viewed—objectively and subjectively—as fellow Americans, as human beings of equal human worth, the vociferous rhetoric and nativism driving current immigration politics would disappear, voices arguing for more free immigration on grounds of justice would become audible, and loosening restrictions on migration to compensate for economic harm and would become possible.

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<sup>43</sup> For one theory about religion as an organizing force for human societies, see Wilson, *Darwin's Cathedral*.

<sup>44</sup> I get this concept, that a primary reason for marginalizing geographically those of foreign origin is due to schematizing them as “other,” from Massey, *Categorically Unequal*.

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